

SUMMARY ACTION MINUTES
ALAMEDA LOCAL AGENCY FORMATION COMMISSION
REGULAR MEETING

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

November 10, 2016

1. Call to Order and Pledge of Allegiance

Chair Marchand called the meeting to order at 2:02 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 2:10, item 7) and Nate Miley (arrived 2:07, item 5)

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

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

Public Members: Sblend Sblendorio and alternate Tom Pico

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

- **September 8, 2016** – Regular Meeting
- **October 17, 2016** – Special Meeting
- **October 18, 2016** – Special Meeting

Upon motion by Commissioner Wieskamp and second by Commissioner Johnson, the minutes of the three meetings were approved.

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

NOES: 0

ABSENT: 2 (Haggerty, Miley)

ABSTAIN: 0

5. City of Pleasanton Reorganization: Linfoot, Marks, Mix Annexation No. 154 (P15-0150)

Staff provided summary remarks of the staff report concerning this application by the City of Pleasanton to annex approximately 11.82 acres to the City of Pleasanton with concurrent detachment of the same territory from the Alameda County Fire Department, the Police Protection County Service Area (CSA), the Lead Abatement CSA, and the Public Works Extended Services CSA. The area is located in south Pleasanton on Alisal Street near Byrd Lane and East Mockingbird Lane, approximately one mile east of I-680.

Following staff's remarks, in response to a question from Commissioner Sblendorio concerning the boundaries shown on the vicinity map, Pleasanton staff clarified that the city's urban growth boundary is not the same as its city boundary; that a portion of one parcel within the annexation area contains an open space easement area outside the urban growth boundary that cannot be developed. To a question from Commissioner Wieskamp, city staff responded that the area is not big enough for any commercial agriculture, but that personal agriculture such as planting an apple tree is allowable.

Upon motion by Commissioner Sblendorio, second by Commissioner Wieskamp, the annexation was approved.

AYES: 6 (Johnson, Marchand, Miley, Sblendorio, Thorne, Wieskamp)
NOES: 0
ABSENT: 1 (Haggerty)
ABSTAIN: 0

6. Transfer of Jurisdiction Request to Consider Annexation of Territory to the East Bay Municipal Utility District (EBMUD): Reorganization 191 (Faria Preserve West)

A summary of the written report was provided by staff concerning this request from Contra Costa LAFCo to transfer jurisdiction from Alameda LAFCo to Contra Costa LAFCo to consider a proposed annexation of 9.7 acres of territory located in San Ramon, Contra Costa County into EBMUD.

Following staff's remarks, upon motion by Commissioner Sblendorio, second by Commissioner Johnson, the transfer of jurisdiction was approved.

AYES: 6 (Johnson, Marchand, Miley, Sblendorio, Thorne, Wieskamp)
NOES: 0
ABSENT: 1 (Haggerty)
ABSTAIN: 0

7. Eden Township Healthcare District Special Study Update #2

Chair Marchand commented that the November 7th meeting held by LAFCo earlier in the week to receive public comment on the District was well attended, with more than 20 people speaking.

Following her summary of the written report, Staff requested input from the Commission regarding the public review schedule and whether the Commission would want to hold a public hearing to consider public comments of the draft report at the regular January 12th LAFCo meeting, or if there was a preference to hold a special meeting, perhaps within the District for the public hearing. She also inquired if the Commission would be supportive of her attending a meeting of the Little Hoover Commission in Sacramento on November 16th that would focus on healthcare districts and their roles and relevance in today's healthcare environment.

Consultant Richard Berkson provided a brief update on the status of the special study of the District that he is conducting. He found it very useful to attend the three meetings to hear the varied perspectives, and said he would do his best in the report to address the issues raised at the meetings, to the extent possible. He noted that he is currently preparing an administrative draft, which he will discuss with Staff, and then expects to have a public review draft completed by the end of the month (November) for public review and comment.

