

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

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Action Minutes

San Mateo Local Agency Formation Special Commission Meeting

March 20, 2024

Chair Martin called the Wednesday, March 20, 2024, Special Meeting of the Local Agency Formation Commission (LAFCo) to order at 2:30 pm at the San Mateo County Board of Supervisors Chambers, 400 County Center, Redwood City, CA. Members of the public were also able to participate in the meeting remotely via Zoom.

1. Roll Call

Members Present: Kati Martin, Tygarjas Bigstycck, Virginia Chang-Kiraly, Harvey Rarback, Warren Slocum, Ann Draper, Ray Mueller

Members Absent: None

Staff Present: Rob Bartoli, Executive Officer (joined remotely), Timothy Fox, Legal Counsel
Diane Estipona, Clerk

2. Public Comment for Items Not on the Agenda

None.

3. Consent Agenda

- a. **Approval of Action Minutes: March 20, 2024**
- b. **Consideration of LAFCo File No. 23-08 - Proposed Outside Service Agreement for water by the City of Redwood City to 3647 Oak Knoll Drive (APN 057-173-120), Unincorporated Redwood City**
- c. **Consideration of LAFCo File No. 24-01 - Proposed Annexation of 27 Hillbrook Drive, Portola Valley (APN 079-073-170) to West Bay Sanitary District**

Commission Action: Commissioner Bigstycck moved to approve the consent agenda
Commissioner Chang-Kiraly seconded the motion. Motion passed unanimously by roll call vote.
(Ayes: Commissioners Martin, Bigstycck, Chang-Kiraly, Rarback, Slocum, Mueller, and Draper;
Noes: None)

COMMISSIONERS: KATI MARTIN, CHAIR, SPECIAL DISTRICT ▪ RAY MUELLER, VICE CHAIR, COUNTY ▪ VIRGINIA CHANG-KIRALY, SPECIAL DISTRICT
▪ HARVEY RARBACK, CITY ▪ TYGARJAS BIGSTYCK, CITY ▪ WARREN SLOCUM, COUNTY ▪ ANN DRAPER, PUBLIC

ALTERNATES: CHRIS MICKELSEN, SPECIAL DISTRICT ▪ ANN SCHNEIDER, CITY ▪ JAMES O'NEILL, PUBLIC ▪ NOELIA CORZO, COUNTY

STAFF: ROB BARTOLI, EXECUTIVE OFFICER ▪ SOFIA RECALDE, MANAGEMENT ANALYST ▪ TIM FOX, LEGAL COUNSEL ▪
ANGELA MONTES, CLERK

4. Consideration of Municipal Service Review Circulation Draft for the Broadmoor Police Protection District

Rob Bartoli, Executive Officer, presented the staff report and draft MSR for the Broadmoor Police Protection District. The MSR encompasses these updates, new data, and revised recommendations. LAFCo has taken no action toward BPPD other than the publication of this and previous studies.

Mr. Bartoli highlighted the main issues discovered in this study including the following:

- BPPD has had significant budget deficits in five of the last six fiscal years for a total loss of \$1.4 million. BPPD's net position has been negative every year since the end of FY17. The BPPD Commission has adopted unbalanced budgets for FY17, FY18, FY19 and FY23. To address the budget losses and unbalanced budgets, the District has relied on the fund balance to address these deficits.
- BPPD has cut spending dramatically since the start of FY23-24 by eliminating two officer positions, some per-diem officers, and moving other per-diem officers into unpaid volunteer positions. Many of these budget cuts occurred shortly after the BPPD Commission adopted the FY23-34 budget. These cuts though were not included as part of the proposed budget document. The need for these unplanned cuts concerned LAFCo staff about whether BPPD and the public have a full understanding of the fiscal health of the District.
- Just two months after the adoption of the FY23-24 Budget, BPPD approved and later rescinded a resolution that declared that BPPD was insolvent and facing a fiscal emergency. The resolution also directed BPPD staff to take steps to file for bankruptcy protection.

Other key issue include:

- BPPD does not prepare a separate report of actual revenue and expenditures at the end of each fiscal year. The District does not produce long-term financial planning documents for use in the budgeting process.
- The District does have independent audits which are shared with staff and Board members; however, it does not appear that these audits are agendaized for discussion at Board meetings.
- BPPD does not have a Master Plan, Strategic Plan, or Capital Improvement Plan that plans for asset management and replacement, such as facility upgrades or repairs and replacement of equipment and vehicles. BPPD has stated that they have contacted the California Special Districts Association regarding hiring a company to produce a strategic fiscal plan for the District.

- The lack of long-term fiscal plans, budget deficits, and growing costs to the District may negatively impact service delivery.

Commissioner Draper mentioned that Page 41 of the agenda packet, incorrectly referenced the City of Burlingame. Mr. Bartoli clarified that it will be revised moving forward along with any minor typos within the report.

Commissioner Rarback asked how the Broadmoor Police Protection District (BPPD) would be merged with the City of Daly City and if it requires dissolution first. Mr. Bartoli responded that the annexation of the unincorporated areas of Broadmoor and Colma to the City of Daly City would be required to implement this governance change.

