

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

MINUTES OF MEETING

September 9, 2009

Board of Supervisors Chambers
Martinez, CA

1. Chair Gayle Uilkema called the meeting to order at 1:00 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.
County Members Gayle Uilkema and Federal Glover and Alternate Mary Piepho.
Public Member Martin McNair.
Special District Members Dwight Meadows and Alternate George Schmidt (arrived at 1:20 p.m.).
Present were Executive Officer Lou Ann Texeira, Legal Counsel Silvano Marchesi, Planner Nat Taylor, and Clerk Kate Sibley.
4. Approval of the Agenda
Upon motion of McNair, second by Glover, the agenda was adopted.
5. Public Comments
Mark and Karen Rolandelli spoke on the problems they are having with developing a property in the Alhambra Valley area, which is outside the County Urban Limit Line, and for which they are consequently unable to receive water from the City of Martinez. The Chair asked staff to continue working with the Rolandellis to determine if a solution is possible.
6. Approval of August 12, 2009 Minutes
Upon motion of Glover, second by McNair, the minutes for the August 12, 2009 meeting were approved.
7. Appointment of Alternate Public Member
LAFCO staff provided a brief overview of appointment process. The Chair noted a letter from candidate Sharon Burke, who presented her qualifications at the August 12 LAFCO meeting, and was unable to attend the September meeting due to a family emergency.
The Chair then asked each of the other three finalists to present their qualifications. *Afred Affinito (Pittsburg)*, *Robert Brown (Brentwood)* and *Iris Obregon (Oakley)* presented their qualifications and background to the Commission.
Commissioner Schmidt, chair of the selection committee, noted that while all of the candidates have good credentials, the selection committee, comprising Commissioners Schmidt, Schroder and Glover, unanimously recommend Sharon Burke for the Alternate Public Member seat.

Following further discussion, Commissioner Allen made a motion to open the vote to all of the candidates, with the candidate receiving the most votes taking the seat. Motion failed due to lack of a second.

Upon motion of Schmidt, second by McNair, the Commissioners appointed Sharon Burke to the position of Alternate Public Member. Commissioner Allen opposed.

8. Workshop - West County Sub-Regional MSR/SOI Updates

The Executive Officer provided a brief overview and chronology of the Sub-regional Municipal Service Review process, indicating that this is the third and final of three sub-regional MSRs, with East County completed and Central County on this agenda for approval. Staff highlighted the fundamental framework of MSRs, emphasizing LAFCO's purpose and role, the governance structure and SOI options and recommendations, and the collaboration with local agency staff and the MSR project team.

The Executive Officer stated that the West County Sub-Regional MSR focuses on five cities and two community services districts: cities of El Cerrito, Hercules, Pinole, Richmond and San Pablo, Kensington Police Protection and Community Services District (CSD), and Crockett CSD.

Kim Hudson of Dudek provided a PowerPoint overview highlighting various factors including voter approved urban growth management measures, profiles of each agency, and governance and SOI options for each city, stressing that these are suggestions for possible choices based on each agency's general plan and other documents.

The Chair reminded members of the public that the Commission had not yet seen the actual report, and that a Public Review Draft will be forthcoming following this meeting.

Commissioners questioned the reason for the cities' SOIs extending into the bay; staff responded that these boundaries are actually the corporate boundaries, not the SOIs only, and LAFCO only has power over SOIs.

Following preliminary discussion with Commissioners, the public comments were received.

Brenda Navellier, representing Kensington Fire Protection District, spoke in protest of the option of consolidating the Kensington FPD and the Kensington Police Protection and CSD, and referred Commissioners to the April 13 letter from Meyers Nave regarding this issue.

Bill McNab, resident of Kensington, spoke on behalf of the Kensington Police Protection and CSD, mentioning problems with liability insurance limitations on volunteer assistance to the district.

Upon motion of McNair, second by Allen, the Commission voted unanimously to receive the report, directed the project team to release the Public Review Draft MSR report, and set a hearing for November 18, 2009, at which time the Commission will consider the Final Draft MSR and SOI updates.

9. Central County Sub-Regional MSR

The Chair introduced the next item, the Central County Sub-Regional MSR, with a review of ten cities and one community services district: cities of Clayton, Concord, Danville, Lafayette, Martinez, Moraga, Orinda, Pleasant Hill, San Ramon and Walnut Creek, and Diablo Community Services District. This item focuses only on the MSR report itself, which the Commission is asked to adopt, along with approving the required determinations.