Commissioner Comments/Questions:

In response to Commissioner Johnson's inquiry if there are similarities between this study (of Eden Township Healthcare District) to the study he is conducting of a healthcare district in Contra Costa County, Mr. Berkson responded that they are very different in many ways, one being that the district in Contra Costa owned a hospital until about a year ago, and also, that just recently that district declared bankruptcy. He noted that the analysis is similar, but the circumstances of each are very much different.

Commissioner Sblendorio asked staff if information on LAFCo's website concerning the special study is being widely distributed, and if there was a way to determine how many people have visited the site. Staff responded that links to the study had been shared with the cities of San Leandro and Hayward, the District, County Supervisors Chan, Miley, and Valle, and Assembly Member Quirk. Additionally, they are listed as interested parties for matters concerning the District. Staff said she would check with the IT department to determine the number of site visitors. She noted that press releases had been done for the special meetings, and that one would be done also for the draft of the study. In response to Commissioner Sblendorio's suggestion to see if the Supervisors and the District have links to the information about the study on their respective websites, Staff

responded that Eden does, the cities have sent it out, and she would check with the Supervisors about whether they have links on their websites.

In response to Commissioner Wieskamp's suggestion that information be distributed to the unincorporated areas, staff noted that information had been sent through Supervisor Miley's office to the Fairview Stakeholders group, the Castro Valley Municipal Advisory Council and to at least one other unincorporated area distribution list. Reflecting that one of the speakers at the special meetings is a school principal, Commissioner Wieskamp suggested that distributing information through the schools might also be considered. Lastly, Commissioner Wieskamp noted that she had heard opposite statements concerning numbers associated with the District and expressed hope that the special study would clarify the numbers, getting as close to the truth as possible.

Commissioner Haubert, saying that he was troubled by a letter (included in the agenda packet) that talked about abuse of power on the part of Assembly Member Quirk's approach towards LAFCo consultant Richard Berkson at the special meetings, asked Mr. Berkson if he felt intimidated by the behavior. Mr. Berkson responded that he did not at all feel intimidated, surprised maybe, but not intimidated - that it was not an issue. And in response to Commissioner Haubert's question if the final report would clarify, in the case of dissolution, how the assets would be distributed, Mr. Berkson explained that the report will describe actions required by law in the course of a dissolution, but that the study will not provide conclusive direction concerning what action the Commission should take.

Public Comment

Chair Marchand invited people who had filled out speaker cards to address the Commission. The following people spoke:

- Tom Lorentzen, Eden Township Healthcare District (ETHD) Board Member – mentioned that District staff would be speaking and addressing some of the financial matters concerning the District. He expressed distaste for the comments made at the recent meeting (on November 7th in San Leandro) by a speaker who he felt had used the opportunity inappropriately as a “bully pulpit” and hoped that that person would be asked to be recused. Finally, he suggested that if dissolution of the District was chosen, in light of the changing paradigms of healthcare, the Commission might come to regret such a decision later.
- Roxann Lewis, ETHD Board Member – said she was very disturbed by Supervisor Chan's comments at the November 7th meeting, finding them unethical and uncalled for, since she was a seated Commissioner, and that her facts were not correct. She expressed confidence that the LAFCo consultant would have correct facts and figures in his report.
- Phyllis Moroney, RN, current resident of Castro Valley and longtime resident of the District – said that without a hospital, the District is no longer living up to its mission. She finds it unacceptable that according to the 2015-2016 Grand Jury Report, only 45% of the District's residents know about the District. Also disturbing to her is that, per the Grand Jury Report, only 12% of the District's budget is used for healthcare, with 88% going towards administrative costs and paying back Sutter Hospital (lawsuit costs). She recommends the District be dissolved, with the assets kept in a “lockbox” until a proper successor can be identified.
- Laurel James, City of Hayward Management Analyst – speaking on behalf of the Hayward mayor and city manager, thanked the Commission for conducting a special study of the District, and for providing the residents of Hayward, as well as the residents of San Leandro and unincorporated Alameda County, with an opportunity to participate in the study process.
- Michelle Robles, Senior Accountant for ETHD – said the purpose of her comments today was to respond to/clarify the facts concerning five of the comments made by Supervisor Chan at the November 7th meeting. Following her remarks, Chair Marchand requested that she give LAFCo staff the written copy of her comments. (See Attachment 1)

