

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MINUTES OF MEETING

November 18, 2015

Board of Supervisors Chambers
Martinez, CA

1. Chair Rob Schroder called the meeting to order at 1:31 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.

Special District Members Mike McGill and Igor Skaredoff and Alternate Stanley Caldwell.

Public Members Don Blubaugh and Alternate Sharon Burke.

Present were Executive Officer Lou Ann Texeira, Legal Counsel Sharon Anderson, Planner Nat Taylor, and Clerk Kate Sibley.

4. Approval of the Agenda

Upon motion of Piepho, second by Blubaugh, Commissioners, by a vote of 7-0, adopted the agenda.

AYES: Andersen (A), Blubaugh, McGill, Piepho, Schroder, Skaredoff, Tatzin

NOES: none

ABSENT: Glover (M)

ABSTAIN: none

5. Public Comments

There were no public comments.

6. Approval of October 14, 2015 Meeting Minutes

Upon motion of Tatzin, second by Andersen, the minutes were approved by a vote of 7-0.

AYES: Andersen (A), Blubaugh, McGill, Piepho, Schroder, Skaredoff, Tatzin

NOES: none

ABSENT: Glover (M)

ABSTAIN: none

7. Informational Presentation – Central Contra Costa Sanitary District (CCCSD)

Chair Schroder introduced Melody LaBella, Associate Engineer with CCCSD, who has been with the District for over 15 years, where her work has focused on pollution prevention, recycled water and regulatory planning. She has helped grow the District's Recycled Water Program by providing technical, marketing and outreach support, developing new programs, and collaborating with water purveyors and recycled water agencies to develop new projects and pursue grant funding. Melody holds a B.S. in Environmental Engineering from Penn State University and is a Registered Professional Civil Engineer in California.

Ms. LaBella provided a detailed and informative overview of CCCSD's recycled water program, with a view into the future and what the District is planning in response to increasing water needs and shortages. The District already has an extensive network (13 miles in Zone 1) of purple pipelines that distribute recycled water to facilities in Martinez, Concord, Pleasant Hill, and Walnut Creek—including Contra Costa Country Club, Buchanan Fields Golf Course, Diablo Valley College, Mt. Diablo Unified School District, Pleasant Hill Park and Recreation District, County Animal Services, and others; 50 customers in all.

Additionally, there is the large Concord Landscape Project, the hydrant truck filling program, the residential fill station for customers—currently, 2,000 residents participate in this—and, one of the District's newest ventures, the CoCoSan Sustainable Farm in partnership with an organization called Aglantis.

The District is discussing with Contra Costa Water District the possibility of providing recycled water to Shell Refinery for its cooling towers; satellite treatment sites; wholesaling opportunities; and a Regional Reliability Partnership that would allow the District to supply recycled water to a Bay Area-wide group of water suppliers.

Commissioners commented on the value of partnerships in addressing water issues, and complimented Ms. LaBella and the District on the leadership they are showing in this area.

8. Reclamation Services MSR/SOI Updates (2nd Round)

The Executive Officer noted that at the October 14 meeting the Commissioners approved the Public Review Draft of the Reclamation Services Municipal Service Review, which covers 14 special districts (13 reclamation districts [RDs] and Bethel Island Municipal Improvement District). The 2nd round MSR focuses on significant changes since the last MSR in 2009 relating to physical improvements, fiscal viability, potential resource sharing and funding opportunities.

The MSR consultants report that all districts now meet 100-year flood standards, and most contract for services and have made improvements since the last MSR. The MSR report encourages collaboration on funding, resource sharing and other opportunities, such as developing mutual aid agreements to assist each other in emergency situations; and pursuing a shared website to enhance accountability and transparency.

Staff noted that there are two steps remaining in finalizing this MSR: 1) approve the final report and adopt MSR determinations; and 2) approve Spheres of Influence (SOI) for each of the 14 districts (13 RDs and Bethel Island Municipal Improvement District). With the exception of two districts, RD 800 and RD 2121, the SOI recommendations from both the MSR consultants and LAFCO staff are to retain the existing SOIs.

While the consultants recommend expanding the SOI of RD 800 to include the Pantages Bay project, LAFCO staff feels that it is premature to do this, as the project is around two years away from compliance with conditions placed on it by the County. At the appropriate time, the applicant can apply to LAFCO to expand the SOIs and annex to both RD 800 and DBCSD. Commissioner Piepho expressed interest in expanding the District's SOI.

