



Lou Ann Teixeira
Executive Officer

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| | |
|--|---|
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June 13, 2012 (Agenda)

**June 13, 2012
Agenda Item 8**

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

Mt. Diablo Health Care District Update

Dear Commissioners:

In March 2012, the Commission considered governance options for the Mt. Diablo Health Care District (MDHCD). At that time, the Commission closed its public hearing and expressed an interest in “reorganizing” the District whereby the City of Concord would apply to LAFCO to shrink the boundaries of the District and establish MDHCD as a subsidiary district of the City.

Last month, we reported that the City of Concord submitted an application to LAFCO to reorganize the MDHCD, and that the application was not yet complete. On May 22, LAFCO received additional application documents from the City Concord, including a plan for service and financial plan (“operations plan”) – Attachment 1. This information was distributed to all affected parties. On May 31, LAFCO received a letter from the MDHCD which provides an update and comments relating to the proposed reorganization – Attachment 2.

Staff previously reported that the Pleasant Hill City Council adopted a resolution supporting Concord’s application to LAFCO; and that the cities of Clayton, Lafayette and Walnut Creek have expressed no comments or objections to the proposed MDHCD reorganization. The City of Martinez will discuss the issue at their June 6th meeting. Also, the County Auditor’s office provided the required notice to all affected agencies regarding the proposed reorganization and property tax issues. On June 5th, the Board of Supervisors adopted a resolution determining the tax exchange for the proposed MDHCD reorganization.

The District will meet on June 7th to discuss the proposed MDHCD reorganization and related issues including the new actuarial report and OPEB issues.

LAFCO staff continues to work with the affected agencies on various issues. Our goal is to bring the proposed reorganization to the Commission at a special LAFCO meeting scheduled for

June 29th and we will notice the meeting accordingly. However, if we are unable to proceed at that time, we will cancel the special meeting.

RECOMMENDATION – It is recommended that the Commission receive the update and provide direction as appropriate.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachment 1 – City of Concord Supplemental Application Documents dated May 22, 2012
Attachment 2 – MDHCD Comment Letter dated May 31, 1012

c: Distribution

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Timothy S. Grayson
Daniel C. Helix
Laura M. Hoffmeister

Thomas J. Wentling, City Treasurer
Valerie Barone, Interim City Manager

May 22, 2012

Ms. Lou Ann Texeira
Executive Officer
Contra Costa LAFCO
651 Pine Street, 6th Floor
Martinez CA 94553-1290

Subject: **Reorganization of the Mt. Diablo Health Care District**

Dear Ms. Texeira

This letter and enclosure are provided as further documentation and support for the City of Concord's application to convert the Mt. Diablo Health Care District to a subsidiary district governed by the Concord City Council.

The City application requests that LAFCO (a) reduce the size of the District by approving the detachment of territory external to boundaries of the Cities of Concord and Pleasant Hill and (2) establish the Concord City Council as, ex officio, the Board of Directors of the Mt. Diablo Health Care District.

It is important to understand that this action will not merge or consolidate the City and District. The District will remain a separate legal entity, although smaller and with a new governing board. It will continue to have a separate budget. Its statutory obligations and limitations will be unchanged since it remains a Health Care District operating under the Local Health Care District Law (Health and Safety Code Section 32000 et seq.).

With these considerations in mind, Concord is augmenting its application materials submitted to your office on April 5 to include the following document: Operations Plan for Service per Government Code Section 56653

With this submittal, I'd like to reiterate the conditions that the Concord City Council enumerated in their April 3, 2012 resolution initiating its LAFCO application (Resolution Number 12-29; submitted to LAFCO with the City's April 5, 2012 application). Each of these conditions is listed below:

1. Prior to the effective date of the reorganization the District shall fully fund its current unfunded health care benefit liability.

