

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

MINUTES OF MEETING

December 10, 2008

Board of Supervisors Chambers  
Martinez CA

1. Chair Rob Schroder called the meeting to order at 1:31 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 (late arrival) and Alternate Mary N. Piepho (late arrival)  
Public Member Martin McNair and Alternate Bill Bristow  
Special District Members Dwight Meadows and David A. Piepho and Alternate George Schmidt

Present were Executive Officer Lou Ann Texeira, Legal Counsel Silvano Marchesi, Commission Clerk Kate Sibley, LAFCO Planner Nat Taylor, Consultant Bruce Baracco (Graichen and Associates), and Consultant Michael McCormick (PMC)

4. Approval of the Agenda

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

5. Public Comments

There were no public comments.

6. Approval of November 12, 2008 Minutes

Upon motion of Allen, second by Uilkema, the minutes for the November 12, 2008 meeting were approved. Members Meadows and McNair abstained.

7. LAFCO 08-25 – Annexation 171 to Central Contra Costa Sanitary District (CCCSD)

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

Commissioner Uilkema questioned Area 171-2 (three parcels in the City of Orinda) and subsequently 171-6 and 171-7, and whether these areas are in any watersheds. Molly Mullin and Russ Leavitt responded on behalf of CCCSD and indicated that the district would be

glad to research this. Leavitt felt that the only area that might be in a watershed would be 171-2. Uilkema asked that this be studied further in light of the County's restrictions on development in watersheds.

Gilbert French, a resident who lives near one of the areas to be annexed, asked how this might impact him. It was suggested he speak with the CCCSD representatives.

Upon motion of D. Piepho, second by Allen, the Commission unanimously found that Areas 171-1, 171-3, 171-4, 171-5, 171-6 and 171-7 are exempt from CEQA pursuant to CEQA Guidelines Class 3, Section 15303 and Class 19, Section 15319; that Area 171-2 would be removed from this action for further research; approved the proposal to be known as Annexation 171 to CCCSD, with the omission of Area 171-2, and 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% consent of the affected landowners and registered voters, that no affected landowners/registered voters opposed the annexation in writing, that the annexing agency has given written consent to the waiver of conducting authority proceedings, waived the protest proceeding, and directed staff to complete the proceeding.

8. LAFCO 08-28 – SOI Amendments – Central Contra Costa Sanitary District (CCCSD) and East Bay Municipal Utility District (EBMUD) – Faria Preserve

Commissioner Meadows recused himself from this item; Alternate Schmidt took his place.

The Executive Officer provided an overview of the Sphere of Influence (SOI) amendments in anticipation of the pending Faria Preserve reorganization. Inclusion of the area, 255± acres, in the districts' SOIs will allow for the eventual annexation and extension of municipal services to the site to serve the proposed development of 786 residential dwelling units and associated community and public facilities, parks and open space. The entire area is within the City of San Ramon's SOI and Urban Growth Boundary (UGB) and, with the exception of an 8.5-acre sliver of land, is within the County ULL. The area proposed for inclusion in the CCCSD SOI excludes a parcel that will result in an island; thus staff recommends adding this parcel to the CCCSD SOI.

In response to Commissioner questions, Dan Boatwright, representing the landowner for this project, responded that he was satisfied with the staff recommendations. There were no other speakers. Commissioner Uilkema noted the SOI process is consistent with Contra Costa LAFCO's policies and procedures.

Upon motion of Meadows, second by D. Piepho, the Commission unanimously determined that the City of San Ramon prepared and certified the Environmental Impact Report, Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program, and Addendum to the previously certified Faria Preserve 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 San Ramon Resolution No. 2006-171; and amended the Spheres of Influence of

the Central Contra Costa Sanitary District and the East Bay Municipal Utility District to include approximately 255± acres.

