

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

MINUTES OF MEETING

September 18, 2008

Creekside Community Church, 1350 Danville Blvd.
Alamo, CA

1. Chair Rob Schroder called the meeting to order at 4:35 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

Public Member Martin McNair

Special District Members David A. Piepho and Alternate George Schmidt

Present were Executive Officer Lou Ann Texeira, Legal Counsel Silvano Marchesi, Commission Clerk Kate Sibley, LAFCO Planner Scott Gregory, and Consultants Gary Thompson (Winzler & Kelly) and Michael McCormick (PMC Consulting)

Alternate County Member Mary N. Piepho sat in the audience.

Chair Schroder made announcements concerning:

- 1) This meeting's broadcast air dates on CCTV (Comcast Ch. 27 and Astound Ch. 32) on October 2 at 6 p.m. and October 3 at 10 a.m.
- 2) A statement from Creekside Community Church that it is neutral on the issue of the incorporation of the Town of Alamo.
- 3) In the case of incorporations, there is no need to declare contributions to LAFCO Commissioners.

4. Approval of the Agenda

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

5. Public Comments

There were no public comments.

6. Approval of August 13, 2008 Minutes

Upon motion of Uilkema, second by D. Piepho, the minutes for the August 13, 2008 meeting were approved.

7. LAFCO 08-23 – Dougherty Valley Annexation #12 to the City of San Ramon (Gale Ranch Phase 3)

Upon motion of Uilkema, second by D. Piepho, the Commission unanimously certified that it reviewed and considered the information contained in the EIR and CEQA documentation, determined that the territory being annexed is liable for the continuation of taxes, assessments and charges, found that the subject territory is uninhabited, all affected landowners have consented to the annexation, the annexing agencies have consented to the waiver of conducting authority proceedings, waived the application of Section 25210.90 allowing the overlap of the City and County Service Area M-29, waived conducting authority proceedings and directed staff to complete the proceeding.

8. LAFCO 07-27 – Incorporation of the Town of Alamo – Adoption of Initial Study/Negative Declaration

Chair Schroder reminded those in attendance that three items were on the agenda pertaining to the proposed incorporation of the Town of Alamo, and that those wishing to speak specifically on the incorporation item would be called upon at the appropriate time.

The Executive Officer provided a brief chronology of the Alamo incorporation application and indicated that LAFCO was the Lead Agency on the CEQA review. She then introduced Michael McCormick of PMC Consulting to present the Initial Study and Negative Declaration. McCormick provided an overview of the study and stated that the Initial Study revealed that there would be no impacts to the environment, with no new development and no new services being proposed.

Following McCormick's presentation public hearing was opened. Ben Smith stated that his comments pertained to the incorporation item. No other public comments were made, and public hearing was closed.

Upon motion of Allen, second by D. Piepho, the Commission certified that it had considered the proposed Negative Declaration, found it adequate and complete and prepared consistent with the CEQA Guidelines, specified that the LAFCO office is the custodian of the record of proceedings upon which this decision is based, found that there is no substantial evidence that the project will have a significant effect on the environment, adopted the Negative Declaration, and directed staff to complete the proceeding.

9. LAFCO 07-27 – Sphere of Influence (SOI) Amendments – City of Walnut Creek and Town of Danville: Proposed detachments in conjunction with proposed incorporation of the Town of Alamo

The Executive Officer reported that the proposed Alamo incorporation boundary includes 9.87+ square miles, and reflected a number of considerations including Alamo zip code addresses, consistency with the various County Service Areas and benefit assessment zones, and community of interest. Further, that the proposed incorporation boundary contained areas currently within the City of Walnut Creek and the Town of Danville SOIs.

LAFCO must determine the SOI of a newly incorporated city either at the time of incorporation or within one year of the effective date of the incorporation. The Commission is being asked to consider establishing the Alamo SOI, to be coterminous with the city boundary, at the same time it considers the incorporation proposal.

In reviewing the boundaries of the proposed Town of Alamo, it was found that 101± acres were currently within the City of Walnut Creek's SOI, and 8.06± acres within the Town of Danville's SOI. Before considering the boundary and coterminous SOI of the Town of Alamo, the Walnut Creek and Danville SOIs must be amended to remove these areas.

There was no public comment on this item. Commissioner D. Piepho requested that future maps of this sort include more street names for easier reference.

