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June 13, 2012 (Agenda)

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

Mt. Diablo Health Care District Update – Supplemental Report

Dear Commissioners:

On June 13, the Commission will receive an update on the proposal to reorganize the Mt. Diablo Health Care District (MDHCD). This is a supplement to the update.

On June 7, the MDHCD Board voted to file an alternative proposal (see attached resolution).

In accordance with Government Code section 56862, if a district files a resolution of intention to file an alternative proposal, the LAFCO Executive Officer shall take no further action on the original proposal to form a subsidiary district for a period of 70 days.

RECOMMENDATION

Receive supplemental report.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachment – MDHCD Resolution No. 2012.2 – Resolution of the Board of Directors to File and Alternative Plan

c: Distribution

Resolution No. 2012.2

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MT. DIABLO HEALTH CARE DISTRICT**

June 7, 2012

Findings and Factual Statement

WHEREAS the Board of Directors of the Mt. Diablo Health Care District (MDHCD) is required by June 13, 2012 to decide whether to support, oppose or take no position on the application of the City of Concord to form a subsidiary health care district; and whereas, the District will not take a neutral position about a matter of such importance to the communities it serves, and

WHEREAS, if the Board of Directors determines that the City of Concord's application to form a subsidiary district must be opposed, the District will be entitled to submit its own alternative plan for the future of the District; and

WHEREAS, Government Code section 56375 (a) (3) states that LAFCo may initiate a reorganization described in Government Code section 56375 (a) (2) (D) (formation of a subsidiary district) only if that reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Government Code sections 56378, 56425, or 56430; and whereas the formation of a subsidiary district by the City of Concord is not consistent with any recommendation or conclusion of the Final Study dated January 11, 2012; and

WHEREAS, as of May 22, 2012, a limited but reportedly sufficient application to form a subsidiary district has been submitted (in two parts) by the City Of Concord that includes a proposal to detach portions of the District that are within the City of Martinez, the City of Lafayette and the City of Clayton; and whereas except for an effort to allow the City of Concord to comply with the minimum area requirements of Government Code section 57105 , there appears to be no justifiable public reason to detach areas that have been part the District for more than fifty (50) years; and

WHEREAS, the MDHCD Board of Directors believes that each of the Cities with proposed detached areas needs to adopt a formal resolution acknowledging and supporting their detachment from the Mt. Diablo Health Care District.; and whereas the Cities of Martinez, Lafayette, and Clayton will likely lose any long term benefit of the ownership of the Mt.

Diablo Hospital Facility; and whereas to be of legal or practical significance, the resolutions must include specific recognition of the value of the reversionary assets these communities are voluntarily surrendering; and whereas voluntarily waiving a substantial public interest in the reversionary assets must include some reasonable identification and valuation of those assets; and

WHEREAS, the Mt. Diablo Health Care District is currently governed by locally elected Directors; and whereas in the reorganization plan, the governance of the Mt. Diablo Health Care District will be transferred to the City Council members of the City of Concord; and whereas this change in governance will reduce the level of attention and specialization necessary to effectively oversee the District; and while the City of Concord is following one possible Government Code structure for replacement governance in forming a subsidiary district, this structure is not mandatory; and whereas 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] would serve as a more representative and effective model for the transitional governance of a new subsidiary district; and

WHEREAS, the language in the City of Concord application regarding the Community Benefit Agreement reveals a lack of full understanding of the obligations and responsibilities of the Mt. Diablo Health Care District regarding the Agreement; and whereas this Agreement is an enforceable contract not subject to the mere goodwill of either party; and

WHEREAS, 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 the contractual result of public actions taken by the Mt. Diablo Health Care District and approved by its voters in 1996, and requiring diligent and continuing oversight; and whereas the proposed subsidiary district does not include a detailed proposal for an entity to actively manage and monitor compliance with the Community Benefit Agreement;

Resolution of the Board of Directors
To File An Alternative Plan

NOW, THEREFORE, the Board of Directors of the Mt. Diablo Health Care District, adopting and incorporating the above-stated Finding and Factual Statement into this Resolution, determine and resolve as follows:

- 1. As currently presented, the Board of Directors of the Mt. Diablo Health Care District cannot support and must oppose the application of the City of Concord to form a subsidiary health care district.**
- 2. The Mt. Diablo Health Care District will file an alternative plan.**

3. The District's consultants and staff should begin preparing a legally sufficient alternative plan for the District to be presented to the Board of Directors for approval in August 2012.

Approved and adopted by the Board of Directors this 7st day of June, 2012.

By Roll Call Vote: Ayes: _____
 No's: _____
 Abstain _____: