

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

MINUTES OF MEETING

February 9, 2011

March 9, 2011
Agenda Item 6

Board of Supervisors Chambers - Martinez, CA

1. Chair McNair called the meeting to order at 1:30 p.m.
2. The Pledge of Allegiance was recited.
3. Seating of New Commissioner (Special District Member)

Michael McGill was elected by the Independent Special District Selection Committee on January 24, 2011 to fill the Regular seat vacated by David Piepho. He was given the oath of office by County Clerk-Recorder Steve Weir, and formally welcomed to the dais.

4. Roll was called. A quorum was present of the following Commissioners:

City Members Rob Schroder and Don Tatzin.

County Members Federal Glover and Gayle Uilkema and Alternate Mary Piepho.

Public Member Martin McNair.

Special District Members Michael McGill and Dwight Meadows and Alternate George Schmidt.

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

5. Approval of the Agenda

Upon motion of Glover, second by Tatzin, the agenda was adopted.

6. Selection of Chair and Vice Chair

The Executive Officer presented the options for the 2011 Chair and Vice Chair selection.

Upon motion of Glover, second by Uilkema, Commissioners voted unanimously to name Special District Member Michael McGill as Chair, and to name City Member Don Tatzin as Vice Chair for 2011, effective March 2011.

7. Approval of January 12, 2011 Minutes

Upon motion of Tatzin, second by Glover, the minutes for the January 12, 2011 meeting were approved unanimously.

8. Public Comments

The Executive Officer presented a letter sent by John Gonzales of Knightsen regarding Knightsen Community Services District and its temporary role as Knightsen Municipal Advisory Council. There were no other public comments.

9. LAFCO 10-12 - City of Antioch and Delta Diablo Sanitation District (DDSD) Out of Agency Service (OAS) Request (Mirant Marsh Landing LLC)

Commissioner McGill recused himself from this item due to a conflict of interest and left the meeting chamber. Alternate Schmidt replaced him on the dais.

The Executive Officer provided an overview of the OAS request, the power plant project, and the City's pending annexation application. Staff explained that this OAS, if approved, would provide water and wastewater services to the future Marsh Landing Generating Station, sited on land that is within the SOIs of both the City and DDSD as well as within the City's ULL.

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The project 1) involves municipal services to a \$650+ million power plant located in the unincorporated county, 2) is located in an area that is part of a pending annexation application submitted to LAFCO in August 2007, 3) is adjacent to areas that are also within the City's SOI, that suffer from inadequate municipal services, and should be annexed to the City, and 4) is adjacent to a second area that was granted OAS in 2008 in anticipation of completion of the pending annexation application. To date, the City and the county have failed to reach agreement on the tax transfer agreement and the annexation application remains incomplete.

Staff presented options for Commission consideration:

- 1) Defer approval for 90 days to allow time for mediation and arbitration on the revenue sharing agreement as required per the revenue & Taxation Code;
- 2) Deny the request as there is no public health and safety issue and a future annexation of the area is uncertain;
- 3) Approve the request and direct LAFCO staff to prepare and execute a resolution reflecting terms and conditions; or
- 4) Continue to a future meeting.

The Chair opened the item for public comments.

John Chillemi, with GenOn Energy, Inc., the company building the power plant, urged immediate approval of the OAS request, as lenders for the project are monitoring it closely and site mobilization is scheduled to begin. He spoke of the economic and environmental benefits of the power plant. He pledged \$1 million each to the City and the County if they can come to agreement and complete the annexation by the end of 2012. He also asked Commissioners to consider the City of Antioch's proposed terms and conditions.

Commissioners Uilkema and Meadows asked questions about the timing of municipal services, whether the California Energy Commission has approved alternatives to municipal water and sewer, and whether there would be an option of terminating services if annexation did not occur. Legal Counsel Anderson acknowledged that it would be difficult to terminate services, and there would be challenges in setting conditions that are subsequent rather than up front.

Jim Jakel, Antioch City Manager, stated that the City of Antioch agrees that the Viera area should be annexed to the City. The cost of annexing this area, with its substantial infrastructure needs, is prohibitive, and the issue is difficult to solve when the tax revenues being discussed will not cover the infrastructure costs to the City.

Some Commissioners expressed frustration and concern regarding inability of the City and County to reach agreement on the tax exchange. Commissioner Glover noted that the tax exchange is complicated and agreed that the residential (Viera) area is problematic, and that both the City and the County have agreed to an economic development strategic work plan to address these issues and come to an agreement to move the annexation forward.

