

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

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Action Minutes

San Mateo Local Agency Formation Special Commission Meeting

July 17, 2024

Chair Martin called the Wednesday, July 17, 2024, Regular 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:

Staff Present: Rob Bartoli, Executive Officer (Participating Remotely)

Timothy Fox, Legal Counsel

Diane Estipona, Clerk

2. Public Comment for Items Not on the Agenda

None received.

3. Consent Agenda

- a) Approval of Action Minutes: March 20, 2024
- b) Consideration of LAFCo File No. 24-03 - Proposed Outside Service Agreement for water by the City of Redwood City to Parcel 2 of 177 Springdale Way (APN 057-023-130), Unincorporated Redwood City
- c) Consideration of LAFCo File No. 24-06 - Proposed Annexation of 231 Georgia Lane (APN 079-054-040) and 241 Georgia Lane (APN 079-054-020), Portola Valley to West Bay Sanitary District
- d) Consideration of LAFCo File No. 24-07 - Proposed Annexation of APN 080-082-040, Los Trancos Woods to West Bay Sanitary District

Commission Action: Commissioner Bigstycck moved to approve the consent agenda.

Commissioner Rarback seconded the motion. Motion passed unanimously by roll call vote.

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

(Ayes: Commissioners Martin, Bigstyck, Chang-Kiraly, Draper, Rarback, Slocum, Mueller; Noes: None)

4. Certification of Protest Hearing Results for LAFCo File 22-09 - Proposal to Establish the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto

Rob Bartoli, Executive Officer, presented the staff report for the item.

On November 15, 2023, the LAFCo Commission voted unanimously, 6-0, to adopt Resolution No. 1312 approving the City of East Palo Alto's proposal to establish the East Palo Alto Sanitary District (EPASD) as a subsidiary district of the City subject to the terms and conditions included in the Resolution and the completion of the Conducting Authority Proceedings. The East Palo Alto Sanitary District objected to the proposal.

The protest period for LAFCo File 22-09 began on February 12, 2024, and remained open for 100 days after.

The Protest Hearing was held on May 22, 2024, at the City of East Palo Alto Council Chambers and was publicly noticed pursuant to Government Code Section 57025, consisting of newspaper publication in the San Mateo County Times, Palo Alto Daily Post and The Almanac. Protest forms were collected by LAFCo staff via mail and in-person, until the close of the hearing at 2:59pm on May 22, 2024.

Mr. Bartoli noted that there are three potential outcomes for any LAFCo protest proceeding.

1. Terminate proceedings if 50% or more of the registered voters residing in the affected territory file a written protest; or
2. Order the change of organization subject to the confirmation of the registered voters residing in the affected territory if written protests have been filed by at least 25% but less than 50% of the registered voters residing in the territory, OR 25% of the number of landowners who also own at least 25% of the assessed land value of land in the affected territory; or
3. Order the change of organization without an election if written protests have been filed by less than 25% of the registered voters in the affected territory and less than 25% of the landowners who own at least 25% of the assessed land value in the affected territory.

The protest forms have been compared to the current Equalized Assessment Roll maintained by the County Assessor and the current Registrar of Voters maintained by the County Elections Official. All protest forms are evaluated pursuant to the relevant government code sections.

Mr. Bartoli stated that for the protest proceedings, there are two types of protest: registered voters and landowners.

For registered voters, there were 9,672 registered voters within the affected area; There were 1,012 facially vailed protests submitted during the protest period which equals 10.46 percent of the total registered voters in the affected area and is below the protest threshold of 25 percent; there 57 facially deficient were submitted.

Protest forms were only identified as faciality deficient if there was no date affixed on the forms of when the protest form was completed, the date affixed was outside of the protest period, no signature was affixed to the form, or the person signing the form was either not a registered voter or a landowner in the affected area, depending on the type of protest form submitted.

For landowners, there are two parts total landowner in the area and the total assessed land value; there were 6,567 total landowners in the affected area. If a parcel is owned in joint tenancy or tenancy in common (2nd or 3rd owners in the Assessor's data), each person or entity is counted as a separate owner. If a person or entity owns multiple parcels, for each parcel they would be considered a separate owner. So, while there are 4,287 parcels, there are 6,567 total landowners.

There were 936 facially vailed protests submitted during the protest period which equals 14.25 percent of the total landowners in the affected area and is below the protest threshold of 25 percent.

In the total assessed land value in the area is two billion, two hundred sixty-four million, two hundred ninety-five thousand two hundred sixty-four dollars. The total assessed value of the 936-protest received was one hundred eighty million six hundred fifty hour thousand eight hundred ninety-five dollars which equals 7.98 percent of the total assessed value in the area and is below the 25% threshold.

