

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MINUTES OF MEETING

March 14, 2012

April 11, 2012  
Agenda Item 5a

Board of Supervisors Chambers  
Martinez, CA

1. Chair Don Tatzin 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.  
County Members Federal Glover and Alternate Mary Piepho.  
Special District Members Michael McGill and Dwight Meadows and Alternate George Schmidt.  
Public Members Martin McNair and Alternate Sharon Burke.  
Present were Executive Officer Lou Ann Texeira, Legal Counsel Mary Ann Mason, and Clerk Kate Sibley.
4. Approval of the Agenda  
Upon motion of Piepho, second by Glover, Commissioners moved the Closed Session from prior to Agenda Item 4 (Public Comment Period) to prior to Agenda Item 9 (Mt. Diablo Health Care District) and adopted the revised agenda unanimously.
5. Public Comments  
There were no public comments.
6. Approval of February 8, 2012 Meeting Minutes  
Upon motion of Glover, second by Piepho, the minutes for the February 8, 2012 meeting were approved unanimously.
7. Northeast Antioch Update  
Rich Seithel, County staff, provided an update on the tax sharing agreement negotiations. The agreement has been drafted, and the City of Antioch and the County are now engaged in joint economic development discussions. They plan to bring forward City and County resolutions near the end of March. There was brief discussion regarding LAFCO's role in the review of the tax transfer agreement.  
Albert Snell, a business owner in the NE Antioch area, spoke about his business's need to get water service for their property in order to install fire sprinklers, as required by the Contra Costa County Fire Protection District. They can't afford to wait until this area is annexed, and the City has been reluctant to submit an out of agency service application to LAFCO. Commissioner Meadows was sympathetic to Mr. Snell's situation and Commissioner Glover stated that he would work with the City to move such an application forward.  
Upon motion of Piepho, second by McGill, Commissioners unanimously received the report.

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8. East Contra Costa Fire Protection District (ECCFPD) Update

Hugh Henderson, ECCFPD Fire Chief, provided an update on the District's plan to place a special parcel tax on the June 5 ballot. They have held 20 town hall meetings to date, with another four to go. As a result of these meetings, they have settled on \$197 per parcel, with a ten-year sunset, and up to three percent CPI increase per year. In response to a question, Chief Henderson pointed out that in the ten years of this parcel tax increase, the District will add personnel and a new station, which will put the District back into the red. The parcel tax is not a permanent fix.

Commissioner Meadows commended the District for its efforts. Commissioner Piepho asked Chief Henderson to provide LAFCO with copies of the recent Grand Jury report and the District's response.

Upon motion of Piepho, second by Glover, Commissioners unanimously received the report.

9. LAFCO 11-05 - North Pacheco Annexation to City of Martinez

The Executive Officer reported that the protest hearing for the North Pacheco Annexation to the City of Martinez, which was a result of written protests received at the January 11 public hearing, was held on March 6 and attended by approximately 14 people. Fifty written protests were received prior to the close of the hearing, and 47 of those, over 25% of all registered voters in the area, were subsequently certified by the County Elections office. This triggers the need for an election to be held in the annexation area. Staff will bring forward a resolution calling for an election at the April LAFCO regular meeting.

**At 2:01 p.m., Commissioners went into closed session, and returned at 2:23 p.m. The Chair announced that there was nothing to report.**

10. Mt. Diablo Health Care District (MDHCD)

Prior to the staff report, Commissioners Tatzin, Piepho, and McGill noted that they had met with representatives of the City of Concord, Mt. Diablo HCD, and John Muir Health (JMH).

The Executive Officer provided a brief chronology and account of steps taken since Commissioners discussed this item in January, at which time the Commission adopted a zero SOI for MDHCD, and continued the hearing to this meeting. Staff reported that numerous meetings had occurred with affected and interested parties to discuss concerns and issues as well as potential impacts and outcomes of the governance options available. Two options have been identified: 1) dissolving the MDHCD and naming the City of Concord to wind up the affairs of the District, OR 2) receiving an application to amend the District boundaries and establish MDHCD as a subsidiary district of the City of Concord.

Staff noted that whichever option is selected, there will be a need for an expedited schedule in order to avoid an election for MDHCD board members in the November general election. There are a number of variables that can affect and/or support an expedited schedule, including actions that may be taken by MDHCD and the City of Concord.

Commissioner Tatzin opened the public hearing at 2:40 p.m.

Jeff Kasper, Chair of MDHCD, thanked the Chair and LAFCO staff for their work on this issue and reminded Commissioners that MDHCD is contractually entitled to the \$1 million Community Health Fund provided by JMH, as well as five seats on the board that

distributes that fund. He indicated that the MDHCD Board is cautiously interested in the subsidiary district idea. He also stressed that MDHCD should be allowed a minimum of one year to reestablish itself on its own. In response to a question about the health care benefit obligations, he stated that they are planning to purchase an annuity for these anticipated expenses, which have been reduced from over \$40,000/year to around \$16,000.

Frank Manske, MDHCD Board Member, encouraged Commissioners to adopt Option 1 (dissolution of the District).

Laura Hoffmeister, Concord Councilmember, thanked the Commissioners and staff for their work on this issue, and stated that the City supports Option 1 (dissolution of the District), indicating that they could work with JMH to ensure that all community benefits are continued. The letter submitted by the City supports dissolution and the winding up of the District's affairs.

Commissioners Meadows and Piepho asked the City for clarification regarding its preferred option as it differs from the City's previous option to establish a subsidiary district.