Lou Ann Texeira

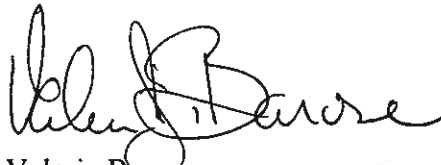
May 22, 2012

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2. All District assets and liabilities, real and fiscal, located within or identified with the area being detached from the District shall remain assets and liabilities of the District.
3. Three of the five seats previously appointed by the District Board to the Health Foundation Board shall be assigned by the City of Concord. *In addition, while not a part of Concord's resolution, the City of Concord supports the City of Pleasant Hill's request that LAFCO condition its action such that the remaining two seats of the five seats previously appointed by the District Board to the Health Foundation Board be assigned by the City of Pleasant Hill.*
4. LAFCO shall waive its standard indemnification requirement.

Please contact me or the City's consultant, Bob Braitman, if you have any questions about this information.

Sincerely,



Valerie Barone
Interim City Manager

Enclosure:

Operations Plan for Public Services

cc: June Catalano, City Manager, City of Pleasant Hill
Bob Braitman, Consultant to the City of Concord
Mark Coon, Concord Acting City Attorney
Nancy Olsen, John Muir Health

MT. DIABLO HEALTH CARE DISTRICT
Operations Plan and Plan for Providing Services

A. District Governance

1. The City Council of the City of Concord shall ensure the operations of the Mt. Diablo Health Care District (“District”) are carried forth pursuant to and consistent with the requirements of Health and Safety Code Section 32000 et seq.) pertaining to Local Health Care Districts.
2. The Concord City Council shall serve as the Board of Directors of the District. When individuals no longer serve as members of the City Council they will no longer be members of the District Board of Directors.
3. The Concord City Council shall select from among its members an individual to serve as the Chair of the Board of Directors for the District. That individual may be the Mayor but other members may also be selected to serve as Chair.
4. Meetings of the District Board of Directors may be held on the same date, time and location as meetings of the City Council but all notices and agendas shall clearly identify District meetings as distinct and separate meetings from those of the City Council.
5. The Board of Directors shall annually adopt the District budget at a public meeting.
6. Special meetings of the Board of Directors may be held on other dates provided proper public notice is provided in accordance with State law.

B. District Administration

1. The Concord City Manager shall be the Administrator/Chief Operating Officer of the District.
2. The Concord City Attorney shall be the legal counsel to the District.
3. The City Manager may delegate administrative and operational duties related to the District to other members of the City staff but shall retain the title and responsibility as Administrator/Chief Operating Officer. All District funds will be held separately from the City of Concord funds.
4. The Concord City Council shall appoint the Finance Director, pursuant to Health and Safety Code Section 32127, as District Treasurer for the safekeeping and disbursal of District funds.

5. The City Manager, as Administrator/Chief Operating Officer, shall prepare and present to the Board of Directors the annual District operating budget.

C. Relationships with Other Public and Private Organizations

1. The City of Concord shall maintain a collaborative relationship with the City of Pleasant Hill allowing Pleasant Hill input into the overall administration of the District and participation in the grant program that will be administered by City of Concord on behalf of the District.
2. The City of Concord shall provide the City of Pleasant Hill, County of Contra Costa and John Muir Health with notices and agendas for all meetings of the District Board of Directors.
3. The John Muir/Mt. Diablo Community Health Fund (CHF) shall continue to exist, including its 10-member Board, with five of those members appointed by public bodies. When the reorganization is effective, of the five members appointed by a public body, three shall be appointed by the Concord City Council and two shall be appointed by the Pleasant Hill City Council. The remaining 5 members of the CHF shall be appointed in the same manner as they are currently appointed.
4. John Muir Health, in a March 7, 2012 letter to LAFCO signed by President and Chief Executive Officer Cal Knight, states that John Muir Health will continue its \$1 million annual investment in the Community Health Fund (\$37 million through 2049, the term of the current Community Benefit Agreement). This commitment shall continue.

D. Plan for Providing Services

Based on the requirement of Government Code Section 56653, the application to LAFCO for the reorganization submitted by the City of Concord included a plan for providing services. This document expands on that information and is presented in the same format as was submitted in the application.

