

SUMMARY ACTION MINUTES
ALAMEDA LOCAL AGENCY FORMATION COMMISSION
REGULAR MEETING

Dublin San Ramon Services District Board Room, 7051 Dublin Blvd, Dublin, CA

July 14, 2016

1. Call to Order and Pledge of Allegiance

Chair Marchand called the meeting to order at 2:03 p.m. The Pledge of Allegiance was recited.

2. Roll Call.

Roll was called. A quorum was present of the following commissioners:

County Members: Scott Haggerty (arrived 2:05, item 5) and Nate Miley (arrived 2:20, item 7)

City Members: John Marchand, Jerry Thorne and alternate David Haubert

Special District Members: Ayn Wieskamp, Ralph Johnson and alternate Georgan Vonheeder-Leopold

Public Members: Sblend Sblendorio and alternate Tom Pico (arrived 2:06, item 6)

Not Present: Wilma Chan, alternate County Member

Staff present: Mona Palacios, Executive Officer; Andrew Massey, Legal Counsel; and Sandy Hou, Clerk

3. Public Comment

Chair Marchand invited members in the audience to address the Commission on any matter not listed on the agenda and within the jurisdiction of the Commission. There were no comments.

4. Approval/Correction of Minutes – May 12, 2016

Upon motion by Commissioner Wieskamp and second by Commissioner Thorne, the minutes of the May 12, 2016 meeting were approved.

AYES: 5 (Johnson, Marchand, Sblendorio, Thorne, Wieskamp)

NOES: 0

ABSENT: 2 (Haggerty, Miley)

ABSTAIN: 0

5. Larabell and Morris Annexations to the East Bay Municipal Utility District (EBMUD) – Information Only

Staff provided summary remarks of the staff report, noting that the reason for the item being information only was due to a resolution from the district supporting the annexations not being provided with the applications although the district did provide a plan to provide services and to an exchange of property taxes for both applications. She stated that no resolution opposing either proposal was expected, so that it was likely that both annexations would be on the Commission's September 8th agenda for action.

6. Transfer of Jurisdiction – Proposed Tassajara Parks Annexation to the East Bay Municipal Utility District (EBMUD)

In her summary of the written report, staff explained that this was a request from Contra Costa LAFCo to transfer jurisdiction from Alameda LAFCo to Contra Costa LAFCo to consider a proposed annexation of 29.95 acres of territory located in the Tassajara Valley in Contra Costa County into the East Bay Municipal Utility District (EBMUD), which is a multi-county district having territory in both Contra Costa and Alameda County. She further noted that the law states that the LAFCo in the principal county – in this case Alameda LAFCo – has the jurisdiction to consider change of organization proposals, but allows jurisdiction to be transferred if the principal

LAFCo agrees to the transfer, and that Contra Costa LAFCo was making this request in accord with the policies adopted by both LAFCos concerning transfers of jurisdiction.

Upon motion by Commissioner Wieskamp, second by Commissioner Thorne, the transfer was approved.

AYES: 6 (Haggerty, Johnson, Marchand, Sblendorio, Thorne, Wieskamp)

NOES: 0

ABSENT: 1 (Miley)

ABSTAIN: 0

7. Request by the City of Pleasanton: Retroactive Approval of Existing Out-of-Area Service Extension of Water and/or Sewer Services

Staff gave a summary of the written report, explaining that this application for retroactive approval of existing out-of-area service extension of water and/or sewer services was per LAFCo's request when the Commission became aware that the city of Pleasanton had extended water and sewer services beyond its city limits without the required LAFCo approval. The Commission wanted to bring the connections into compliance with the law. Staff noted that the 62 connections identified by Pleasanton were located in three geographic locations: 1) Happy Valley; 2) Remen Tract; and 3) West of Foothill/Sunol area.

Commission Discussion

During a lengthy discussion, the Commissioners expressed various concerns about this application. Primary concerns were focused on the adequacy and fairness of the application fee (as well as a lack of a Commission policy concerning fines), the lack of signed pre-annexation agreements, especially in the Remen Tract area, as well as a desire to revisit the possibility of annexing the Remen Tract as it is an island and the Commission's policy is to encourage island annexations.

Staff responded to questions about the fairness of the fee required for the application, noting that the Commission had directed Staff to have the City of Pleasanton submit one application for all of the unapproved connections, rather than a separate application for each. The current fee for an out-of-area service application is \$3500. The fee of \$10,500 was agreed upon because the application included three separate geographic areas, so the fee of \$3500 was multiplied by three to arrive at the \$10,500 fee. Additionally, Larissa Seto, City of Pleasanton Staff was present at the meeting and informed the Commission that the City had identified \$10,000 that had been collected from property owners for submitting applications to LAFCo, applications that failed to get submitted, so that money naturally should be transferred to LAFCo.