Upon motion of Uilkema, second by D. Piepho, the Commission unanimously approved the SOI amendments to include the detachment of 101± acres from the City of Walnut Creek's SOI and the detachment of 8.06± acres from the Town of Danville's SOI, and determined that the Contra Costa LAFCO, as Lead Agency, had prepared and certified the Initial Study/Negative Declaration for the Proposed Incorporation of the Town of Alamo.

10. LAFCO 07-27 – Incorporation of the Town of Alamo

The Executive Officer provided a PowerPoint presentation which provided a comprehensive overview of the proposed incorporation, including purpose, process, background and history, alternatives to incorporation, SOIs, boundaries and boundary options, fiscal and environmental analyses, revenue neutrality, LAFCO factors and required findings, and recommended determinations, terms and conditions pursuant to State law. A copy of the PowerPoint presentation is available in the LAFCO office.

LAFCO staff provided an overview of various boundary issues. Staff explained that two areas were studied for inclusion in the proposed city boundaries, the second of which was Tice Valley, which is not recommended for a number of reasons including fiscal and community identity with Walnut Creek.

LAFCO staff also explained that the proposed city boundary contains land that is outside the voter approved urban limit line which could impact local transportation funding. The Contra Costa Transportation Authority (CCTA) took action and issued a letter explaining the issue and options for Alamo. Consequently, LAFCO staff recommended adding a condition to the LAFCO resolution to address the issue.

LAFCO staff then introduced Gary Thompson, with Winzler & Kelly, who presented a PowerPoint overview of the Comprehensive Fiscal Analysis (CFA), which is available in the LAFCO office. The overview focused on the following key elements:

- 10-Year Forecast of Costs and Revenues
- Municipal Service Provision Plan
- Property Tax Transfer Calculation

- Revenue Neutrality Mitigation
- Transition Year Cash Flow
- Provisional Appropriations Limit

The presentation also included the following key assumptions:

- Base Year Data- FY 2006/2007 – County/State/Comparable Cities
- “Effective Date of Incorporation”- June 30, 2009 or July 1, 2009
- Alamo County Service Areas & Benefit Assessment Districts will transfer to the town
- Municipal Service Plan based on a “Contract City” concept
- Community is “Built-Out”- limited to no growth potential
- Revenue Neutrality Mitigation negotiated settlement included
- No new or additional taxes or fees

The consultant commented on the status of the Motor Vehicle License fees and SB 301, and explained that the CFA provides for two scenarios: one if the Governor signs the bill and one if the Governor rejects the bill; concluding that the Town of Alamo would be fiscally feasible under either scenario.

The consultant then responded to a number of questions from Commissioners. Thompson commented that the CFA had been estimated conservatively to account for a downturn in the economy. Also, he explained that community development expenditures are based on base year costs as provide by the County; and that revenues are based on an estimate which assumes an approximate 60% recovery of costs, as reported by the County

Thompson provide an explanation of Transition Period expenses and revenues; and the mechanism for retaining the existing County Service Area and Benefit Assessment District funds and that those monies would continue to fund the specific areas of service.

The consultant summarized the Revenue Neutrality process and agreement between the County and the petitioners, as adopted by the County Board of Supervisors on July 22, 2008. Highlights include:

- Town to pay \$3,000,000 to the County from General Fund Reserves in FY 18/19 – Town may pre-pay prior to FY 18/19
- County to waive reimbursement for FY 09/10 Transition Year Road Maintenance Expenditures
- County to transfer any surplus of revenues retained over expenditures for General Fund and Parks & Recreation Fund FY 09/10 Transition Year services – Town to reimburse over five years if actual expenditures exceed revenues retained
- County to transfer all reserve fund balances in all CSAs and Benefit Assessment Districts being transferred to the town – Includes the Alamo Area of Benefit Fund
- County retains significant amount of revenues during Transition Year
 - All Property Tax
 - Some Sales Tax
 - Most Fee Revenues

- Prop 42 & Measure C/J Revenues
- Town receives some significant revenues
 - Motor Vehicle License Fees
 - Fuel Taxes
- County required to provide all previous services during Transition Year on a reimbursable basis paid back over 5 years
- Town will incur start up costs in Transition Year

Thompson explained the provisional appropriations limit and responded to Commissioners' questions regarding special assessments and repayment of the \$3 million due to the County, which can be withheld from property tax if not paid.