RD 2121 (Bixler Tract) provides maintenance services to non-project levees and internal drainage facilities. Land uses are primarily agricultural. The District is not functioning as a governmental agency and has not recorded financial transactions for the past six years at the State Controller's Office. The District is essentially inactive, does not function as a public agency, and is not fulfilling its corporate powers. Both the MSR consultants and LAFCO staff recommend a zero SOI for RD 2121, which indicates that the agency should be "reorganized" (e.g., dissolved, consolidated, etc.) at some time in the future. The 2009 MSR made the same recommendation. LAFCO staff has discussed a zero SOI with Tom Bloomfield of the family that owns RD 2121, and he seems unconcerned about this SOI change.

LAFCO staff added that the Los Angeles Metropolitan Water District is looking at purchasing four islands in the Delta area, including RDs 2025 (Holland Tract) and 2026 (Webb Tract) in Contra Costa County.

In response to Commissioner Piepho, staff added that no RD commented on the proposed SOI recommendations. Commissioner Skaredoff added that he met with the Bloomfields, and that they are aware of the proposed LAFCO action, and expressed no concern or opposition.

Chair Schroder opened the public hearing; with no one commenting, the hearing was closed.

Upon motion of Andersen, second by Tatzin, Commissioners unanimously, by a 7-0 vote, determined that the MSR project is Categorical Exempt pursuant to §15306, Class 6 of the CEQA Guidelines; accepted the Final MSR report; adopted the MSR determinations; and updated the SOIs as recommended by staff for BIMID and RDs 799, 800, 830, 2024, 2025, 2026, 2059, 2065, 2090, 2117, 2121, 2122, and 2137.

AYES: Andersen (A), Blubaugh, McGill, Piepho, Schroder, Skaredoff, Tatzin
NOES: none
ABSENT: Glover (M)
ABSTAIN: none

9. Agricultural & Open Space Preservation Policy (AOSPP) Update

Commissioners Burke and Tatzin provided an update on the Policies & Procedure Committee's work on the AOSPP. Presentations have been made to various groups, which have indicated interest in being kept informed. Cities that are most likely to be affected by questions of development in agricultural and open space have been added to the notification list, along with the stakeholders initially identified. The Committee noted that the focused fact finding is now complete and the Committee needs direction from the Commission.

Commissioner Blubaugh commented that there is enough land inside the Urban Limit Line (ULL) to handle growth and housing until 2040. Commissioner Piepho remarked that the ULL is due for review in 2016, and that perhaps this will be the time to look at a LAFCO AOSPP, once the review is completed. In response to Commissioner questions, John Kopchik, Director of the County Department of Conservation and Development (DCD), confirmed that the ULL review will begin in 2016, and it is unknown how long the review will take.

Commissioners debated the timing of developing the LAFCO AOSPP in consideration of other activities (i.e., ULL review, CCTA growth management and tax measure, etc.). Contra Costa LAFCO has a policy stating that it will consider but not be bound by the ULL. Commissioner Tatzin pointed out that the ULL has had a great impact on annexations, and that development has not occurred outside the ULL since it was established. Some Commissioners noted that there is a housing crisis, and they don't wish to exacerbate that problem with a restrictive policy. Other Commissioners noted that there is adequate space inside the ULL to accommodate all the housing planned for the County for another 25 years.

Commissioners Tatzin and Skaredoff noted that LAFCO is bound by State laws and has an obligation to protect agricultural and open space lands, and that currently there are no real guidelines for applicants regarding preservation of agriculture and open space lands. There are various options, in addition to or in place of mitigation, that can be included in a local policy. For example, definitions of open space and agricultural lands, right to farm guidelines, and buffer zone establishment could be included in a local LAFCO policy.

Commissioner Skaredoff stated that it would be helpful to discuss how to apply a policy, with procedures to follow. He suggested a structure that would prioritize three policy principles: 1) avoid impacting agricultural and open space land; 2) if that is unavoidable, minimize the impact; and 3) as a last resort, mitigate the impact. He reminded Commissioners that cities have control of how land within their boundaries and SOIs is used. The only time LAFCO has any impact on proposed land use is when an application comes before the Commission (i.e., annexation).

Commissioner McGill pointed out that LAFCO is yet another layer of government, and it would be useful for applicants to have an indication of what is important to LAFCO before they initiate an application. He expressed appreciation for the work of Commissioners Burke and Tatzin.

Chair Schroder took public comments.

