

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MINUTES OF MEETING

January 11, 2012

Board of Supervisors Chambers
Martinez, CA

February 8, 2012
Agenda Item 5

1. Chair Michael McGill called the meeting to order at 1:30 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 Don Tatzin and Alternate Tom Butt.
County Members Federal Glover and Alternate Mary Piepho.
Special District Members Michael McGill and Dwight Meadows.
Public Members Martin McNair and Alternate Sharon Burke.

Present were Executive Officer Lou Ann Texeira, Legal Counsel Sharon Anderson, and Clerk Kate Sibley.
4. Selection of Chair and Vice Chair

Upon motion of McNair, second by Piepho, the Commission unanimously elected City Member Don Tatzin as Chair for 2012.

Upon motion of Piepho, second by McNair, the Commission unanimously elected County Member Federal Glover as Vice Chair for 2012.

In his new capacity as Chair, Commissioner Tatzin presented Commissioner McGill with a proclamation and gift in appreciation for his year of service as Chair.
5. Approval of the Agenda

Upon motion of McNair, second by Tatzin, Commissioners moved Agenda Item 9 (Northeast Antioch Update) to follow Agenda Item 6 (Approval of December Minutes) and adopted the revised agenda unanimously.
6. Public Comments

There were no public comments.
7. Approval of December 14, 2011 Meeting Minutes

Upon motion of Glover, second by McNair, the minutes for the December 14, 2011 meeting were approved unanimously.
8. Northeast Antioch Update (Agenda Item No. 9)

The Executive Officer gave a brief report and introduced City (Victor Carniglia) and County (Rich Seithel) staff, who provided an update on the tax sharing agreement negotiations.

Mr. Carniglia reported that the two parties are getting "very, very close" to a final agreement and that applications are on the table. Mr. Seithel agreed with this assessment.
9. LAFCO 11-05 - North Pacheco Annexation to the City of Martinez

Commissioner McGill announced his need to recuse himself from this item and left the room. LAFCO Chair confirmed that Commissioner Schroder is not precluded from voting on this item.

The Executive Officer provided an overview of the proposal highlighting a number of issues including land use, municipal services, housing and developments that are currently underway.

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Phillip Vince, Martinez City Manager, emphasized the high priority that the Martinez City Council has placed on this annexation, which will provide job opportunities. He commented on the 41-month process and the extensive public outreach/education to property owners and businesses in the North Pacheco area who have affirmed their desire to be annexed.

Commissioner Glover commended the parties on a successful tax exchange agreement.

Upon motion of Glover, second by Piepho, the Commission unanimously certified that it reviewed and considered the information contained in the Negative Declaration and CEQA documentation; approved the proposal to be known as North Pacheco Annexation to City of Martinez as submitted, 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 is subject to a protest hearing; and authorized staff to conduct the protest proceedings.

10. Mt. Diablo Health Care District (MDHCD)

The Executive Officer gave a brief chronology of issues leading to the special study of MDHCD's governance and operations. EPS, the firm contracted for the study, has produced a final draft that includes a comment log with responses to the letters and emails received during the public review period. The final draft report reflects changes made as a result of comments received, and includes several governance options and their advantages and disadvantages.

Staff stated that the Commission's action today will determine the process going forward. Options included in the special study are to: 1) maintain the status quo; 2) dissolve MDHCD and appoint a successor agency to wind up the District's affairs; or 3) dissolve MDHCD and appoint a successor agency to continue healthcare services.

Commissioner Glover asked LAFCO staff to clarify the governance of CSA EM-1.

Commissioner Schroder stated that his company has written insurance on one of MDHCD's grantees; he has checked with counsel and has been told that there is no conflict with his participation in this action.

Commissioner Meadows asked about the indication from the City of Concord that it is interested in being named the successor agency to continue healthcare services.

Daymon Doss, MDHCD Interim Executive Director, provided a Power Point presentation about MDHCD, stating that community based healthcare districts are unique in the areas in which they can function and the services they can provide to the community as a result of a 1992 change in the law governing such districts. Included in the presentation were videos featuring two of the programs to which MDHCD has recently given grants. Mr. Doss noted that the District has addressed many of the issues raised in the 2007 LAFCO MSR. Doss stated that the LAFCO study was not complete and thorough, that the requisite conditions could not be met, some issues warranted further review (e.g. Martinez and property tax allocation), and suggested that LAFCO hold off on further action until the Municipal Services Review, which is tentatively scheduled for healthcare districts later this year, and that the District would provide regular updates to LAFCO.