In response to Commissioner Sblendorio's question, Staff explained that because this was for retroactive approval, no signed pre-annexation agreements were required from the property owners that had not previously signed them with the City. Commissioner Sblendorio suggested that perhaps Pleasanton staff could have a community meeting in the Remen Tract with the affected property owners and request them to sign agreements at that time. Pleasanton City Manager Nelson Fialho responded to questions from Commissioner Sblendorio concerning the current level of services in the three areas and what opportunity there might be for requesting property owners to sign pre-annexation agreements when they sought additional services. Mr. Fialho also explained that the City conditions approval for improvement permits on the property owner signing a pre-annexation agreement.

Commissioners Haggerty and Vonheeder-Leopold talked about the Commission needing to develop a policy concerning fines.

Public Comment - Chair Marchand opened the meeting to public comment. The following people spoke.

- Thomas Schultz, representing Remen Tract resident Ed Johnson, spoke about Mr. Johnson's thwarted attempts since 2005 to develop his property there. He requested that the Commission either condition approval of this application upon an expedited annexation of the Remen Tract or condition it such that any development within the Remen Tract that meets general use requirements should be able to get

service from Pleasanton. He urged the Commission to address this 30-year old island issue and noted that his understanding is that over 60% of the properties there have signed pre-annexation agreements, which is a majority of the people who he believes must understand that eventually they will get annexed.

- Laura Glovin, an employee of California Realty Property in Pleasanton and a resident of Remen Tract, expressed frustration with dealing with the County and City regulations in trying to develop property. She ended her remarks stating that Remen Tract should be annexed and Pleasanton should figure out how to get everybody sewer and water services.

Motion

Commissioner Sblendorio moved to approve Pleasanton's request for retroactive approval of the 62 out-of-area service agreements with the condition that anytime any property owner of these 62 properties asks for any approval or permit, whether from the City of Pleasanton or from the County, they be required to sign a pre-annexation agreement. Commissioner Marchand seconded the motion.

At Staff's request, Sblendorio clarified he meant any time the property owner wants to do *anything* that requires a permit or approval (including from the County), anytime they want to improve the property.

Friendly Amendment

Commissioner Haggerty made a friendly amendment to the motion to remove approval of the properties located in the Remen Tract pending discussions to figure out what they will do with that area (annex or not).

Commissioner Sblendorio said he was ok with the amendment.

Further discussion, initiated by Commissioner Vonheeder-Leopold, resulted in the suggestion to include in the motion other required retroactive approvals (such as LAVWMA).

Final Motion Commissioner Sblendorio's amended motion, seconded by Commissioner Marchand:

The connections in the West of Foothill and Happy Valley areas are approved with the condition that anytime there's a type of approval or permit required for improving the property in those areas, a pre-annexation agreement will be signed by the property owner (and evidence provided of such) and consideration of the connections in the Remen Tract are continued until after Staff works with the City of Pleasanton and the County on conducting a community meeting to discuss that area and the connections, and if any other retroactive approvals are required, the jurisdiction will investigate if they have been complied with.

Counsel sought clarification concerning other retroactive approvals – if that is a condition that has to be met prior to the out-of-area extension services being approved. Commissioner Sblendorio responded that they are approved, but the burden is on the City of Pleasanton to investigate whether other approvals are needed. Mr. Fialho noted that the obligation to investigate *also falls to the County* (if the request is for any structural improvements).

Vote – Motion passed.

AYES: 7 (Haggerty, Johnson, Marchand, Miley, Sblendorio, Thorne, Wieskamp)
NOES: 0
ABSENT: 0
ABSTAIN: 0

Staff was directed to work with LAFCo's Policy and Budget committee to recommend a fine policy for the Commission to consider at a future meeting.

8. 2015-2016 Alameda County Grand Jury Final Report 2015-2016 – Alameda Local Agency Formation Commission

Staff provided a summary of the written report, noting that the Grand Jury Final Report of 2015-2016 contains two sections relevant for LAFCo – one directly addressing LAFCo’s oversight of the Eden Township Healthcare District and the other delving into detail about the district itself. At Staff’s suggestion, the Commission deferred discussion of this item until after item 9, since it was closely related to the topic.

Following the discussion of item 9, staff went over the requirements for responding to the Grand Jury Report. The Commission directed staff do a draft response for the Commission to consider at their September 8, 2016 meeting. Staff should include in the response that the Commission is getting input from the residents in the district and is conducting a study of the district.

9. City of Hayward Special Study Request

In her summary remarks of the written report, Staff explained that this item was a request from the City of Hayward for the Commission to consider initiating a special study of the Eden Township Healthcare District. She reminded the Commission of the current legislation pending in the State Senate that would require Alameda LAFCo to dissolve the district if certain criteria are met, and that it was not clear whether the bill’s author would find Hayward’s request adequate to stop the legislation from moving forward. She went over five options the Commission might consider that were identified in the staff report.

Commission Discussion

There was extensive discussion among the Commission on the merits of the request, especially given that the Commission had already conducted a study on the District via the rather recent Municipal Service Review (MSR), on who would pay for the study, and on the need for a public meeting to gather input from residents served by the district.

