

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MINUTES OF MEETING

September 12, 2012

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 Mary Piepho and Alternate Candace Andersen. Federal Glover arrived at 1:50 p.m.
Special District Members Michael McGill and Alternate George Schmidt.
Public Members Don Blubaugh and Alternate Sharon Burke.
Present were Executive Officer Lou Ann Texeira, Legal Counsel Sharon Anderson, and Clerk Kate Sibley.
4. Approval of the Agenda
The Chair asked that Agenda Items 8 and 9 be moved up to come before Items 6 and 7. Upon motion of Piepho, second by McGill, Commissioners unanimously adopted the agenda as amended.
5. Public Comments
There were no public comments.
6. Approval of June 29, 2012 (Special) and August 8, 2012 (Regular) Meeting Minutes
Upon motion of Blubaugh, second by Piepho, the minutes for the special meeting on June 29, 2012, and the regular meeting on August 8, 2012 were approved unanimously.
7. LAFCO 12-03 – San Damiano Annexation to East Bay Municipal Utility District (EBMUD) (Agenda Item No. 8)
The Executive Officer provided an overview of the proposal, noting that Alameda LAFCO is the principal LAFCO but that Contra Costa LAFCO requested and received a transfer of jurisdiction from Alameda LAFCO to allow consideration of this boundary change, which corrects a boundary and mapping issue recently discovered by EBMUD staff.
Upon motion of Blubaugh, second by McGill, Commissioners unanimously found the annexation exempt from CEQA pursuant to CEQA Guidelines Section 15319; approved the proposal to be known as San Damiano Annexation to East Bay Municipal Utility District 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 uninhabited, has less than 100% consent of the affected landowners and is subject to a protest hearing; and authorized staff to conduct the protest proceedings.
8. Northeast Antioch Annexation Update (Agenda Item No. 9)
Victor Carniglia, representing the City of Antioch, announced that they are making good progress on the annexation, and that the new environmental document, which was revised to respond to comments from West Coast Builders, is now finished and will be distributed soon. The City has met with GenOn, whose representatives have confirmed that the \$1 million benefit promised to both the City of Antioch and the County, will not be at risk over the delays. Mr. Carniglia estimates

that the first annexation application may be able to come before LAFCO in February of 2013. They have set a meeting of the subcommittee for Monday, October 1.

As a result of the retirement of Commissioner McNair from LAFCO, Commissioners were asked to consider appointing another Commissioner to the regular seat on this subcommittee. Upon motion of Piepho, second by Blubaugh, Commissioners unanimously appointed Commissioner McGill to the regular seat and Commissioner Schroder to the alternate seat. Commissioner Meadows retains his regular seat on this subcommittee.

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

The Executive Officer reported the results of the August 28, 2012 special election. The official vote was 40 to 39 rejecting the annexation.

Upon motion of Piepho, second by Blubaugh, Commissioners unanimously authorized the Executive Officer to execute the Certificate of Termination for LAFCO 11-05.

10. LAFCO 11-07 – Alhambra Valley Annexation to City of Martinez (continued from July 11, 2012)

The Executive Officer reported that the Commission has been asked to consider two proposals, the original proposal as submitted by the City to annex 393± acres (139 parcels), and a reduced boundary option to annex 316± acres (104 parcels) as subsequently requested by the City. The reduced boundary is a subset of the original annexation boundary. The annexation area (both the original and the recent reduced boundary) is within the city's SOI, within the voter approved ULL, and adjacent to the city limits; has been rezoned to mirror the County General Plan; proposes no changes to fire, sewer or school services while providing municipal services including police, road maintenance, parks & recreation and other services following annexation; and will follow LAFCO recommendations to annex an area that already receives water from the City.

In the original annexation boundary, 112 of the 139 parcels signed deferred annexation agreements (DAAs) and 83 properties receive water service. In the reduced boundary, 99 of the 104 have DAAs and 82 properties receive water service. Boundaries for both annexations are irregular, as they are meant to include properties already receiving City water services as well as those subject to DAAs. Several residents within the annexation area have protested this application, and some have asked to be removed from the annexation area. If the annexation is approved, it is also recommended that the area be removed from County Service Area P-6.

Dina Tasini, representing the City of Martinez, responded to Commissioner Burke's question about water service rates and stated that the City does not charge non-residents different rates, but could do so. In response to the Chair's question, Ms. Tasini noted that Option 2, the reduced annexation boundary, is the City's preference.

Chair Tatzin opened the public hearing.

John Ricca, a landowner/voter in the annexation area, stated that he would be happy to pay more for water and stay out of the City. He commented on the legality of the Deferred Annexation Agreements (DAAs). He opposes the annexation.

Ernest Lompa, a landowner/voter in the annexation area, stated that he doesn't know anyone who wants to be annexed, and that everyone in the area should be allowed to vote on this. He is opposed to the annexation.