Joel Devalcourt, representing Greenbelt Alliance, stated that they have been developing materials for a report that shows their four-year "at risk" work. The last was done in 2012; their next one will be out in 2016, and will cover the entire region. In Contra Costa County, they've worked on four serious challenges to the ULL (two in Brentwood that failed by a slim vote of the people, one in San Ramon that was defeated by a landslide, and just last year parts of the Brentwood General Plan update that were strenuously opposed and ultimately pulled from the GP). Mr. Devalcourt commented on the continued risks. The ULL, while a commendable resource, does not provide permanent protection, and that mitigation is needed for permanent protection.

Mr. Devalcourt commented on the extensive infill housing opportunity. He urges LAFCO to continue to work toward a policy that will provide choices and clear direction.

Kathryn Lyddan, of Brentwood Agricultural Land Trust (BALT), stated that since she began with BALT in 2003 there have been several attempts to move the ULL out into agricultural lands. Protecting agricultural land requires two separate tools: 1) strong local land use rules, and 2) strategic protection of agricultural land. We are looking for that balance. There may be significant State funds (\$40 million), through cap and trade revenues, for conservation of agricultural lands, but they will require a 25% local match. Currently there are no local resources available to permanently protect land and back up local land use efforts. While the ULL has been an effective tool, it is subject to challenge.

Chair Schroder commented on the relationship of LAFCO and the land use agencies, and that any LAFCO policy should be appropriate.

Commissioner Tatzin suggested that the Policies & Procedures Committee be asked to first draft a policy and guidelines that focus on the application requirements, rather than on specific mitigation measures. Subsequently, if the Commission wants specific mitigation measures, the Committee will work on those as a second step.

Commissioner Andersen felt it would be helpful to have the planning agency weigh in on this as well. Commissioner Tatzin responded that most applications would come from public agencies, not private interests, so the land use agencies may already be involved.

Commissioner McGill reminded Commissioners that they often need to address sewer and water requests for annexation within city boundaries. It is also important to not lose sight of definitions of ag land, open space land, range land, empty land, etc.

Commissioner Piepho added that the ULL is not a concrete line, but it is meant to change with the times and needs of the region, and with voters' preferences. To date, the voters have chosen not to change it. It is there to reflect the political and public process. There is a market for conservation easement, and the challenge is how to fund that. She requested that the draft policy should also include the school siting component (schools building on agricultural land); this is a challenge the Board of Supervisors has worked on for years with the State Legislature.

Commissioner Skaredoff commented on the economic value of agricultural land and open space, and asked that open space be part of that draft policy as well.

Commissioner Blubaugh requested that the Greenbelt Alliance maps be provided. Mr. Devalcourt responded that he will send those following further refinements.

10. Broadband Policy

The Executive Officer provided background on this topic, referencing a presentation made earlier this year on broadband services by Linda Best with the *East Bay Broadband Consortium* (EBBC) and Sunne Wright McPeak with *California Emerging Technology Fund* (CETF). At that time, Commissioners indicated an interest in continuing the conversation regarding this topic. While LAFCO has no specific authority over broadband services, it recognizes that communities are increasingly reliant on these services, and that there is disparity in infrastructure and accessibility. Advantages to equalizing and improving broadband services are numerous, as access can impact education, health, safety, the local economy and jobs, and building sustainable communities.

The Policies & Procedures Committee discussed possible ways in which LAFCO can address this issue and developed five actions that LAFCO could take to supplement the work of organizations such as the EBBC and the CETF:

- ❖ Adopt a resolution and/or policy supporting the efforts of organizations such as EBBC and CETF
- ❖ Adopt a resolution and/or policy encouraging the County and cities to adopt General Plan policies and standards that encourage broadband services
- ❖ Include broadband services among those services to be reviewed in LAFCO Municipal Service Reviews (i.e., cities and community service districts)
- ❖ Participate in a countywide staff level broadband working group that collaborates on these issues

- ❖ Support efforts to reach out to existing service providers and encourage service and improvements to unserved and underserved areas

Commissioner Tatzin noted that the first three items at a minimum should be undertaken by the Commission, and the fourth and fifth items should be supported. Commissioner McGill concurred, stating that broadband is key to growth and should be recognized as a utility that should be reviewed in MSRs. There is a growing awareness of the social disparity in access to this service, and LAFCO should be proactive in addressing this. Commissioner McGill seconded Commissioner Tatzin's motion.

Chair Schroder took public comment.

Linda Best, with EBBC, reported that great progress has been made since the last report. The County has donated 1,400 used computers that are being refurbished and distributed to underserved families. Additionally, one of EBBC's partners received a \$2 million grant from the T. J. Long Foundation to continue this work. Ms. Best stated that broadband deployment is crucial to economic growth and vital public services. She encouraged LAFCO to consider leading a staff-level working group, sharing best practices, looking at collaborative applications, general plans, etc.