9. East County Sub-Regional Municipal Service Review (MSR)

The Executive Officer provided a brief overview and chronology of the East County Sub-Regional Municipal Service Review process, and introduced Bruce Baracco from Graichen Consulting. Mr. Baracco provided a brief overview of revisions to the MSR per additional comments received from the cities of Pittsburg and Brentwood and presented final recommendations for the Commission's consideration.

Marc Grisham, City Manager of Pittsburg, thanked Baracco for a productive meeting, and commented on the City's general plan, planning area, the City's ULL and references in the MSR to the city's SOI.

Upon motion of Allen, second by D. Piepho, the Commission unanimously determined that the MSR is categorically exempt pursuant to CEQA Guidelines §15306, Class 6; considered comments and revisions to the East County Sub-regional MSR report; accepted the report and adopted the MSR determinations; and directed staff to prepare the final MSR report and make it available to all affected agencies and interested parties.

10. East County Sub-Regional Sphere of Influence (SOI) Updates

The Executive Officer provided an overview of the SOI Updates as the next step following approval of the East County Sub-regional MSRs, which addressed four cities (Antioch, Brentwood, Oakley, Pittsburg) and three districts (CSA RD-4, Bethel Island Municipal Improvement District, and Town of Knightsen Community Services District). Due to the fact that Pittsburg and Antioch SOIs may be affected by the Initial Study currently being done on the SOIs of Contra Costa Water District (CCWD) and Delta Diablo Sanitation District (DDSD), staff is recommending deferral of SOI Updates for these cities.

Consultant and staff recommendations for each remaining agency were presented. With the exception of the City of Brentwood, staff recommends retaining the current SOIs for each, noting that the MSR process does not preclude any of the agencies from returning at a later date with requests for SOI expansions. The City of Brentwood submitted a letter requesting expansion of its SOI to include an area outside of the County ULL that was previously included in a citywide urban growth boundary measure turned down by the voters. Staff, however, recommended reducing the City of Brentwood SOI by removing the Cowell Ranch area, noting that the city is not precluded from coming forward at a later date with a specific request for a project-based SOI expansion.

Commissioner Schroder asked for clarification on the SOI Update recommendations for the cities of Antioch and Pittsburg. Baracco pointed out that matching Antioch's SOI the City's ULL would result in a net reduction to Antioch's SOI. Additionally, the Pittsburg ULL excludes Bay Point. The Executive Officer reiterated that the recommended SOI Update do not include the cities of Antioch and Pittsburg at this time.

At the request of the Commissioners, PMC Environmental Consultant Michael McCormick was asked to give his report on the Initial Study for the expansion of the SOIs of CCWD and DDS. *See Item 11.*

Nancy Parent, Mayor of Pittsburg, presented the Commission with a letter pledging funds for inclusion of the City of Pittsburg in the IS for the CCWD/DDS SOI Expansion, stating that the City has twice approved city planning areas to coincide with the ULL and that development regulations will be limited.

Marc Grisham, Pittsburg City Manager, stated his position that SOIs are not annexation boundaries but that they are essential planning tools that should be in place for planning, adding that through the Pittsburg General Plan process, both the County and City ULLS are the same.

Commissioner Allen asked for confirmation that the City of Pittsburg is guaranteeing funding for inclusion of the city in the current IS. Grisham confirmed. In response to another question, Grisham stated that the Pittsburg General Plan was last formally updated in 2003, but that it continues to be updated on a regular basis.

Troy Bristol, representing Save Mount Diablo, commented that a plan and need for service should be determined prior to expanding SOIs; and that the expansion into the hillsides is inappropriate, especially given that the City has suspended development of its hillside development ordinance. Further, that if Pittsburg plans to designate the Thomas Ranch area to open space, there is no reason for expansion of the SOIs in that area, as municipal services will not be needed.

Public comment was closed and further discussion was held among Commissioners and staff regarding the use of SOI expansions as planning tools, LAFCO's history with SOI adjustments and practices of other LAFCOs statewide regarding expanding SOIs in conjunction with Municipal Service Reviews.

LAFCO Planner Nat Taylor provided comments regarding the CEQA requirements.