1. Describe the services to be extended to the affected territory by this proposal.

The District will continue to provide Health Services, Health Access, Healthy Lifestyle, Support Services and Workforce Development services currently provided or authorized to be provided at this time.

2. Describe the level and range of the proposed services.

Fewer District revenues will be allocated to District overhead costs due to the elimination of District elections and stipend costs and an ability for the City of

Concord to administer the program in a more cost effective manner by using an existing government structure. The City of Concord councilmembers will not receive any benefits or compensation (whether salary or stipened) for serving as, ex officio, the Board of Directors to the District. Therefore more District resources will be available to benefit the public through provision of authorized health services and grant programs.

Current estimates are that the new District, once the areas outside the cities of Pleasant Hill and Concord are detached, will receive approximately \$232,500 annually in revenue from District taxes, based on FY 2011-12 revenue, as reported by the County Auditor-Controller. Additionally, the District will receive \$25,000 annually to support administrative activities from John Muir Health.

Concord anticipates running the District with the same controlled levels of overhead that apply to the City's Community Grants Program—up to 20% of revenue used for overhead costs. This equates to an expected maximum annual overhead cost for operating the District of \$46,500. However, John Muir's annual \$25,000 payment to support administrative activities within the District would offset all but \$21,500 of this overhead cost. Actual annual overhead costs may be lower than \$46,500, however, until the City takes over operations actual costs are unknown. Assuming a maximum overhead cost of \$46,500 and a \$25,000 offset of overhead costs by John Muir, there would be \$211,000 available annually for the District's programs.

The City's first-year expenses for managing the District could be higher than 20% because of the need to cover consulting and legal costs necessary to support the LAFCO application process, and the costs associated with incorporating the District into the City of Concord's administrative systems—i.e., financial, records, etc.

Additionally, the City anticipates transferring District operations onto a July 1 through June 30th Fiscal Year, to match the City's fiscal year.

Because it is not yet known how much of the current District's funds will transfer or be available upon LAFCO approval of the reorganization (anticipated to be complete by August of 2012), or actual revenue levels that the District will receive once significant areas are detached, the City anticipates deferring operations of the grant program to FY 2013-14. The application process would begin in February 2013 in order for grants to be awarded for the FY 2013-14. This will have two advantages:

- A. The City will be able to determine actual revenues vs. assumed or estimated revenues;

B. The City will use the intervening time to develop an accessible and transparent grant program, including working with the City of Pleasant Hill, County Health, John Muir, and community health advocates to establish program priorities, define grant criteria, develop application materials, define the grant review process (i.e., how Pleasant Hill and Concord will work together in the grant program) and develop accountability measurements and measures. All of these tools must be in place prior to the City initiating a grant program for the District.

3. Indicate when the services can feasibly be provided to the proposal area.

In a practical sense, some financial changes will occur upon the effective date of the reorganization; more substantial changes and benefits may become evident once the Concord City Council and administration, in consultation with the City of Pleasant Hill, have the opportunity to prepare and adopt a new District budget and updated operating procedures. As mentioned above, the City does not anticipate the grant program for the District to begin funding until Fiscal Year 2013-14.

A probable schedule of activities is as follows:

August 2012: LAFCO acts to reorganize the District; the Concord City Council becomes its Board of Directors

Fall 2012: City actively works with the former District to obtain all records and files and begins the process of integrating such records into the City's electronic records management system

City establishes appropriate financial systems and legal documents to support the District

City of Concord staff works with City of Pleasant Hill staff to create a grant program. The preparation of the grant program will involve John Muir Health, County Health, community health advocates, etc., and be done in a manner that invites public involvement.

January 2013: The reorganized District Board of Directors adopts the grant program

Feb-April 2013: Grant applications made available for FY 2013-14 and grant applications submitted and reviewed in accordance with adopted program.

May-June 2013: Grants approved by the Concord City Council as part of the City's Budget process

July 2013-June 2014: City administers the grants

Oct-Dec 2013: Grant application process for Fiscal Year 2014-15 begins. Although it is also possible that the City may choose to establish a two-year grant cycle vs. an every year cycle. This decision would be made in the Fall of 2012 as the City explores in more detail its service delivery model.