Greg Feere, representing the Contra Costa Building Trades Council, supported immediate approval of the OAS application, stating that this is the worst economic environment in his lifetime, and this is an opportunity for hundreds of construction jobs. To defer approval of the project only delays putting people to work. He added that GenOn Energy is environmentally sound, and pledged to support annexation of the project area by the end of 2012.

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Rich Seithel, of the County Administrator's Office (CAO), stated that he is the lead negotiator for the CAO, that the tax exchange is complex, and that both the CAO and Redevelopment are committed to making this annexation happen.

Victor Carniglia, planner for City of Antioch, assured the Commission that Antioch wants to move forward with the tax-sharing agreement and the annexation that has been pending for over three years.

Commissioners discussed concerns and options for approval of the OAS.

Glover moved, with a second by Schroder, that Commissioners approve Option 3 (approval with terms and conditions) as written by LAFCO staff with some modification as proposed by the City of Antioch, including removing Item D, and changing Item F to reflect monthly reports.

By roll call vote, Commissioners approved the motion and directed staff to prepare a resolution reflecting the terms and conditions as modified in the motion:

AYES: Glover, McNair, Meadows, Schmidt, Schroder, Tatzin

NOES: Uilkema

(Note: Commissioner Glover left the meeting and was replaced by Alternate Piepho on the dais. Commissioner McGill resumed his seat at the dais)

10. Fire Service Report

The Executive Officer provided a brief synopsis of the progression of previous fire service discussions and activities, and updated the Commission on January activities.

LAFCO staff noted that in January, representatives of Citygate Associates, local agencies, and LAFCO staff met to discuss ideas for moving forward. The consultants presented a draft fire study scope. There was interest by the group in developing a framework focusing on West County. Subsequently, Citygate revised the draft study scope. In February, West County fire agency representatives and LAFCO staff will meet to review and provide input on the revised scope, cost sharing and timeline, and report back to the Commission in March.

Stephen Healy, representing Chief Randy Bradley of Moraga-Orinda Fire District, stated that MOFD is beginning a strategic planning process.

Vince Wells, Local 1230, noted that Citygate Associates has most recently completed a study for the City of Pinole, and previously for East Contra Costa FPD, and questioned the outcomes of those studies. He expressed concern with funding for such a study coming from local agencies.

Lance Maples, Fire Chief, Kensington FPD and City of El Cerrito, also questioned the need for another study and the funding source. He stated that fire chiefs are, in fact, making progress and continue to look for ways to collaborate. He stated that progress is being made and will continue, as labor and management are working together.

There was discussion regarding a new study to focus on solutions, and that local agencies would need to be on board to assure success.

11. LAFCO Fiscal Year 2011-12 Budget Schedule and Work Plan

The Executive Officer presented the Fiscal Year 2011-12 budget schedule, with a proposed budget to be presented in March, followed by a final budget in May.

Staff also presented a list of current contracts for services performed by outside consultants, and asked the Commission if there was interest in going out to bid for any of these services.

Commissioner Tatzin suggested that staff include in the budget a plan for eliminating LAFCO's retirement liability.

Commissioner Piepho suggested going out to bid for website maintenance, financial auditing and planning services; and that LAFCO should look at competitive bidding every three years.

Upon motion of Piepho, second by Uilkema, Commissioners directed staff to proceed with the Fiscal Year 2011-12 work plan, and go forward with an RFP process for three contract services: 1) website maintenance, 2) financial auditing, and 3) planning and environmental.

12. Authorization to Request the County Auditor Controller to Collect Funds for Late Payment from a Special District

Upon motion of Uilkema, second by Schroder, Commissioners directed staff to request the Auditor Controller to collect \$27 from Rollingwood-Wilart Park Recreation and Park District for payment of its 2010-11 apportionment.

13. Correspondence from Contra Costa County Employees' Retirement Association (CCCERA)

The Executive Officer presented recent correspondence from CCCERA.

14. Correspondence from Don Flint regarding Town of Discovery Bay Community Services District Municipal Service Review

The Executive Officer presented recent correspondence from Don Flint.

15. Commissioner Comments and Announcements

Commissioner Piepho asked that a letter to John Gonzales be added to his correspondence, presented under public comments.

16. Staff Announcements and Pending Projects

The Executive Officer drew Commissioners' attention to items in the agenda packet highlighting on CALAFCO activities and pending proposals.

The meeting adjourned at 3:44 p.m. in memory of Bob Drake, who passed away in December 2010. Bob was a Principal Planner with the County for over 30 years; he was a kind and thoughtful man, and a friend of LAFCO.

Final Minutes Approved by the Commission on March 9, 2011.

AYES:

NOES:

ABSTAIN:

ABSENT:

By _____
Executive Officer

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