Fran David, Hayward City Manager, responded to questions from the Commission. She explained that subsequent to the May 14, 2016 LAFCo meeting, the Hayward city council had passed a resolution to submit an application to LAFCo for the dissolution of the district, but then after further discussion with LAFCo staff, the City had decided to submit a request for a special study of the district instead, as the City is not sure if dissolution is the best approach. She stated that concerning the cost, conducting a special study seemed to be in the purview of LAFCo’s charge. Later she suggested that the Commission might consider requesting that the interested parties of San Leandro, Hayward, the County, and the District share in the cost of the study.

Staff clarified that if dissolution occurs, LAFCo has the authority to name a successor agency and could also impose terms and conditions concerning the liabilities and assets of the dissolved district.

Commissioner Sblendorio spoke about his reservations with the district since the beginning of the MSR process and noted that regardless of how the issues surrounding the district came to the attention of LAFCo, the important concern should be for the residents living within the district’s boundaries, and that LAFCo should move along quickly with a process to determine if the district should be dissolved or not.

Motion

Commissioner Sblendorio motioned that LAFCo authorize the study of the Eden Township Healthcare District in accordance with guidance from the Grand Jury Report and the request from the City of Hayward and authorize staff to execute a contract not to exceed \$30,000 to conduct that study. Commissioner Wieskamp seconded the motion.

Commission Discussion

The Commission discussed a need to have a public meeting in the area where the district operates to hear directly from the residents. The meeting should be well publicized and occur at a time (or times) when the public can participate.

Public Comment – The following people addressed the Commission:

- Tom Lorentzen, Eden Healthcare District boardmember, noted that, in his opinion, the starting point for addressing concerns about a district would be to talk about them with the elected boardmembers of that district, and that he felt such had been lacking in this case.
- Carolina Salazar Herrera from Assemblymember Quirk’s office provided an update on the status of the bill, that Assemblymember Quirk is committed to working with all the stakeholders, and that she would report back to him the results of this meeting.
- Pauline Cutter, Mayor of San Leandro, explained that she did not come forward during the MSR process for the district, as she was not aware of it, but is aware now. She suggested that it is logical if each of the five interested agencies (San Leandro, Hayward, County, Eden Healthcare District, and LAFCo) would share the cost at \$6,000 each. Appreciates LAFCo taking the lead.
- Barbara Halliday, Mayor of Hayward, said that she also missed the MSR report. She is looking to LAFCo to be the fair and impartial body to deal with this issue. She could not promise that Hayward city council would approve sharing in the cost of the study, but LAFCo could use Hayward’s facility for the community meeting.

Vote on Motion - Motion passed.

AYES: 7 (Haggerty, Johnson, Marchand, Miley, Sblendorio, Thorne, Wieskamp)
NOES: 0
ABSENT: 0
ABSTAIN: 0

Staff was directed to set up community meetings in August, in one centralized location (either in Hayward, San Leandro or Castro Valley), at least one in the daytime and one in the evening to enable greater public participation. The purpose of the meeting is to obtain input from the residents who live in the communities served by the District.

Commissioners Haggerty and Miley left the meeting at the conclusion of this item.

10. Nominations for CALAFCO Board of Directors and CALAFCO Annual Achievement Awards

Staff explained that the Commission had recently received the annual call for nominations for the CALAFCO Board of Directors and CALAFCO achievement awards and that the election and award ceremony would take place on October 27, 2016 during the annual conference to be held this year in Santa Barbara, October 26-28th. She also noted that Commissioner Sblendorio is the Chair of the planning committee for the conference. Following remarks from staff, no Commissioner indicated an interest in running for a seat on the CALAFCO Board of Directors; therefore, there were no nominations for either the special district or county member seats (Commissioners Marchand and Sblendorio are currently serving terms on the CALAFCO Board as city and public member representatives respectively.)

Commissioners Johnson, Pico, Vonheeder-Leopold and Sblendorio indicated they will attend the CALAFCO Conference in October. Commissioner Marchand motioned that Commissioner Vonheeder-Leopold be the voting delegate and Commissioner Johnson be the alternate voting delegate. Commissioner Wieskamp seconded the motion. Motion passed.

AYES: 5 (Johnson, Marchand, Sblendorio, Thorne, Wieskamp)
NOES: 0
ABSENT: 2 (Haggerty, Miley)
ABSTAIN: 0

There were no recommendations for Achievement Award nominations.

11. Matters Initiated by Members of the Commission

There were none.

12. Informational Items – Discussion, if any, or further information is noted after the item.

- a. Policy and Budget Committee
- b. Legislative Update
- c. CALAFCO Board of Directors Update – verbal report
- d. Application/Project Update - *Commissioner Sblendorio inquired about the status of the forthcoming Pleasant View Lane/Arroyo Rd island annexation in Livermore. Commissioner Marchand noted that this item would be on Livermore's next city council meeting to discuss infrastructure issues.*
- e. 2016 Annual Conference October 26 – 28, 2016 in Santa Barbara

13. Adjournment of Regular Meeting

The meeting was adjourned at 4:20p.m.

14. Next Meeting of the Commission

Thursday, September 8, 2016 at 2:00 p.m.

Respectfully submitted,



Sandy Hou, Commission Clerk

These minutes were approved by the Commission on September 8, 2016.

Attest:



Mona Palacios, LAFCo Executive Officer