Upon motion of Glover, second by McNair, the Commission unanimously determined that the Sphere of Influence (SOI) Updates for the City of Brentwood, City of Oakley, CSA RD-4, Bethel Island Municipal Improvement District (BIMID) and Town of Knightsen Community Services District (KCSD) are exempt pursuant to CEQA Guidelines §15061(b)(3); retained the existing SOIs for the City of Oakley and CSA RD-4, BIMID and KCSD; reduced the City of Brentwood SOI by removing the Cowell Ranch area; and adopted the resolutions supporting these determinations. In the same motion, the Commission continued discussion of the SOI update of the City of Antioch and Pittsburg to a future meeting pending further study.

Commissioner D. Piepho added that he would like to require that the Town of Knightsen Community Services District return to LAFCO with a progress report in one year. LAFCO staff noted that this condition is included in the MSR determinations.

In a separate motion by Glover, second by D. Piepho, the Commission directed LAFCO staff to include the proposed expansion of the City of Pittsburg's SOI to coincide with the City's ULL in the Initial Study currently underway with regard to CCWD and DDS, and instructed staff to return in January with the appropriate contracts amendments.

The Executive Officer asked what the Commission wished to do about the City of Antioch's SOI Update. Upon motion of Glover, second by Allen, the Commission unanimously voted to defer that update until the Initial Study is completed.

11. Informational Update – Contra Costa Water District and Delta Diablo Sanitation District SOI Expansion Study

The Executive Officer introduced Michael McCormick, who presented a map showing Areas A through L, which are not currently included in the SOIs of the two districts, and explained that the purpose of the Initial Study (IS). McCormick indicated that it has been a complex task, taking into consideration the various General Plans and zoning and rezoning of the areas. Commissioner Schroder asked what it might cost to include the City of Pittsburg in this Initial Study; McCormick responded that they will have to look at what that would entail. He expects a public draft of the IS for CCWD and DDS in early January.

*See Item 10 for additional discussion.*

12. Contract Amendment No. 4 with Dudek

Following staff's overview, upon motion of McNair, second by D. Piepho, the Commission unanimously approved Amendment No. 4 to the existing Dudek contract to extend the term from December 31, 2008 to June 30, 2009 to allow additional time to complete the Central and West County Sub-regional MSRs/SOI updates.

13. LAFCO Personnel System Update – Retirement Benefits

The Executive Officer reported on recent notification from the Contra Costa County Employees' Retirement Association that the IRS is requiring documentation of formal action implementing employers' "pickup" of employee retirement contributions, which provides that such contributions can be made on a pre-tax basis.

Upon motion of Uilkema, second by Meadows, the Commissioners unanimously adopted LAFCO Resolution 2008-1 reconfirming and authorizing continued implementation of this IRS provision.

14. Commissioner Comments and Announcements

Commissioner Uilkema commented on the ongoing issue of amending Spheres of Influence (SOIs) in conjunction with Municipal Service Reviews vs. SOI expansions in conjunction with pending annexation applications where specific projects have already undergone

environmental reviews prior to their coming to LAFCO. Following further discussion, the Commissioners asked staff to provide a side-by-side comparison of such SOI expansions, as well as a flow chart for LAFCO actions.

15. Staff Announcements and Pending Projects

The Executive Officer drew Commissioners' attention to the pending projects list and reported that she had attended a kickoff meeting of the CALAFCO Legislative Committee in November.

Meeting adjourned for a closed session to consider the Executive Officer's performance review at 3:25 p.m.

Meeting reconvened at 3:48 p.m. The Chair reported that the performance review had been completed.

Meeting adjourned in the memory of Suzanne M. Schmidt, daughter of Special Districts Alternate George H. Schmidt and wife of Eugene Segna, who passed away on December 10, 2008 following a long battle with cancer.

Final Minutes Approved by the Commission on January 14, 2009.

AYES:

NOES:

ABSTAIN:

By \_\_\_\_\_  
Executive Officer