4. Indicate any improvements or upgrading of structures, roads, sewers or water facilities or other conditions that will be required as a result of the proposal.

This question is not relevant to the reorganization of the Mt. Diablo Health Care District.

5. Identify how these services will be financed. Include both capital improvements and ongoing maintenance and operation.

The primary source of revenue to finance District services are property taxes collected annually on land and improvements within the District boundaries. See response to question 2 above.

6. Identify any alternatives for providing the services listed in Section (A) and how these alternatives would affect the cost and adequacy of services.

Following an extensive study of the current situation, LAFCO has determined that the preferable option is to convert the District to a subsidiary district that is governed by the City of Concord.

Another alternative would be to dissolve the District and transfer its assets and liabilities to the City of Concord as the successor agency.

The City of Concord remains open to supporting LAFCO in their actions by serving in either of these roles.

Additionally, the City considered a "merger" of the District with the City, however determined that this alternative was infeasible because it would create liability for the City and put the City's General Funds at risk.

E. Community Benefit Agreement

There are a variety of technical cleanups of the language in the Community Benefit Agreement (CBA) required by the reorganization of the Mt. Diablo Health Care District as proposed by LAFCO.

For instance it will be necessary to acknowledge the changes related to appointment of members to the Community Health Fund (CHF). The current CBA has the District Board appointing 5-members to the CHF. To be consistent with the proposal before LAFCO, the CBA will need to be amended to have the Concord City Council, in its role as the new Board of Directors to the District, appointing three members and the Pleasant Hill City Council appointing two members. Additionally, John Muir Health has requested that the CBA limit to no more than two the number of elected officials from any one agency that can be appointed to the CHF. The City of Concord supports this request and intends to incorporate it into the revised CBA.

Additionally, the CBA will need to be revised to incorporate changes in John Muir's by-laws that have occurred since the CBA was executed, and to eliminate John Muir's obligation to provide office space and conference and meeting rooms to the District.

No substantive changes to the Community Benefit Agreement are necessitated nor proposed at this time. However, John Muir Health has indicated that they would like the District to work with them to remove the reversionary provision of the CBA. The Concord City Council, in its role as the District Board of Directors, is willing to explore with John Muir options by which the public's interest in the hospital's assets are preserved, that state law is adhered to, and that any disincentives to John Muir's continued investment in the hospital are removed. At this point in time, there have been no negotiations on this topic.

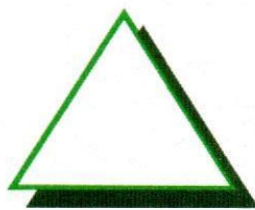
F. Possible Impact of AB 2418

AB 2418 (Dickinson and Gordon) Health Districts appears to be written to purposely restrict to 5% of revenues the amount of money available to a Health District to spend on overhead and operations. Were Assembly Bill 2418 to become law and affect such a restriction on administration and overhead costs, it would make it impossible for the City of Concord to operate the District without impacting the City's General Fund. Consequently, if Assembly Bill 2418 passes the City will need to consider whether dissolution of the District is an appropriate action.

Mt. Diablo Health Care District
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Board of Directors
Jeffrey S. Kasper, Chairman
Grace Ellis, Vice Chairman
Roy Larkin, Secretary / Treasurer
Nick Adler, RN, Director
Frank Manske, Director

Daymon Doss, Executive Director

Roya Biarash, District Secretary

Thursday, May 31, 2012

Valerie Barone
Interim City Manager, City of Concord
1950 Parkside Drive, MS/01
Concord, CA 94519

Dear Ms. Barone,

On May 22, 2012, the LAFCo Response Ad-Hoc Committee of the Mt. Diablo Health Care District received the supplemental application from the City of Concord and its operational plan for the proposed reorganization of the Mt. Diablo Health Care District.