Ralph Ferguson, counsel for MDHCD, stated there are significant dollars at stake and that per the agreement with John Muir Health (JMHealth), in 37 years (2049) there is a possibility that the hospital would be returned from JMHealth to MDHCD, and that the District must be retained in order to be ready to take over the management of the property at that time. Mr. Ferguson expressed concern regarding the future ownership of the hospital.

Commissioner Schroder asked about the next District election.

In response to Commissioners' questions raised in Mr. Ferguson's recent letter, LAFCO Counsel Sharon Anderson noted that these issues can be addressed in the dissolution process. Staff added

that, should a zone within CSA EM-1 (proposed successor agency) be created, the funds generated within the zone would be spent within the zone for health services.

The public hearing was opened.

Pat Frost, Director of Contra Costa Health Services (CCHS)/Emergency Medical Services (EMS) and the head of CSA EM-1, stated that she and Dr. Walker, CCHS Director, support Concord as being the successor agency. CSA EM-1 was concerned about retaining the \$1 million community funding and JMH has adequately addressed that issue. In response to Commissioner Piepho's question, Ms. Frost indicated that if the Concord option does not work, CSA EM-1 could still be an option and the details would need to be addressed.

Laura Hoffmeister, Concord City Councilmember, referring to the City's recent letter, stated that the City of Concord is very interested in being the successor agency to continue providing health care services; the City's Community Services Commission could handle such grants.

Commissioners questioned Ms. Hoffmeister and staff about this option, which would require dissolution of the District, followed by Concord submitting an application to LAFCO to shrink the District's boundary and form a subsidiary district that is at least 70% Concord (land and voters). A plan for service would be part of the application.

In response to questions about Martinez's payments into the District, staff explained that Martinez was annexed into the District prior to LAFCO's existence. Staff noted the difference between base tax and future growth (increment allocation factor) and that Martinez pays into the MDHCD base, but not the increment allocation.

Nancy Olson, General Counsel for JMH, noted out that since taking over the hospital, JMH has invested over \$300 million, and is in Concord to stay. Also, that JMH is committed to the \$1 million Community Health Fund. She stated that a decision by LAFCO to dissolve the District will not impact the hospital, which has 300 beds in the Concord facility (around 400 in the Walnut Creek location). When asked about the reversionary clause, Ms. Olson replied that JMH will be part of any Community Benefit Agreement if established as part of LAFCO's terms and conditions.

Joseph Partansky, retired health services administrator, stated his belief that the mandate for LAFCO's consultant was too narrowly worded, and expressed his opposition to dissolution of MDHCD.

Cindy Gershen, from Wellness City Challenge, a culinary program associated with Mt. Diablo High School, spoke in support of MDHCD and maintaining the status quo or, if necessary, naming the City of Concord as successor agency to continue services.

Ed Birsan, resident of Concord, encouraged LAFCO to detach Martinez from the MDHCD boundary. Staff responded that LAFCO cannot initiate a detachment. Mr. Birsan suggested that all districts examine their boundaries. Commissioner Piepho noted that boundary review is part of the LAFCO MSR process.

Commissioners urged Commissioner Schroder to investigate what the City of Martinez's position would be on remaining in or detaching from MDHCD. Commissioner Tatzin asked staff about the effect of the Commission's adopting a zero SOI; would Concord then be able to apply to create a subsidiary district as a successor to MDHCD?

Kevin Fuller, from Wellness City Challenge, supported maintaining MDHCD, which provided needed support for his program.

Aliyah Saunders, Marcela Barrientos, and Alayah Saunders, students with the Wellness City Challenge, all spoke in support of maintaining MDHCD.

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Commissioner Glover commented that the option of dissolving the District does not take away from the value of these community programs.

David Strongman, resident of Concord and recipient of homeless services from an organization supported by MDHCD, spoke in support of maintaining MDHCD.

James R. Morrison, resident of Concord who received services from an organization supported by MDHCD, spoke in support of maintaining MDHCD.

Claire Yragui, Director of NorCal Transitions Inc., spoke on behalf of maintaining MDHCD, which has provided a grant to their organization.

Rudy Jamie, resident of Concord, supported maintaining the status quo for MDHCD.