Commissioner Andersen asked the Executive Officer if LAFCO staff could take on such a leadership role given its limited staff. Staff responded that they could certainly participate in a working group, but leading such a group would be challenging. Commissioner Andersen pointed out that, while she wishes to be supportive, this is not directly in line with the LAFCO mission and other activities. The Executive Officer suggested that there is already in place a group of planning directors that includes County and city planners. They meet quarterly and deal with general plan and other issues and policies. Martin Engelmann's office (CCTA) hosts these meetings, and this group might be a good one to take a leadership role.

Commissioner McGill suggested that perhaps there should be a second motion pertaining to the leadership role, and maybe the Commission could designate two Commissioners who could help provide the leadership that Linda Best is requesting. He would volunteer himself and perhaps another Commissioner could do the same.

Chair Schroder asked for a vote on the original motion (moved by Tatzin, second by McGill), that LAFCO: adopt a resolution and/or policy supporting the efforts of organizations such as EBBC and CETF; adopt a resolution and/or policy encouraging the County and cities to adopt General Plan policies and standards that encourage broadband services; include broadband services among those services to be reviewed in LAFCO Municipal Service Reviews (i.e., cities and community service districts); participate in a countywide staff level broadband working group that collaborates on these issues; and support efforts to reach out to existing service providers and encourage service and improvements to unserved and underserved areas. Commissioners approved the motion unanimously, by a 7-0 vote.

AYES: Andersen (A), Blubaugh, McGill, Piepho, Schroder, Skaredoff, Tatzin
NOES: none
ABSENT: Glover (M)
ABSTAIN: none

Upon motion of McGill, second by Skaredoff, Commissioners unanimously, by a 7-0 vote, approved the policy of two Commissioners to explore LAFCO taking a leadership role in developing a countywide broadband working group.

AYES: Andersen (A), Blubaugh, McGill, Piepho, Schroder, Skaredoff, Tatzin
NOES: none
ABSENT: Glover (M)
ABSTAIN: none

Commissioner Piepho nominated Commissioners McGill and Skaredoff to serve as the leaders for this effort; Commissioner Blubaugh seconded; the vote was unanimous by 7-0.

AYES: Andersen (A), Blubaugh, McGill, Piepho, Schroder, Skaredoff, Tatzin
NOES: none

ABSENT: Glover (M)
ABSTAIN: none

11. Correspondence from CCCERA

There were no comments on this item.

12. Commissioner Comments and Announcements

Commissioner McGill reported that he attended the CALAFCO Legislative Committee meeting on November 6 by phone conference call; this was a meeting of the 2015 committee, as the CALAFCO Board had not yet met to appoint the 2016 committee. This committee made legislative recommendations to the CALAFCO Board, which met on November 13 and accepted the recommendations per the Legislative Committee's priorities. Commissioner McGill was reappointed to the Legislative Committee, which will meet December 11 to outline the 2016 priorities.

Commissioner Piepho reported that the Board of Supervisors took action on November 17 to submit a proposal to San Joaquin LAFCO to detach the overlap areas of Byron-Bethany Irrigation District (BBID) from the Town of Discovery Bay. She held a meeting at her office the previous week with all parties, which Executive Officer Teixeira attended. The intent of this detachment is to redirect the revenues collected by BBID to East Contra Costa Fire Protection District. BBID's portion of the 1% tax this year is approximately \$684,000, and the residents paying into that district receive no services in exchange.

Commissioner Burke reported that, at Supervisor Piepho's invitation, she also attended the meeting regarding BBID, and was emboldened by the discussion there to follow up on an issue that has concerned her for some time, CSA P-6 allocations. She would like for LAFCO to have some kind of policy where MSRs are used and acknowledgment is required from the districts being reviewed.

Commissioner Caldwell expressed his appreciation for the work done by the Policies & Procedures Committee on the Ag & Open Space Preservation Policy.

Chair Schroder announced that Commissioners would receive materials soon for the annual review of the Executive Officer. He also reminded Commissioners that new officers will be selected in January.

13. Staff Announcements

The Executive Officer had no further reports or announcements.

The meeting adjourned at 3:31 p.m.

Final Minutes Approved by the Commission December 9, 2015.

AYES: Andersen (A), Blubaugh, McGill, Schroder, Skaredoff, Tatzin

NOES:

ABSTAIN:

ABSENT: Glover (M), Piepho (M)

By 

Executive Officer