- Vanessa Cedeno, staff from the Office of Supervisor Chan – spoke on behalf of the supervisor, underscoring comments submitted by the supervisor at the November 7th meeting:
 - The question to consider is not what type of healthcare services should be prioritized or funded, but whether or not the district is providing efficient, sustainable healthcare services to its residents. Reframing the conversation around prevention services versus emergency services is a distraction and the district does not do either well. District spends 88% of its budget on administrative expenses including for a consultant, lobbyists and running a real estate business. They do not consider leasing to a medical facility as providing direct services.
 - As mentioned by Delvecchio Finley, CEO of Alameda Health System, at the January 7th meeting, the safety net hospitals in the district also provide preventative services such as nutrition, cooking classes, community education.
 - Debate about one-time versus ongoing funding is also a distraction. LAFCo's charge is to assess whether or not Eden Health District is providing efficient and sustainable health services.
 - The current proposal to turn over the district's operations and assets to a non-profit only serves to extend the conversation about the best use of district funds. LAFCOs are not and should not be in the business of setting up non-profits.
 - The failure of the district to effectively manage taxpayers' money to deliver on its initial commitment and to fulfill its mission makes the decision clear, and if LAFCo fails to act, it should at least not oppose any action by the State to dissolve the District.

Ms. Cedeno closed her remarks by noting that although she could not attend today's meeting, Interim Director of the Alameda County Health Care Services Agency, Rebecca Gebhart had sent a letter to the Commission to indicate the agency's willingness to assist the District and LAFCo should the Commission decide upon dissolution. (See Attachment 2)

- Reina Lopez-Navarro, field representative of Assembly Member Rob Bonta (covering San Leandro, Oakland and Alameda) – noted that Assembly Member Bonta had spoken on November 7th about the District's failure to meet its mission and about the Grand Jury's findings considering the District. Additionally, he had talked about how the District did not come close to compliance with new state laws which require that 80% of a healthcare district's budget be used on direct health care services. Bonta was requesting that LAFCo consider dissolution due to the abuse of public funds and the lack of good faith efforts to fulfill its mission. The Assembly Member supports Supervisor Chan's recommendations. Concerning comments made at the November 7th meeting that some people believe the issue has been politicized and that dissolution of the District would hurt those benefitting from community services, it was noted that the Grand jury report found the District had failed at providing meaningful direct health care services. The District spends a minuscule amount on grant making. Prevention still does not fall within the scope of its mission of direct healthcare provision.

Commission Comments/Discussion:

Commissioner Miley expressed that he felt the Commission was being pressured, even bullied, into a particular direction concerning the future of the District, which he found troubling and disturbing, and emphasized, nevertheless, that he would keep an open mind and would discharge his responsibilities as a LAFCo Commissioner in the matter.

In response to an inquiry from Commissioner Sblendorio, Staff clarified that the suggestion of forming a non-profit from the District did not originate with the Commission, but rather was mentioned during public comment at the special meetings concerning the District, and also was to be a topic of discussion at a recent meeting of the District's Board (per letter from District's CEO to the board – copy of which had been included in the Commission's agenda packet), but that she had not heard any feedback about that discussion.

Commissioner Wieskamp said she would be in favor of staff attending the meeting of the Little Hoover Commission in Sacramento, as she expected that would be informative and an opportunity to find out about

other ideas concerning the topic of healthcare districts. Additionally, she hoped that the consultant would come up with not only clarification regarding numbers, but also about terms, such as “direct health care.” Noting that there had been many changes in healthcare during and since her husband’s service on a healthcare board, she said it could be very difficult to determine what will be happening in the next year or two in terms of healthcare, so she believed it would be helpful to use and understand terms that are accepted by a variety of experts.