Thompson stated that by law the CFA does not include capital maintenance. However, the County-maintained road surfaces are in very good shape at this time, and the engineering assessment is positive.

The Executive Officer resumed her report, focusing on other factors to be considered by the Commissioners, including the Regional Housing Needs Allocation (RHNA), set by the Association of Bay Area Governments (ABAG) in this region; the new town would have to negotiate its allocations of very low, low, moderate, and above moderate housing.

Staff explained that in the Terms and Conditions, LAFCO sets the ground rules for the organization of a city. At the same time residents vote on the incorporation question, they will also vote for a five-member city council in the event that incorporation passes. A boundary map and the Terms and Conditions will be part of the election information presented to voters for the March 3, 2009 ballot.

Staff recommends approval.

In response to questions for clarification on the CFA and whether it is based on old data, Thompson cited the State law and explained that the CFA was initiated in January 2008, and that FY 2006-07 is the most recent auditable data available. Additionally, the FY 2007-08 fiscal year data would not be available until late in 2008 and would necessitate a full update of the CFA, thus impacting the timeline for this incorporation.

Chair Schroder commented that the latest Assessor's figures indicate that assessed property values in the Alamo area have risen, and having stable property taxes in a mature community is beneficial.

Commissioner D. Piepho commented on the Police CSAs, warning that without dedicated deputies these areas will have problems. Thompson replied that the Police CSAs (P-2/B, P-5) provide for resident deputies (not covered by CSA P-6, which is the countywide service area), and the town must make certain that where there are already dedicated deputies they must remain in place.

At 6:11 p.m. the public hearing was opened. The following public comments were received:

Jay Burns, an Alamo resident, endorsed the incorporation proposal, pointing out that working with a smaller bureaucracy is better.

John Goerl, resident, opposed, questioned assumptions and data and whether there were enough commercial properties to sustain the new city.

Linda Best, resident, submitted comments on the CFA in August and did not feel that responses were adequate. At the hearing, she and her husband, Ed Best, submitted a second letter outlining new questions and objections, focusing particularly on compensations for salaried personnel, and requested that the CFA consultant look at the figures again.

Ed Best, resident, expressed concern especially about law enforcement figures, stated that many if not most financial figures were underestimated, and asked that the issue be continued until there are more answers.

Larry Rodrigue, resident, opposed incorporation based on estimates of law enforcement personnel and costs.

Vishwas More, resident, endorsed the incorporation, stating that Alamo residents can do this, and asking for the opportunity to vote.

NOTE: At 6:30 p.m. the Commissioners took a 20-minute break and Chair Schroder departed. Vice Chair Uilkema called the meeting back to order at 6:50 p.m., continuing with the public hearing.

Ben Smith, resident, commented that the County has done a good job, the risk is high, and he opposed the proposal.

Tim Tinnes, resident, spoke in favor of incorporation to fulfill Alamo's need to be on an equal footing with Danville and Walnut Creek in discussions of regional issues.

Vicki Koc, resident and member of Alamo Incorporation Movement (AIM), spoke in favor, pointing out that State requirements for incorporation are set very high to ensure that communities do not take this lightly. Thousands have been involved in this effort; everyone deserves a chance to vote.

Sharon Burke, resident and also member of AIM, stated that LAFCO staff and consultants have demonstrated Alamo's feasibility for incorporation and the County has signed off on a revenue neutrality agreement. Policing estimates in the CFA are measured by standards used by other cities; deputies contracted by Alamo would answer only Alamo calls. Having followed all the incorporation requirements and jumped all hurdles, the people of Alamo deserve to vote.

Steve Mick, resident and member of AIM, asked for the opportunity to vote on becoming a city on equal footing with cities such as Danville and San Ramon.

Robert Dale Myhre, resident representing himself and his wife, opposed incorporation based on fiscal data and the worsening economy, and recommended pursuing the idea of a Municipal Advisory Council.

Tony Carnemolla, resident, opposed incorporation, asking what is broken that needs fixing; County services seem more than adequate.

Mrs. Ed Chiverton, resident representing herself and her husband, spoke in favor of a vote, pointing out that she and her husband first were skeptical but they were persuaded by the analyses, and would like to see Alamo able to have its own governance.

Christy Campbell, resident, submitted her comment in favor of incorporation.