The Chair explained that discussion of the SOIs would be divided into three categories: minimal or no changes to the SOIs (Lafayette, Martinez, Moraga, Orinda, Pleasant Hill, Walnut Creek, Diablo CSD); Clayton and Concord, which have some significant proposed SOI changes; and those cities (Danville and San Ramon) whose SOI updates may need to be deferred.

Staff reiterated that the first item deals only with the MSR report and determinations, as outlined in the LAFCO resolution. Following the consultant's comments on this item, it will be referred to the Commissioners for their comments and acceptance of the report and approval of the determinations.

Staff provided a brief summary of the determination categories and commented that this MSR underwent a lengthy process and coordination with local agency staff.

Consultant Kim Hudson of Dudek noted that determinations have been made for each of the agencies reviewed in this report.

The Chair asked if anyone would like to speak on this agenda item.

Laura Hoffmeister, Mayor of the City of Concord, commented that while the city supports annexing Ayers Ranch, an unincorporated island in the middle of the city, that area is highly developed and heavily inhabited—not vacant. Also, she stressed that the consultant did not adequately address the city's sewer service, with rates substantially lower than those of Central Contra Costa Sanitary District. Mayor Hoffmesiter requested a correction to the LAFCO resolution.

Staff responded that the City of Concord's sewer service was thoroughly reviewed in the Central County Water and Wastewater Services MSR, and noted the correction to the LAFCO resolution.

All other speakers deferred to the following agenda item (SOI updates).

Upon motion of Glover, second by Schmidt, the Commission unanimously determined that the MSR project is Categorically Exempt pursuant to CEQA Guidelines §15306, Class 6; considered comments presented prior to and during the public hearing; accepted the report; adopted the MSR determinations, as amended, and directed staff to prepare the Final MSR report and make it available publicly.

10. Central County Sub-Regional SOI Updates

The Executive Officer referred to the table outlining governance structure and SOI options and consultant and staff recommendations for each agency in this sub-regional report.

Commissioner Allen questioned the policy of looking at agencies' plans for growth for the coming 20 years in determining SOIs. The Chair responded that this is the local, Contra Costa LAFCO, policy. Commissioner Allen stated that, despite this policy, she will not be able to support it in regard to the City of Concord's SOI.

It was noted that Brian Holt, representing East Bay Regional Park District, submitted a letter to Commissioners supporting the LAFCO staff-recommended options for all SOI updates, and that the District would need an opportunity to assess any potential impacts resulting from SOI expansions on existing and planned regional park lands and trails.

Consultant Kim Hudson provided an overview of the SOI options and recommendations for those agencies with minimal or no changes proposed to the SOIs (Lafayette, Martinez, Moraga, Orinda, Pleasant Hill, Walnut Creek, Diablo CSD).

Consultant Hudson presented SOI options and recommendations for the City of Lafayette.

Upon motion of Uilkema, second by McNair, the Commissioners unanimously voted to retain the City of Lafayette's existing SOI.

Ms. Hudson presented options and recommendations for the City of Martinez and noted that there is one issue with the SOI for the City of Martinez: The Alhambra Valley area where the County ULL has created an island. Both consultant and staff are recommending retention of the ULL-created island within the SOI. Discussion ensued regarding parklands that are being recommended for removal from the SOI.

Upon motion of Schroder, second by McNair, the Commissioners unanimously voted to *not* remove any parcels from the City of Martinez SOI.

Upon questioning for clarification from staff, a second motion by Schroder, second by Allen, the Commissioners voted to defer any Commission action on the City of Martinez SOI until city staff is able to respond to these issues.

Consultant Hudson presented SOI options and recommendations for the Town of Moraga.

Upon motion of McNair, second by Glover, the Commissioners unanimously voted to amend the Town of Moraga's SOI to match the countywide ULL.

Consultant Hudson presented the SOI recommendation for the City of Orinda. Short discussion among the Commissioners ensued regarding clarification of the city boundary. Upon motion of McNair, second by Meadows, the Commissioners unanimously voted to retain the coterminous SOI for the City of Orinda.