Commissioner Chang-Kiraly requested a status update for the CSDA hiring a company to produce fiscal plans and reports. Mr. Bartoli stated there is no new update aside from a previously received written comment from the District saying they are pursuing this matter.

Commissioner Bigstycyk asked if conducting the MSR would be the first step for LAFCo to initiate the dissolution via SB 938. Mr. Bartoli confirmed that is one of the requirements including one other finding to fully adopt the MSR.

Commissioner Bigstycyk requested more data from BPPD regarding continuing Brown Act training.

Chair Martin opened public comment.

Johnathan Gruber, a resident of Broadmoor, spoke in favor of BPPD.

David Smith, a resident of Broadmoor, spoke in favor of BPPD.

Andrea Hall spoke in favor of the LAFCo MSR and the recommendations in the report.

Chair Martin closed public comment.

Commissioner Bigstycyk asked the BPPD what kind of training regimen is offered to Commissioners regarding governance. Broadmoor Police Chief Connolly answered that there are online courses available, but no mandatory continuing education is in place. Commissioner Bigstycyk suggested that the Broadmoor Commission seek other opportunities to further their understanding of procedures for meetings. Commissioner Draper also suggested that the BPPD Commission look to other commissions for procedures, policies, and best practices while recommending gaining staff, consultants, or volunteers.

Commissioner Rarback – in favor of the LAFCo recommendations.

Commissioner Chang-Kiraly – in favor of LAFCo and recommended that the BPPD adopt more regular training outside what is offered on their main website.

Chair Martin stated that she would like to see the BPPD Board members be more involved both in the discussions of the MSR at LAFCo and in the discussion of the general fiscal stability of BPPD.

Commissioner Mueller – left the meeting at 3:25 PM due to sickness.

Commission Action: Commissioner Chang-Kiraly moved to approve the draft report. Commissioner Rarback seconded the motion. Motion passed unanimously by roll call vote. (Ayes: Commissioners Martin, Bigstycck, Chang-Kiraly, Rarback, Slocum, and Draper; Noes: None; Absent: Mueller)

5. Consideration of Municipal Service Review Circulation Draft for the City of San Bruno

Mr. Bartoli presented the staff report. The City's Sphere of Influence (SOI) includes approximately 260 acres of unincorporated San Mateo County, including the San Francisco County Jail and San Francisco International Airport lands west of US 101. Since 1979, the SOI for the City has included a recommendation to detach Capuchino High School from the City of San Bruno and annex the property to the City of Millbrae. The High School is connected to San Bruno by a narrow corridor with irregular boundaries and is largely surrounded by the City of Millbrae. Currently, the City of San Bruno provides water and sewer to the property.

While LAFCo staff has not identified any issues with the City's budgeting practices, the City has not adopted a balanced budget in the last five fiscal years, it has been able to reduce some general fund expenditures and draw from its reserves to fund ongoing operations while maintaining a positive fund balance.

Although the City is financially healthy and is anticipated to be able to meet service demands of foreseeable growth with planned infrastructure improvements, capital the CityNet, the City's cable and internet service, and Stormwater Enterprise funds are operating at a deficit. The City is exploring ways to create new revenue so that it can continue delivering services.

The City is engaged in ongoing litigation with the State regarding the allocation of sales tax to the City. If the City was to lose the litigation, the City would owe up to approximately \$15.3 million to the State, which would impact the City's General Fund.

The City's adopted Housing Element proposes to increase its housing stock by 22% over the next eight years. The City's General Plan, coupled with the Transit Corridor and Bayhill Specific Plans, has largely evaluated the impacts of the potential growth and determined that the potential growth will not have a significant impact on the adequacy and delivery of municipal services.

LAFCo staff is not aware of any deficiencies in the agency's capacity to meet existing service needs for which the City of San Bruno does not have a plan in place to resolve. The City is aware that the CityNet and Stormwater Enterprise funds are operating at a deficit and are exploring ways to create new revenue so that it can continue to provide services.

The City has not adopted a balanced budget in the last five fiscal years, it has been able to reduce some general fund expenditures and draw from its reserves to fund ongoing operations while maintaining a positive fund balance.

Looking ahead, the City intends to make additional adjustments and look for opportunities to address its structural deficits. City staff intends to present a long-range forecast to the City Council in FY 23-24 that explores new revenue opportunities.

The City has not had success in increasing the assessment fee for the Stormwater Enterprise Fund, which hasn't been increased since 1994.

Commissioner Draper and Chair Martin asked for additional information regarding the litigation that the City is currently involved in.

Commissioner Draper asked about clarifying the current financial status of the City in the MSR due to the unbalanced budgets.

Chair Martin opened and closed public comment. No public comments were received.