Howard Sumerlin, resident, opposed incorporation, feeling that this would just be another layer of government.

Michael Gibson, resident and member of AIM, endorsed incorporation, stating that in the years he has lived in Alamo, he has never felt the County allowed him and others to feel part of the planning process. They have gone through the various levels of scrutiny in the application to incorporate, and would now like to have the opportunity to vote.

Kathy Levit, resident, thanked the professionals who have worked on this process, and endorses allowing it to go forward for a vote.

David Bowlby, resident and member of AIM, asked for the opportunity to vote on incorporation, and welcomed opponents to come forward with their objections.

R.L. (Larry) Stenger, resident, opposed incorporation and cited the examples of Lafayette, Orinda, and Danville, which incorporated under the mantra of “no new taxes”—how can Alamo residents be sure that these analyses will not fall short and they won’t be assessed for more taxes; residents are being asked to believe ten-year projections based on costs of a year ago when no one knew oil prices would rise so dramatically.

Charles Jarrett, resident representing his family, stated his support and asked for the opportunity for residents to manage their city for themselves.

Grace Schmidt, resident, endorsed incorporation, citing the example of CCTA’s “corridor management” plans for I-680 and the need for Alamo to be represented there because the County has to consider much more than Alamo.

Chris Kenber, resident and member of AIM, endorsed the studies that support incorporation and pointed out that any future tax increases would have to be voted on by residents; also, under Proposition 13 many Alamo properties are severely undervalued, meaning that taxes on them would increase greatly in the future if they are sold.

Paul Lopez, resident, expressed concern over split of Alamo between Contra Costa County and San Ramon Valley fire protection districts as an example of the potential incompleteness of the analyses, and asked that consideration be continued so staff could respond to these concerns.

Nancy Dommès, resident, endorsed incorporation and thanked Commissioners for bringing the hearing to Alamo.

Nancy Sway, resident, stated that she had been in favor of incorporation for the 30 years she has been a resident of Alamo; residents know best what Alamo needs, and this needs to be put to a vote.

Roberta Morris, resident, endorsed incorporation and cited problems with getting County planners' attention.

Beulah Schiller, resident, opposed, citing underestimations of revenues.

Francine Felman, resident, opposed, stating that homework for incorporation has not been done, and asking for a comparison to Kensington, another unincorporated community in Contra Costa County.

Vickie Coker, resident, opposed, asking who would be paying for low-income housing and where it would go; requested a breakdown of all real costs for new city.

Fred Glueck, resident, opposed, with his request that there be further consideration of figures and analyses.

Denise Padovani, an opposed resident, is pleased with County management and, as a senior financial consultant with a Fortune 500 company, believes this is not the time to implement another bureaucratic layer.

Steve Morgan, representing San Ramon Valley Fire Protection District (SRVFPD), stated that SRVFPD is neutral on the question of incorporation, but they are concerned about the splitting of Alamo between SRVFPD and Contra Costa County FPD. Although LAFCO doesn't have the power to initiate an annexation or detachment, SRVFPD requests that there be a condition placed on the incorporation approval, requiring that a reorganization be effected by the new city should it succeed in the election.

Allen Makely, resident, endorsed incorporation, pointing out that people can always find holes in the reports, but that the opportunity to vote is part of democracy—as is voicing opposition in the process leading to a vote.

Don Copland, resident representing his family, submitted his support for incorporation.

Andrew Haas, Jr., resident, endorsed incorporation and asked for the opportunity to vote.

Jim Kading, resident, opposed incorporation, and stated that the County has served the area well and he is willing to share his County taxes with others.

Stephen Heafey, resident, opposed incorporation, asking when government projections have ever been accurate, and questioning the need for another layer of bureaucracy.

Jim and Pat Wadsworth, residents, registered their opposition.

Beulah Schiller, resident, submitted further written comments in opposition to incorporation.

Blake Koc, resident, submitted his support for incorporation.

Bill Nelson, resident and member of the CSA P-2B Citizens' Advisory Committee, supports a LAFCO approval to move this matter forward to a democratic election.

Chuck Steel, resident, has listened to both sides; he is currently neutral on the issue but supports LAFCO approving so an election can be held with further information leading up to that so that people will know what they're voting on.

Bob Connelly, resident, pointed out that there is plenty of time for Alamo residents to review the numbers and learn more about the proposal as long as LAFCO approves moving incorporation forward to a vote by residents.