Ms. Hudson presented SOI options and recommendations for the City of Pleasant Hill. Upon motion of Uilkema, second by Glover, the Commissioners voted to remove the

Briones Hill open space area from the City of Pleasant Hill's SOI, and to encourage City to pursue annexation of islands and SOI coordination with the City of Concord.

The Executive Officer noted that there was a late discovery of an error in the Walnut Creek map: a small area south of the North Gate area is outside the ULL but with the SOI; given the land use designations in this area, none of the properties will need city services.

Andrew Smith, of the City of Walnut Creek Planning Department, commented that this particular area was part of the North Gate Specific Plan. The city is asking for a deferral of the SOI update to allow the city more time to research the issue.

Upon motion of McNair, second by Glover, the Commissioners voted unanimously to defer action on the City of Walnut Creek's SOI update.

Consultant Hudson presented the SOI options and recommendations for Diablo CSD.

Upon motion of McNair, second by Glover, the Commissioners voted unanimously to retain the existing SOI, and encouraged staff to work with Diablo CSD staff to review the possibility and effects of dissolution.

Next the MSR consultant provided an overview of the SOI options and recommendations for those cities with more significant SOI changes (Clayton and Concord).

Julie Pierce, Mayor of the City of Clayton, spoke in favor of retaining the CEMEX Quarry property in the city's SOI, which, according to news reports, was added by LAFCO in 1983. She also stated that little areas of the SOI that are outside the ULL should be retained, as these represent residents who want to annex to the city in the future, and urged that LAFCO not automatically match the city's SOI to the County ULL.

Robert Hoyer, resident of Clayton, commented on having prepared an SOI map for the city in the 1970s and his surprise to find that the LAFCO records don't include the 1983 SOI expansion as noted in the news accounts.

Wayne Stoughton, Manager of the CEMEX Quarry, indicated his company's desire for the quarry property to remain in the Clayton SOI.

Gary Napper, City Manager for the City of Clayton, reaffirmed the city's preference for the SOI as recommended by the city (retaining all except the area within Mt. Diablo State Park). He also questioned the meaning of a LAFCO-approved "provisional" SOI. Staff explained that this would mean approving a temporary SOI subject to further review by LAFCO and city staff.

David Woltering, Clayton Community Development Director, acknowledged that staff of both LAFCO and the City of Clayton had done extensive research on the setting of the city's SOI. He feels that the SOI is important in giving the city a stature that it might otherwise not have as the smallest city in the county. The city-requested SOI option is in keeping with the State law, and they would welcome another look at the SOI in five years with the next review.

Staff noted Commissioner policies regarding urban limits lines, which were amended in September 2005, as well as LAFCO's practice of amending SOIs to coincide with ULLs.

Upon motion of Allen, second by Schroder, the Commissioners voted unanimously to reduce the City of Clayton's SOI in Mt. Diablo State Park area and retain other existing SOI areas.

In response to further discussion of the Commission's votes on SOIs with regard to the County ULL, staff responded that cities cannot annex land outside the County's or their own urban growth boundaries without jeopardizing their transportation funds under Measure J.

At approximately 3:30 p.m., the Commission took a break. Commissioner Glover departed, and Alternate M. Piepho replaced him on the dais.

Consultant Hudson presented the SOI options and recommendations for the City of Concord.

Laura Hoffmeister, Mayor of the City of Concord, requested retention of the city's SOI as it currently is, contending that the SOI and ULL don't have to be coterminous. The Concord Naval Weapons Station (CNWS) area, a large part of which has been recommended for removal from the SOI, is already active and developed, and the city needs to ensure that the Navy understands that the City of Concord is the logical agency to provide services once it decommissions that area. As for the Ayers Ranch area, when enough residents demonstrate their willingness to be annexed, the City will move forward with that.

Jim Forsberg, Community and Economic Development Director for the City of Concord, concurred with Mayor Hoffmeister, stating that the existing SOI is consistent with the City's 2030 General Plan Land Use Diagram that incorporates the tidal area of the CNWS, which is currently urbanized and developed as a port facility presently used by the U.S. Army, and which will ultimately be part of the City's own urban growth boundary once it is approved by a citywide vote.

Short discussion ensued among the Commissioners.

Upon motion of Allen, second by M. Piepho, the Commissioners voted unanimously to retain the City of Concord's existing SOI, encourage the City to annex islands and pockets currently receiving City services, and strongly encourage the City to annex the Ayers Ranch island area.