Rikki Gilliam, of Wellness City Challenge, spoke in support of MDHCD.

Araceli Ramirez, an advocate for NorCal Transitions Inc., spoke in support of MDHCD.

Frank Manske, MDHCD Board Member, spoke in support of dissolution with CSA EM-1 named as the successor agency to carry on the services.

Richard Verrilli, resident of Martinez, questioned the suggestion of excluding Martinez from the District boundary; he believes that MDHCD is reaching into Martinez.

Grace Ellis, Vice Chair of MDHCD, stated that some people have a very narrow definition of health care, and that MDHCD has done a great job of providing services.

Kris Hunt, Contra Costa Taxpayers' Association (CoCo Tax) Executive Director, urged LAFCO to dissolve MDHCD before they burn through their remaining funds.

Wendy Lack, resident of Pleasant Hill, urged dissolution and winding up of the District's affairs.

Davis Todhunter, former Grand Jury member, urged Commissioners to dissolve the District and order them to stop spending their funds at this time.

Jack Weir, resident of Pleasant Hill and member of CoCo Tax, expressed concern that issues raised today might delay the Commission's decision and urged dissolution with CSA EM-1 as successor.

Commissioners asked if Mr. Weir had any idea if Pleasant Hill would have concerns with Concord being named successor agency to MDHCD. He responded that he thinks they would prefer to see it dissolved, but since their tax dollars are involved, they would want to be part of conversations about the dissolution.

In response to Commissioners' comments regarding next steps, staff stated that if the Commission wishes to dissolve MDHCD, it is important to declare that intent with some direction regarding the successor agency. Commissioner Glover indicated that there are significant questions still to be answered, and a number of conversations must take place; LAFCO staff will need time to bring options, terms and conditions to the Commission.

Richard Soderholm, resident of Concord and a member of the first Grand Jury to recommend dissolution of MDHCD, spoke in support of dissolution.

Karen Mitchoff, District 4 Supervisor, initially had supported dissolution and the naming of CSA EM-1 as successor agency to continue providing services. As a representative of both Concord and Pleasant Hill, she supports continuation of discussions, and would also like to see the continuation of the programs that have received MDHCD grants.

Daymon Doss asked the Commissioners to be clear about the timeline as they go forward. When does the 60-day State agency consideration period begin? What action triggers what follow-up?

There was a brief recess called at 3:55 p.m.; the meeting reconvened at 4:07 p.m.

Upon motion of Glover, second by Schroder, Commissioners unanimously approved the following items: 1) accept the consultants' Special Study of Mt. Diablo Health Care District; 2) adopt a zero SOI for MDHCD; 3) declare the Commission's intent to dissolve MDHCD and appoint a successor agency to continue services; 4) continue the hearing to March 14, 2012; and 5) direct staff to return in March with the next steps for selecting a successor agency and determining terms and conditions.

Staff were encouraged to include discussions with the cities served by MDHCD. Daymon Doss, MDHCD's Interim Executive Director, asked that the District be included in the discussions.

11. Commissioner Terms

The Executive Officer reported that five Commissioner terms were due to expire in May of 2012. County Alternate Member, Mary Piepho, was recently reappointed to her seat for four years, and the four other seats must be filled this spring. Commissioner McGill was elected in 2011 by the Independent Special Districts Selection Committee to fill an unexpired term; that seat will be filled with an election in April in conjunction with the Contra Costa Special Districts Association meeting. Commissioner Tatzin was also appointed to fill an unexpired term; this seat will be filled in April by the City Selection Committee. Both public member seats (regular and alternate) will be open for appointment. Commissioner McNair will "term out," and Alternate Commissioner Burke will be eligible to run for either seat.

Chair Tatzin will appoint a subcommittee by March to screen applications and provide a short list of final applicants for Commissioners to interview.

12. Correspondence

There was no correspondence.

13. Commissioner Comments and Announcements

Commissioner Tatzin thanked Commissioners for the opportunity to serve as Chair.

14. Staff Announcements and Pending Projects

Staff announced that she would be attending a CALAFCO Legislative Committee meeting on January 20, the CALAFCO U workshop on February 3, and the CALAFCO Board meeting on February 10.

The meeting was adjourned at 4:20 p.m.

Final Minutes Approved by the Commission on February 8, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

By _____
Executive Officer

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