We have had the opportunity to review this document and have several comments regarding the proposed process:

- 1. The GASB 45/OPEB Actuarial Report has been completed and presented to our Finance Committee and will proceed on to our full board at its regularly scheduled Board Meeting on June 7, 2012. The total dollars identified as an OPEB responsibility is \$218,000; this is a significant reduction from the previous actuarial analysis of \$714,000. A trust account may be developed, subject to full board authorization, to fund all or a portion of this liability.*
- 2. It is our belief and understanding that each of the proposed detached areas needs to adopt a formal resolution acknowledging and supporting their detachment from the Mt. Diablo Health Care District. The Cities of Martinez, Lafayette, and Clayton are being proposed to be detached from the District and could potentially lose any long term benefit of the ownership of the Mt. Diablo Hospital Facility. This requires a formal action from the elected officials in these cities. To be of any legal or practical significance, the Resolution must include a specific recognition of the asset value these communities are voluntarily surrendering. Voluntarily waiving a substantial interest in the reversionary assets must include some reasonable identification and valuation of the assets.*

3. *The Mt. Diablo Health Care District is governed by elected officials. In the reorganization plan, the governance of the Mt. Diablo Health Care District will become the City Council members of the City of Concord. While it is true that four (4) of the five (5) current Mt. Diablo Health Care District Board Members are up for reelection in November of 2012, one member's term continues until December 2014. Clarification is needed regarding the status of an elected official of an organization that continues to be in existence and whose term has not expired. The City of Concord is following the Government Code structure for replacement governance of a subsidiary district. However, this approved structure is not mandatory. The shared governance contemplated for merged health care districts in Government Code section 56862 [n] and Health and Safety Code section 32100.05 [a] and [b] could serve as a model for a transitional governance of the new subsidiary district.*
4. *Language in the City of Concord application regarding the Community Benefit Agreement indicates a lack of full understanding of the obligation and responsibilities of the Mt. Diablo Health Care District regarding this agreement. This is an agreement between the Mt. Diablo Health Care District and the John Muir Health System. It is not an agreement subject to the current goodwill of either party, it is a contractual obligation. The annual John Muir/Mt. Diablo Community Health Fund payment of one million dollars (\$1,000,000) per year for the next thirty-seven (37) years is a product of an action taken by the Mt. Diablo Health Care District and approved by its voters in 1996.*
5. *The proposed subsidiary district needs a plan and should propose an entity to actively manage and monitor compliance with the Community Benefit Agreement.*
6. *We believe and support the concept that only a Health Care District could have participated in this contractual relationship with John Muir Health Systems. The inclusion in the City of Concord application that they were equally supportive of a Dissolution process with the assigning of the assets of the Mt. Diablo Health Care District to the City of Concord exhibits a lack of understanding of the legal obligations and actual value of the Community Benefit Agreement.*
7. *On May 11, 2012, the Mt. Diablo Health Care District requested from LAFCo a thirty (30) day extension of their comment period pertaining to the City of Concord's incomplete application. This extension period was granted with comment to LAFCo due on June 13, 2012. While recognizing the desirability of avoiding the cost of an "unnecessary" election, the issues presented in the proposed reorganization are of preeminent importance to the communities served by MDHCD. Avoiding the cost of an election should be a secondary issue in establishing any timeline for this very important process.*



SUMMARY

These comments and observations reflect the brief time that the LAFCo Response Ad-Hoc Committee has had to review the City of Concord Application. It is not meant to be a definitive or final review, but meant to serve as a timely update.

It is understood that our questions may necessitate a process that will not meet the expedited timeline that was suggested to us by LAFCo last week.

The Mt. Diablo Health Care District is endeavoring to cooperate in this evaluation of the Proposed Reorganization Plan, however, our own due diligence and public process must carry precedence.

Sincerely,

Jeffrey S. Kasper, Chairman
Mt. Diablo Health Care District

Roy Larkin, Secretary/Treasurer
Mt. Diablo Health Care District

C.C. Lou Ann Texeira, LAFCo



Mt. Diablo Health Care District
1800 Sutter Street, Suite #385
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