



Lou Ann Texeira
Executive Officer

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January 13, 2010 (Agenda)

Contra Costa Local Agency Formation Commission
651 Pine Street, Sixth Floor
Martinez, CA 94553

Letter from Kensington Fire Protection District

Dear Commissioners:

On December 11, 2009, the Commission received a letter from John Bakker (Attachment 1) representing the Kensington Fire Protection District (KFPD), expressing concern with the Commission's actions on October 14, 2009, as related to KFPD, and with the meeting record.

Mr. Bakker believes there is confusion as to whether or not the Commission took specific action to accept the Fire Committee's recommendation to *not support the governance option of consolidating the KFPD with the Kensington Police Protection & Community Services District (KPPCSD)*. Consolidation of the two Kensington districts was identified as a governance option in the Fire & Emergency Medical Services Municipal Services Review report adopted by the Commission in August 2009.

On October 14, the Commission considered the Fire Committee's recommendations (Attachment 2) and approved updates to the spheres of influence (SOIs) for CSA EM-1, Contra Costa County FPD, East Contra Costa FPD, Moraga Orinda Fire District, and San Ramon Valley FPD. The Commission did not take specific action to formally oppose the governance option of consolidating the two Kensington districts. The record reflects that no action was taken on this issue.

The KFPD requests that the Commission *correct the record of the action taken on October 14, 2009 either by correcting the minutes or by taking separate action to adopt the Fire Committee's recommendation to not support the governance option of consolidating the KFPD and KPPCSD*.

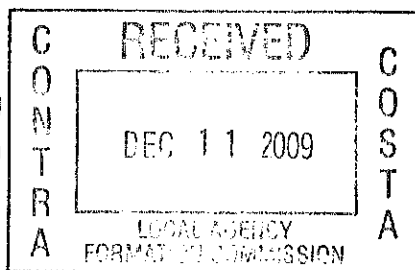
RECOMMENDATION - Consider the request by the KFPD.

Please contact the LAFCO office if you have any questions.

Sincerely,

Lou Ann Texeira
Executive Officer

meyers | nave riback silver & wilson
professional law corporation



John Bakker
Attorney at Law
510.808.2000

December 10, 2009

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Martinez, CA 94553

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Contra Costa Local Agency Formation Commission
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651 Pine Street, 6th Floor
Martinez, CA 94553

**Re: *Fire and Emergency Medical Services MSR/SOI Updates
Action Taken at the Commission's October 14, 2009 Meeting***

Dear Chairperson Uilkema and Members and Alternate Members of the Commission:

This firm represents the Kensington Fire Protection District ("KFPD"). The District requested that I review the actions taken by the Commission on October 14, 2009 on the Fire and Emergency Medical Services MSR/SOI updates. Based on my review of the supplemental staff report presented to the Commission and the audio recording of the meeting, I believe that the minutes of your October 14, 2009 meeting incorrectly

reflect the action taken by the Commission as it pertains to the KFPD and that the minutes should be corrected.

In particular, the minutes fail to indicate that the Commission adopted the Fire Committee's recommendation that the Commission *not support* the MSR's proposal to consolidate Kensington Fire Protection District with the Kensington Police Protection and Community Services District.

The supplemental staff report included the following three recommendations:

1. Adopt the Fire Committee's governance and SOI recommendations as presented above and in Attachment 3.
2. Adopt the attached resolutions that correspond to the Fire Committee's SOI recommendations.
3. Adopt the three recommendations regarding the East County Fire Committee, the West County Task Force on Fire Service, and convening a workshop to discuss consolidation and related fire services issues."

KFPD's concern is with the record of the action taken on the first recommendation. The Fire Committee's Governance and Sphere of Influence (SOI) Recommendations are found in Attachment 3 to the October 14, 2009 Supplemental Report in Item 9. Among other recommendations was the following pertaining to KFPD:

Governance Structure Option Kensington (KFPD)	SOI Action	Recommendations
48. Consolidation with Kensington CSD	Adopt zero SOI in anticipation of future consolidation	Take no action. Committee does not support this option

With regard to the first recommendation, the adopted minutes of the October 14, 2009 meeting state that:

"[u]pon motion of Schroder, second by Burke, the Commissioners adopted all staff recommendations regarding governance structure options and Sphere of Influence (SOI) actions for Contra Costa County Fire Protection District (CCCFPD), East Contra Costa Fire Protection District (ECCFPD), Moraga-Orinda Fire District (MOFD), San Ramon Valley Fire Protection District (SRVFPD), and County Service Area EM-1. Commissioner Meadows voted no."