Dan Helix, Concord Councilmember, expressed his appreciation for the Commissioners' time, and suggested that the City Attorney provide comments.

Mark Coon, Concord City Attorney, confirmed that the City's preference is for Option 1. He added that the timeline is too tight for Option 2, particularly with the application requirement for metes and bounds. He added that if MDHCD is dissolved, the Community Benefit Agreement (CBA) will flow by law to the City of Concord.

Michael Colantuono, Special Legal Counsel to the City of Concord, stated that JMH will ensure that funds provided by that organization to the CBA will continue.

LAFCO staff noted that JMH has pledged to make those funds available for ten years.

Mr. Colantuono pointed out that the CBA is a district asset that will continue for the benefit of the community, that there is no legal requirement that a health care district be succeeded by a health care district, and that shrinking the District by detaching the portions serving communities surrounding Concord will reduce the tax revenues available.

Staff noted that if Concord wants the District to be a subsidiary of just Concord, or Concord and Pleasant Hill, the City can use the current city metes and bounds for the subsidiary district.

Discussion ensued among Commissioners regarding the options, timeline and risks.

Nancy Olson, Counsel for John Muir Health, stated that JMH will support either option. The organization is in favor of dissolution of MDHCD, but recognizes that there may be more risk in that option.

Jack Weir, representing the Pleasant Hill Taxpayers' Association, noted that the people of Pleasant Hill undertook certain obligations when the District was established. He asked Commissioners to ensure that the people of Pleasant Hill continue to get their share.

Kris Hunt, Executive Director of Contra Costa Taxpayers' Association, urged dissolution.

Ralph Ferguson, Counsel for MDHCD, asserted that there are substantial risks in either dissolving the District or creating a subsidiary district within the City of Concord, and expressed support for establishing a subsidiary district.

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Joseph Partansky, Concord resident, stated that the people have an interest in what happens with MDHCD, and they deserve to have a vote. He urged that an Attorney General opinion be pursued.

Karen Mitchoff, District 4 County Supervisor commended Jeff Kasper for his leadership. She also stated that although she initially supported Option 2 (reorganization), she now favored Option 1 (dissolution). In response to Commissioner questions, she felt that the promise from JMH of \$1.24 million per year for the next ten years would make up for the loss of \$240,000 in tax revenues for health care services.

Nancy Olson stated that the \$1.24 million from JMH would go to the Community Health Fund (CHF), which is an already established grant-making entity. Board members of the CHF comprise five from the Walnut Creek JMH, and five from MDHCD. The latter five members would be replaced by five members from agencies designated in amended CBA. Alternatively, LAFCO could name the agencies who would have representation on the CHF Board.

At 3:40 p.m. the public hearing was closed.

Commissioner McNair proposed going with Option 1 (dissolution) and working out the details. Commissioner McGill seconded the motion.

Commissioners discussed the options, the terms and conditions, allocation of property taxes, succession of rights under the CBA, and concerns about the timeline.

Upon motion of Glover, second by Meadows, Commissioners voted not to initiate dissolution at this time; asked the City of Concord to apply to LAFCO to reorganize the MDHCD and establish a timeline for reorganization; directed LAFCO staff work with the City of Concord and John Muir Health to develop an agreement by addressing key issues and associated LAFCO terms and conditions; directed LAFCO staff to notify State agencies pursuant to GC §56131.5 once the reorganization has been initiated; and acknowledged that the reorganization will be subject to a future LAFCO hearing and protest proceedings. By roll call, the following vote was recorded:

AYES: Glover, McGill, Meadows, Piepho, Schroder, Tatzin

NOES: McNair

ABSTAIN:

ABSENT: Uilkema

11. Proposed Budget for FY 2012-13

The Executive Officer presented the proposed budget for FY 2012-13, noting a slight increase due to increased health and benefit costs. Application revenues continue to be down, and there has also been a decrease in the fund balance, both of which will lead to an increase in the apportioned contributions from the County, cities, and special districts.

The LAFCO OPEB (Other Post-Employment Benefits) fund has remained untouched. LAFCO staff will ask the Auditor if a separate account can be set up for this. Staff is working on obtaining hard figures for this liability.

Upon motion of Piepho, second by McGill, Commissioners unanimously approved the proposed budget for FY 2012-13; directed staff to distribute the proposed budget to the

County, cities, and special districts; and scheduled a public hearing for May 9 to adopt the Final FY 2012-13 LAFCO budget.

12. Public Member Screening Committee

The Executive Officer reported that LAFCO had received 15 applications for the Public Member and Alternate vacancies. The Chair has asked Commissioners McGill and Glover to join him on the review subcommittee; Commissioner McGill stated that he would defer to Commissioner Meadows. It was agreed that the subcommittee would set up a schedule for preliminary interviews, and invite three finalists to the April 11 regular LAFCO meeting for interviews with the entire Commission.

13. Correspondence

In follow-up to Senator DeSaulnier's letter to the State Natural Resources Agency, the Executive Officer reported that a meeting has been scheduled for March 27; all interested parties will be in attendance to discuss the AmGen bicycle tour and how to proceed with the needed improvements to Mt. Diablo Scenic Boulevard.

14. Commissioner Comments and Announcements

Commissioner McGill reported that he will be running for the vacant seat on the CALAFCO Board of Directors (Coastal Region/Special District Member).

15. Staff Announcements and Pending Projects

Staff had no announcements beyond the items in the agenda packet.

The meeting was adjourned at 4:25 p.m.

Final Minutes Approved by the Commission on April 11, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

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

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