Commission Action: Commissioner Bigstyk moved to approve the draft report. Commissioner Draper seconded the motion. Motion passed unanimously by roll call vote. (Ayes: Commissioners Martin, Bigstyk, Chang-Kiraly, Rarback, Slocum, and Draper; Noes: None; Absent: Mueller)

6. Consideration of Adoption of Proposed Work Program and Draft LAFCo Budget for Fiscal Year 2024-2025

Mr. Bartoli presented the LAFCo Draft Budget and Workplan for FY 2024-25. The proposed LAFCo budget for FY2024-25 is \$816,415 The adopted FY 23-24 budget is \$846, 030 and the estimated FY 23-24 year-end-actuals is \$628,297.

Other costs include programmed computer upgrades and increases in costs for the CALAFCO conference and workshop.

The appropriations budget and net operating budget decreased by \$29,615. However, due to the allocation of fund balance in FY23-24, the 1/3 apportionment will be required to increase by 10% compared to the prior fiscal year.

Staff is conservatively estimating the County Attorney's Office's actual charges based on the complexity of the several anticipated applications and the potential of litigation. Some cost savings will be achieved due to the currently vacant Management Analyst position and the previously vacant Administrative Secretary position. Revenues include fund balance carryover, application fees, and the intergovernmental revenue from the County, cities, and special districts.

Commissioner Draper stated that there should be a task item included to follow through with MSR conditions every fiscal year. Mr. Bartoli clarified that a related item is stated on Page 3 of the budget and will make it more clear in the final proposed workplan.

Chair Martin opened public comment.

Greg Ferris, a Menlo Park resident, spoke in favor of adding an item to a future work plan that pertains to a pending annexation application in the West Menlo Park area.

Chair Martin closed public comment.

Commission Action: Commissioner Chang-Kiraly moved to approve the adoption of the proposed work program and draft the FY2024-25 budget. Commissioner Rarback seconded the motion. Motion passed unanimously by roll call vote. (Ayes: Commissioners Martin, Bigstyck, Chang-Kiraly, Rarback, Slocum, and Draper; Noes: None; Absent: Mueller)

7. Legislative and Policy Committee

a. Legislative Report – Information Only

Mr. Bartoli presented the report. He stated that as of March 11, 2024, CALAFCO is tracking 15 bills. Legislation that is of interest to San Mateo LAFCo includes:

AB 3277 is the annual CALAFCO Omnibus bill for 2024. The bill would add language that clarifies that a financial analysis would only be needed to be conducted by LAFCo and a project applicant in those instances where a portion of the ad valorem property taxes is being sought by an agency. Currently, the section of law would be applicable even in cases where an agency waives any portion of the ad valorem taxes as part of their application. CALAFCO is requesting letters of support for this bill. (CALAFCO – Support/Sponsor)

SB 1209 would authorize a LAFCo to require, as a condition for, among other things, processing a change of organization or reorganization, that the applicant agrees to defend, indemnify, and hold harmless the LAFCO, its agents, officers, and employees from and against any claim, action, or proceeding, as specified, arising from, or relating to the action or determination by the LAFCo. CALAFCO sponsored the bill in response to a 2022 appellate decision out of San Luis Obispo that held that LAFCOs could not use indemnification provisions in applications because indemnifications are a form of agreement that LAFCOs are currently not authorized to enter into. As introduced, the bill would allow LAFCOs to use provisions similar to counties and cities. CALAFCO is requesting letters of support for this bill. (CALAFCO – Support/Sponsor)

AB 805 would set up a program in which the state would provide technical, managerial, administrative, and financial assistance, where applicable, to disadvantaged communities. CALAFCO's position on the bill was changed to support the amendment if the bill includes a provision requiring the state board to consult with the local LAFCO regarding the sewer system. This bill was amended in late January and no longer addresses the consolidation of wastewater systems. (CALAFCO – Support if Amended)

b. Request to Authorize LAFCo Staff to Submit Letters of Support for AB 3277 and SB 1209 to Both Legislative Houses and to the Governor

CALAFCO has requested a letter of support for AB 3277 (Annual CALAFCO Omnibus bill) and for SB 1209 (LAFCo Indemnification). San Mateo LAFCo has drafted two letters of support of each bill. If the letters of support are approved by the Commission, it is recommended that the Commission authorize LAFCo staff to submit the letters to both legislative houses and to the Governor as the bills move through the legislative process.

Chair Martin opened and closed public comment. No written or oral comments were received.

Commission Action: Commissioner Chang-Kiraly moved to approve the letters of Support for AB 3277 and SB1209. Commissioner Rarback seconded the motion. Motion passed unanimously by roll call vote. (Ayes: Commissioners Martin, Bigstyck, Chang-Kiraly, Rarback, Slocum, and Draper; Noes: None; Absent: Mueller)

8. Commissioner/Staff Reports – Information Only

Closed Session - The Commission adjourned to closed session to consider the following item at the end of the agenda, or at any time during the meeting as time permits. After the closed session, the Commission will reconvene in an open session.

9. Conference with Legal Counsel – Existing Litigation (§ 54956.9):

Name of Case: *East Palo Alto Sanitary Dist. v. San Mateo Local Agency Formation Comm'n (San Mateo County Superior Court Case No. 24-CIV-01489)*

10. Adjournment

The Commission adjourned at 5:30 PM. There was no reportable action from the closed session.