Upon request from Chair Marchand, the Commission indicated a consensus for Staff to attend the Little Hoover Commission meeting.

Commissioner Johnson, speaking as a special district member (Castro Valley Sanitary District) noted that it can be difficult for a special district to increase the public’s awareness of the district and what it does – that it is a common problem for special districts. He shared some of the challenges his district has faced in that regard and acknowledged that it is not uncommon for a special district to try to increase public awareness, but not be absolutely successful at it. Commissioner Marchand added that, when he was working on the Zone 7 Water Board, no one had ever heard of them, and that then, by the time he left, everyone had either sued them or talked about them.

Direction for Staff concerning the Review Process:

Chair Marchand asked the Commissioners to consider providing direction to Staff about their preference for the public review process of the special study.

Commissioner Miley recommended that, because there was so much dissension about this matter, rather than including the public review draft in a regular meeting, they have a special meeting so as to allow more time for speakers and discussion, and to hold the meeting somewhere in the District.

At Commissioner Sblendorio’s request, Staff went over steps in the public review process:

- In late November/early December 2016, the public review draft of the study will be produced and distributed to the Commission and to all interested parties, as well as posted on LAFCo’s website.
- In January or early February 2017, a public hearing will be held to consider the draft report and accept public comment.
- The Consultant will incorporate public comments.
- The final special study report will be presented for Commission consideration possibly at the March 9, 2017 regular meeting. At this meeting, the Commission might consider accepting the report and taking some action. Staff mentioned that in regards to special studies, the law provides little guidance about what the Commission must do.

Staff noted that it was very likely that a draft of the Cities Municipal Services Review (MSR) would be presented at the January 12th meeting, and that would most likely be a lengthy presentation. There was a recommendation to possibly change the January 12th regular meeting to a special meeting to conduct a review of the draft special study and then have the regular meeting later in January to present the MSR of the cities.

Following further discussion, consensus was reached to:

1. Have a special meeting devoted solely to the draft public review study rather than including it in the regular January 12th meeting. The meeting should be in early January – either on January 12th since that is already scheduled (and then have the regular meeting later in January) – or soon after January 12th.
2. Have the meeting in the District’s boundaries, preferably in Hayward since that is centrally located.
3. The meeting should start at 5:30 p.m. for the convenience of the public.

Staff indicated that she would contact Hayward staff about possibly using their council chambers and that she would also contact CALAFCO staff concerning the January date for the CALAFCO Board meeting to avoid a meeting date conflict for Commissioners Marchand and Sblendorio who serve on the CALAFCO Board.

8. Matters Initiated by Members of the Commission

There were none.

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

- a. Cities Municipal Service Review/Spheres of Influence Update Project
- b. CALAFCO Board of Directors Update – verbal report
- c. CALAFCO Legislative Committee Update
- d. Application/Project Update
- e. News Article
- f. 2016 CALAFCO Annual Conference Report – verbal report
Staff reported that the conference, held in Santa Barbara was well attended – 280 Commissioners, staff and guests, representing 45 LAFCoS – and noted that Alameda LAFCo won 2nd place in the beer contest. She expressed appreciation to Commissioner Sblendorio for serving as chair of the conference committee and noted that he had moderated a very interesting opening session on agriculture and open space preservation. Commissioner Vonheeder-Leopold shared some highlights of the mobile workshop that included visits to a local reservoir and to a major nursery.

10. Adjournment of Regular Meeting

The meeting was adjourned at 3:05 p.m.

14. Next Meeting of the Commission

Special Meeting - Thursday, November 30, 2016 at 2:00 p.m.

Regular Meeting – Thursday, January 12, 2017 at 2:00 p.m.

Attachments

- 1. Comments from Michelle Robles, Senior Accountant for Eden Township Healthcare District
- 2. Letter from Rebecca Gebhart, Interim Director, Alameda County Health Care Services Agency

Respectfully submitted,



Sandy Hou, Commission Clerk

These minutes were approved by the Commission on November 30, 2016.