Joseph Rubay, resident, spoke in support of incorporation to provide for greater local representation in the County.

Paul Dommies, resident, submitted his support for incorporation.

Upon motion of Allen, second by D. Piepho, the Commissioners closed the public hearing.

Vice Chair Uilkema noted that 47 members of the public had been heard from.

In response to a question about fire and emergency services, the Executive Officer stated that there is a small area in the northwest corner of the proposed city boundary that is currently served by Contra Costa County FPD, with the remainder of Alamo served by SRVFPD. Staff confirmed that LAFCO has no authority to initiate a reorganization of the fire districts; and that any of the affected agencies may petition to change the boundaries, but including such a condition in the LAFCO Resolution is not feasible as there is no way to enforce it.

In response to a question about the election date, the Executive Officer stated that each year the State selects two dates for special elections; March 3, 2009 is one of those dates.

Commissioners, in separate comments, brought up issues of safety, planning, the timeliness of the CFA, the input of the public, community development, and creating a city versus creating a community services district or municipal advisory council.

Commissioners Allen, D. Piepho and McNair expressed concerns regarding expense and revenue estimates and the economic climate.

In response to questions about updating the CFA using figures from FY2007-08, Thompson replied that such an update would take three or four months following the release of the audited FY 2007-08 data later this year. He explained that one critical issue is the "startup fund" from Motor Vehicle License Fee; if the current law is not extended by the Governor, the Town of Alamo would lose those funds by not being able to incorporate as of June 30, 2009. Further, that the Revenue Neutrality Agreement would have to be renegotiated.

Further comments from Commissioners indicated that the residents of Alamo should be able to vote on their future.

The Executive Officer stated that the timeline is extremely aggressive; the Board of Supervisors has to call for election on October 28, following a 30 day reconsideration period.

Further discussion ensued regarding obtaining responses to specific financial questions; staff commented that all costs for providing services had been provided by County departments and verified by the County Administrator's Office.

Upon motion of D. Piepho, second by Uilkema, the Commissioners voted, by the roll call noted below, to find that the proposed city is expected to receive revenues sufficient to provide adequate public services and facilities, that the incorporation is consistent with the intent of Government Codes §§56001, 56300, 56301 and 56377 and with the adopted policies and procedures of Contra Costa LAFCO, that it has reviewed the Comprehensive Fiscal Analysis prepared pursuant to GC §56800, that it has reviewed the Executive Officer's report and testimony presented at the public hearing, that the County has approved a Revenue Neutrality Agreement and that this agreement and other terms and conditions adequately mitigate the negative fiscal effects on the County, that the proceedings are subject to the terms and conditions as set forth and modified by the Commission.

AYES: D. Piepho, Schmidt, Uilkema
NOS: Allen, McNair
ABSENT: Glover (Member), Meadows (M), Schroder (M), Bristow (A), M. Piepho (A), Tatzin (A)

LAFCO Legal Counsel pointed out that Contra Costa LAFCO policies require an affirmative vote of four Commissioners to approve any proposal. Commissioner McNair indicated that he would reluctantly change his vote, making the final roll call:

AYES: McNair, D. Piepho, Schmidt, Uilkema
NOS: Allen
ABSENT: Glover (Member), Meadows (M), Schroder (M), Bristow (A), M. Piepho (A), Tatzin (A)

The Executive Officer recommended that an additional condition be placed in the resolution: that the Town of Alamo will adopt the County Urban Limit Line.

Upon motion of Allen, second by D. Piepho, the Commissioners unanimously approved the condition regarding adoption of the Urban Limit Line.

11. Commissioner Comments and Announcements

Commissioner Uilkema commended Commissioner (and Mrs.) McNair on his campaign for a seat on the CALAFCO Board at the recent CALAFCO Annual Conference.

12. Staff Announcements and Pending Projects

The Executive Officer drew the Commissioners' attention to the list of pending projects and the legislative update, both included in their agenda packets.

Meeting adjourned at 9:15 p.m.

Final Minutes Approved by the Commission on October 8, 2008.

AYES: McNair, Meadows, M. Piepho, Schmidt, Tatzin, Uilkema

NOES:

ABSTAIN:

ABSENT: for vote: Allen (M), Glover (M); for meeting: Schroder (M), Bristow (A)

By _____
Executive Officer