Hal Olson, President of the Alhambra Valley Improvement Association (AVIA), is not a resident of the annexation area, and recommended including only the subdivisions in the reduced boundary.

Cathe Cracknell, landowner in the annexation area, identified herself as a founding member of Protect Our Right to Vote, stated that she had never signed anything like a DAA, and vowed to

collect protests from 25% of those who did not sign DAAs. She is opposed to the annexation. Ms. Cracknell responded to questions from several Commissioners regarding disclosure of the DAA on the title and real estate documents.

Ken Bick, landowner outside of the annexation area, signed a DAA and had to have a 1-inch meter installed; is now being charged commercial rates due to the size of the meter. He asked that the annexation be denied.

Tim Millette, landowner/voter in the annexation area, stated that the problem is the process, and that the area has been gerrymandered by the City. Mr. Millette also stated that HRC Developers, the original signator on the DAA for his property, did not own that property at the time. He is opposed to the annexation. Commissioners McGill and Piepho commented on the DAAs and provision of water service.

Anita Guadarrama, who lives on Alhambra Valley Road, is against the annexation, stated that she feels "captured" by this action, and will not go willingly.

Jim Hein, whose property is outside the Urban Limit Line and is not included in the annexation area, urged that everyone be allowed to vote on this issue.

John Donkonics, landowner in the annexation area who developed the Deer Creek subdivision, signed a DAA for the first of his three subdivisions but not for the subsequent two.

Marie Olson, Secretary of the AVIA, stated that she knows all of the DAAs, and that the bottom line is the protest votes. She is pleased to hear that Cathe Cracknell is forming a new protest group.

The public hearing was closed and discussion returned to the Commissioners.

Commissioner Piepho pointed out that it is important to clarify Government Code §56133 and its requirements in terms of out of agency service and anticipated later annexations. Staff provided comment.

The Executive Officer explained that in 2007-08, this LAFCO prepared a Water/Wastewater MSR and highlighted those agencies that should consider annexing areas outside of their boundaries that currently receive water or wastewater services. When questioned about DAAs, she responded that other LAFCOs have these; some even initiate them. The City of Martinez initiated DAAs in 1987; any out of agency service provided after 1994 should have come to LAFCO for approval.

Legal Counsel Anderson added that guidance from the State Attorney General is that DAAs run with the property; according to the AG, it is irrelevant whether a subsequent owner was informed of this.

Discussion ensued regarding the legalities of out of service agreements, DAAs, potential gerrymandering charges, range of factors LAFCO must consider in approving a boundary change, LAFCO protest proceedings, and LAFCO decisions made without providing an opportunity for residents to vote. Commissioner Glover commented on DAAs and encouraged the City to undertake marketing efforts. Commissioner Schroder assured those in attendance that the City of Martinez will not turn off the water to residents if the annexation fails.

Upon motion of McGill, second by Piepho, Commissioners approved Option 2, Approve reduced boundary as requested by the City, by roll call:

AYES: Blubaugh, McGill, Piepho, Schmidt, Schroder, Tatzin

NOES: Glover

ABSENT: Meadows (M)

11. Fire Service and Property Tax Revenue

The Executive Officer referred Commissioners to the new charts showing the cumulative impact of reduced assessed value and property tax, and information regarding the effect of redevelopment agency funding – under the old and new laws – on fire districts.

Bob Campbell, County Auditor-Controller, responded to Commissioners' questions relating to residuals, status of funding, and related issues. Mr. Campbell pointed out that it is difficult to predict the residuals that may come back to fire districts, which may be pending for as long as 20 years.

Upon motion of Piepho, second by McGill, Commissioners unanimously accepted the report.

12. Fourth Quarter Budget Report for FY 2011-12

The Executive Officer gave a brief overview of the final quarter budget report for Fiscal Year 2011-12, noting that both final expenses and revenues came in under budget. In August 2011, the Commission approved a budget adjustment and allocated funds from the Contingency Reserve to fund a special study relating to MDHCD. The cost of the study was approximately \$23,000. Staff noted that the available fund balance is used to offset local agency contributions each year.

Upon motion of Blubaugh, second by Piepho, Commissioners unanimously accepted the report.

13. Correspondence

There were no comments on the correspondence.

14. Commissioner Comments and Announcements

Commissioner McGill announced that he will be running unopposed for the special districts seat on the CALAFCO Board at the upcoming CALAFCO Annual Conference.

15. Staff Announcements and Pending Projects

The Executive Officer reminded Commissioners that CALAFCO will say good-bye to Bill Chiat, retiring CALAFCO Executive Director and welcome Pamela Miller, incoming Executive Director at the Annual Conference, October 3-5.

The meeting was adjourned at 3:32 p.m.

Final Minutes Approved by the Commission on October 10, 2012.

AYES: Andersen, Blubaugh, McGill, Meadows, Piepho, Schroder, Tatzin

NOES:

ABSTAIN:

ABSENT: Butt (A), Glover (M)

By 
Executive Officer