Attest: 
Mona Palacios, LAFCo Executive Officer

Statement 1

Financial waste is rampant in the District operations with \$5.8M being spent in property management. Included in the 2017 projections is \$306K for valet parking services at the Dublin facility so this is the kind of outrageous management that goes on.

This statement shows a lack of understanding or a deliberate misrepresentation of the Districts financial statements. Our medical offices are a community service and our overhead is 10.57% which can be seen in our 2016 audit report. With regards to the \$306K budget for valet parking, this is a reimbursable expense paid by the tenants who lease medical office space. This is statement aimed at misleading the public.

Statement 2

In the case of SLH the District administration has mismanaged its obligations to patients since 1998. When failing to run the facility successfully it transferred management to Sutter Health.

In 2004 the District purchased and leased simultaneously, SLH to Sutter Health. The District affiliated itself with Sutter, a larger partner, to finance the replacement of EMC to meet seismic safety law. The lease agreement required Sutter Health to replace EMC or pay ETHD \$260M so the District could replace it. SLH was purchased for the purpose of replacing rehab beds which would be lost once Laurel Grove Hospital, which was part of EMC was demolished. Supervisor Chan should know this as she is an alternate to the LAFCO commission and should have read the MSR report written in 2013. This too is a statement meant to mislead the public.

Statement 3

In 2008 the District signed an agreement with Sutter giving them the option to buy SLH. When Sutter exercised their option in 2009 Eden sued Sutter and after an unsuccessful lawsuit the District was forced to turn over title and pay over \$19M in damages.

This agreement was part of the 2004 lease with Sutter which was amended in 2008. The District sued Sutter as a result of tremendous political pressure and community anger over the risk of losing emergency room services at SLH. The damages incurred were primarily the cost of keeping SLH open during the duration of the lawsuit and not due to irresponsible administration.

Statement 4

In June 2013 there was a formal public vote to work on raising \$20M to sustain SLH operations and to this date none of that money has materialized.

The District did work on its ability to raise an additional \$20M to help sustain SLH. Unfortunately the District's financial consultant concluded that we were unable to raise this sum of money.

Statement 5

The county will continue to work with the current District grantees and this has been a kind of cynical attempt to pit the community organizations against safety net hospitals.

This is not a cynical attempt to pit community organizations against safety net hospitals. Supervisor Chan has made it very clear that she wants the District's funds to support SLH and possible St. Rose Hospital. She does not guarantee the District's grantees will receive any of the District's funds.

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

REBECCA GEBHART, Interim Director



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November 9, 2016

Alameda County LAFCO
1221 Oak Street, Suite 555
Oakland, CA 94612

Dear LAFCO Commissioners:

We understand that LAFCO is currently studying the status of the Eden Township Healthcare District and will be making recommendations about its future.

The information raised by the Grand Jury related to the Eden Healthcare District is concerning. In the event that you move to dissolve the District and/or recommend a change of management, the Alameda County Health Care Services Agency stands willing to provide assistance.

As you are aware, under the leadership of the Board of Supervisors, the Health Care Services Agency has undertaken extensive work over many years to serve the health care needs of residents within the jurisdiction of the Eden District. We have provided both administrative and financial support to keep St. Rose and San Leandro Hospital open. We have long standing relationships with many of the District's current grantees, including Davis Street, East Bay Agency for Children, Center for Elders Independence, Lincoln, Building Futures, LaClinica, LaFamilia Counseling Service, George Marks Children's House, and San Leandro's school-based health center.

As a County agency, we are also able to match certain dollars through the federal Intergovernmental Transfer Program. This can be done on a yearly or one-time basis. To-date, we have secured over \$29 million in federal matching funds since FY2004-05 for the District's safety-net hospitals through intergovernmental transfers.

Additionally, we have comprehensive health care data by zip code on emergency room visits, disease prevalence by age and ethnic background, mortality rates, and the social determinants of health. If this information is useful to you, please don't hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rebecca Gebhart', written over a white background.

Rebecca Gebhart
Interim Director
Alameda County Health Care Services Agency