Consultant Hudson provided an overview of the SOI options and recommendations for those agencies where deferral of the SOI update is recommended (Danville and San Ramon). She added that in the Town of Danville's General Plan, currently in the process of being updated, Tassajara Valley is included in the Town's growth plans.

The Executive Officer added that the Town of Danville has submitted a council resolution requesting further review of this matter and a deferral of a LAFCO decision. She noted that when a city comes to LAFCO with an SOI expansion application, law requires that city to meet with the county to develop an agreement; there is no such requirement if

LAFCO makes such a decision on expansion of a city's SOI. However, it would be prudent for the parties to meet and confer.

Newell Arnerich, Mayor of the Town of Danville, commented that the General Plan process won't take much longer, that they have already been meeting with the City of San Ramon to discuss this, and that they look forward to further meetings with San Ramon representatives and with the County.

Joe Calabrigo, Danville Town Manager, added that they have identified property on the west side that they would like to keep in the Town's SOI for future development (Elworthy Ranch).

Phil Wong, Planning Director for the City of San Ramon, noted philosophical differences with LAFCO staff and reiterated the City's request to, at a minimum, retain its existing SOI. He also stated the City's desire to have the Tassajara Valley in its SOI in light of current development plans and the City's General Plan.

Herb Moniz, San Ramon City Manager, commented on the limited fiscal information contained in the MSR report (i.e., two years) and questioned the relevance to the longer terms SOI and planning application.

The Executive Officer noted that staff is recommending a meeting among the County and the two cities.

Troy Bristol, representing Save Mt. Diablo, stated that his organization is opposed to the expansion of the City of San Ramon's SOI into Tassajara Valley, noting concerns relating to LAFCO policy and precedent.

Upon motion of McNair, second by Schmidt, the Commissioners voted to defer the SOI updates of both the Town of Danville and the City of San Ramon pending further discussions between the cities and the County regarding the Tassajara Valley.

Commissioner M. Piepho stated that Tassajara Valley presents issues of historical significance and an opportunity for the cities and County to work together. She suggested that the local agencies meet on their own, then come back to LAFCO as necessary.

11. Contract Amendment with Burr Consulting

The Executive Officer provided an overview of the MSR process to date and listed agencies that are still in need of baseline MSR/SOI updates. Included in these are cemetery districts, Contra Costa Mosquito and Vector Control District, Contra Costa Resource Conservation District, and those independent and dependent districts providing recreational and park services. Funds were allocated in the 2009-10 budget for these MSRs. Burr Consulting has agreed to an extension of this Commission's current contract in order to prepare these reports.

Upon motion of Schroder, second by Schmidt, the Commissioners unanimously approved the contract amendment in the amount of \$35,000.

12. CALAFCO Business

The Executive Officer explained that CALAFCO has requested that all LAFCO Commissioners read and discuss, in advance of the Annual Conference, the memorandum outlining a proposal to establish a regional structure for CALAFCO.

Commissioners questioned the viability and usefulness of such a structure, but agreed to discuss again in October. Staff reminded Commissioners that there was no action requested or needed; CALAFCO is simply soliciting input.

13. Commissioner Comments and Announcements

Commissioner M. Piepho reported that she, Commissioner Glover and the Executive Officer had a good conversation with Dante Nomellini Sr. and Jr., who provided a great deal of history and some different perspectives on the value of the separate reclamation districts, particularly in situations when an agency is needed to respond quickly, both to an emergency and to the flow of funds to respond to such emergency. Commissioner Piepho is awaiting a written report and comments from the Nomellinis.

Staff will bring the matter back to the Commission in October.

14. Staff Announcements and Pending Projects

Staff provided a brief update regarding the Northeast Antioch reorganization proposal, which is currently pending, noting recent inquiries as a result of the Garrido case.

It was announced that the next Fire Committee meeting will be held on Wednesday, October 7, at 1:00 p.m. in Room 101 at 651 Pine Street, Martinez.

The meeting adjourned at 4:35 p.m.

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

AYES: Allen, Burke, Meadows, D. Piepho, Schroder, Uilkema

NOES:

ABSTAIN: D. Piepho

ABSENT: Glover, McNair

By /s/ Lou Ann Teixeira
Executive Officer