Thus, the minutes indicate that the motion excluded the Fire Committee's recommendation pertaining to KFPD, but absolutely nothing in the record supports that interpretation of the action taken. As noted above, the recommendation was that the Commission "adopt the Fire Committee's . . . recommendation presented . . . in Attachment 3." Attachment 3, as we have also seen, contains a recommendation relative to KFPD. Thus, the staff recommendation clearly *included* the recommendation pertaining to KFPD. In the audio recording of Item 9, I could discern nothing that suggested that the motion maker or the Commission

intended to exclude the recommendation relative to KFPD or that something different from the Fire Committee's recommendation was intended. Instead, it is apparent from the audio recording that the motion on the first recommendation was simply to adopt the Fire Committee's recommendations as set out in Attachment 3. Chair Uilkema specifically requested a motion to adopt the Fire Committee's recommendations and specifically "for adoption of Attachment 3." Commissioner Schroder then stated "so moved," and the motion was seconded. The motion then passed on a 6-1 vote, with Commissioner Meadows voting no.

Based on the foregoing, KFPD requests that the Commission correct the record of the action taken on October 14, 2009 either by correcting the minutes or by taking separate action to adopt the Fire Committee's recommendation to not support KFPD's consolidation with Kensington Police Protection and Community Services District.

Please let me or Brenda Navellier, the District Administrator, know if you have any questions.

Very truly yours,



John Bakker

JB:JB

c: Lou Ann Texeira, Executive Officer
Silvano Marchesi, LAFCO Legal Counsel
Board of Directors of the Kensington Fire Protection District
Brenda Navellier, District Administrator
Lance Maples, District Fire Chief

FIRE COMMITTEE'S GOVERNANCE AND SPHERE OF INFLUENCE (SOI) RECOMMENDATIONS¹

Governance Structure Option	SOI Action	Recommendations
Central County		
ConFire		
1. Annex areas within ConFire's service areas currently within ECCFPD's bounds (e.g., area southeast of Clayton)	Expand SOI to include area southeast of Clayton	Approve SOI expansion
3. Clean-up	Remove Bogue Ranch from SOI which was previously annexed to SRVFPD (linked with option 11)	Approve SOI clean-up
4. Clean-up	Remove 101 acres in Orinda from SOI which was annexed to MOFD in 1998 (linked with option 7)	Approve SOI clean-up
MOFD		
7. Clean-up	Expand SOI to include 101 acres annexed to MOFD in 1998 ((linked with option 4)	Approve SOI clean-up
10. Encourage agencies to communicate regarding road/water infrastructure challenges and report back to LAFCO within 12 months		Approve (added by Committee)
SRVFPD		
11. Clean-up	Expand SOI to include previously annexed areas (Tassajara Valley/Morgan Territory, Bogue Ranch) (partially linked with option 3)	Approve
12. Align boundary with service call areas (i.e., north Dublin and Crow Canyon areas)	Increase SOI to include north Dublin and Crow Canyon areas	Encourage agencies to work together to achieve service/fiscal balance
East County		
ConFire		
14. Clean-up	Expand SOI to include eastern boundary areas in cities of Antioch and Pittsburg already served by ConFire	Approve
16. Annex Roddy Ranch property currently within ECCFPD's bounds/ service area	Expand SOI to include Roddy Ranch property (linked with option 22)	Approve
ECCFPD		
22. Detach Roddy Ranch property	Remove Roddy Ranch property from SOI (linked with option 16)	Approve

Governance Structure Option	SOI Action	Recommendations
<i>West County</i>		
ConFire		
38. Detach west county service areas (i.e., San Pablo, El Sobrante, Bayview, Alhambra Valley, East Richmond Heights) and annex to a future west county consolidated provider	Continue to exclude from ConFire’s SOI the western boundary areas (i.e., City of San Pablo, and unincorporated areas including Bayview, East Richmond Heights, El Sobrante, Montalvin Manor, North Richmond, Tara Hills) in anticipation of a future west county consolidation	Take no action. Continue to exclude from ConFire’s SOI western boundary areas (i.e., City of San Pablo, and unincorporated areas including Bayview, East Richmond Heights, El Sobrante, Montalvin Manor, North Richmond, Tara Hills) in anticipation of a future west county consolidation
Kensington (KFPD)		
48. Consolidation with Kensington CSD	Adopt zero SOI in anticipation of future consolidation	Take no action. Committee does not support this option
CSA EM-1		
58. None identified	Retain existing SOI	Retain existing SOI

¹The numbers for each recommended action conform to the master list of Governance Structure Options discussed at a the August 12 LAFCO meeting.