The assessed value of parcels owned in joint tenancy or tenancy in common shall be determined in proportion to the proportionate interest of the petitioner in that land as required by the government sections.

As the number and value of protests met neither the 50% threshold for terminating the

proceedings nor the 25% thresholds for requiring an election, the Commission is under a mandatory statutory duty to approve the change of organization.

There are no additional actions required to be taken by the Commission to establish the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto as approved by the LAFCo Commission on November 15, 2023, in Resolution 1312

The City of East Palo Alto City Council will be voting on matters related to a contact with the West Bay Sanitary District and a framework for an advisory body to the EPASD governing body at their July 16 City Council. The tentative date of the governance change for EPASD is August 1, 2024, if all required conditions of approval are met.

LAFCo staff recommended the Commission to open the public hearing and accept public comment and approve San Mateo LAFCo Resolution 1325 – Making Determinations and Ordering the Establishment of the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto Without an Election Subject to the Terms and Conditions of LAFCo Resolution 1312.

Commissioner Draper requested a brief history of LAFCo actions prior to the initial application submitted by the City of East Palo Alto. Mr. Bartoli confirmed that LAFCo staff conducted several MSRs in 2021, held public hearings, and presented recommendations for structural improvements for both The City and WBSD.

Commissioner Bigstyk requested verification on the protest threshold percentage and mandatory statutory duty to approve the change of organization by the Commission. Mr. Bartoli affirmed that the government code section relating to validation stated that it is not a discretionary action, and the percentage amount must be reached. Mr. Fox further supported this information.

Chair Martin open public comment.

Joan Cox, special counsel for EPASD, spoke in favor for EPASD and asked for the Commission to continue this item to allow for a ruling from the courts regarding the ongoing litigation between LAFCo and EPASD.

Ruben Abrica, resident of City of East Palo Alto, spoke in favor of moving this item forward.

Kelly Ferguson, resident of Menlo Park spoke in favor of EPASD.

Chair Martin closed public comment.

Commissioner Mueller questioned if LAFCo legal counsel was aware of EPASD filing an injunction to delay the LAFCo process to which Mr. Fox confirmed that a judge denied this motion stating the district did not meet the legal standards for an injunction.

The LAFCo Commission tabled this item until after Item 9.

5. Consideration of LAFCo File No. 24-02 - Proposed Annexation of 244 Club Drive, Unincorporated San Mateo County (APN 049-050-070) to the City of San Carlos

Mr. Bartoli presented the received proposal to the Commission.

This proposal, submitted by landowner petition, requests annexation of 244 Club Drive, (APN 049-050-070) to the City of San Carlos. The property is currently developed with a single-family residence and is served by an on-site septic system for sewer. The property has stated that the septic on the property is concerned regarding a future failure of that system and is requesting annexation to San Carlos to allow for sewer service from the City. The City of San Carlos has approved the pre-zoning of the parcel and both the City, and the County have approved the required property tax exchange. Commission approval is recommended.

No change in service delivery patterns will occur for water as the property already receives service from the California Water Services Company Annexation to the City will result in transfer of service responsibility for sewer, police, fire, parks and recreation, and streetlights and transfer of associated property tax revenue to the City of San Carlos.

The proposal to annex the property will allow the City of San Carlos to provide the residents of the property more efficiently with public services. The City now provides sewer service to the property and the annexation would allow the City to provide municipal service, such as fire, police, and park and recreation services. Due to the existing development on the property, the annexation of the parcel to the City would have minimal impact on municipal service demand.

Chair Martin questioned why this item is not on the consent agenda and Mr. Bartoli clarified that City annexations are historically on the record and presented to the Commission.

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

Commission Action: Commissioner Chang-Kiraly moved to approve the proposed Annexation of 244 Club Drive, Unincorporated San Mateo County (APN 049-050-070) to the City of San Carlos. Commissioner Draper seconded the motion. Motion passed unanimously by roll call vote. (Ayes: Commissioners Martin, Bigstyk, Chang-Kiraly, Draper, Rarback, Slocum, Mueller; Noes: None)

6. Consideration of Municipal Service Review Circulation Draft for the City of Foster City and the Estero Municipal Improvement District

Mr. Bartoli presented the staff report.

LAFCo staff has not identified any issues with the City's budgeting practices, and the City continues to adopt a balanced budget, the City is anticipated the utilization of reserve funds in future years to balance the budget due to a structural deficit. The City worked on a possible revenue measure for Business License Tax to help address this, however, there is no current vote from the Council.

The City's adopted Housing Element proposed an increase to housing stock by 13% over the next eight years. The City's has evaluated potential impacts to City and EMID infrastructure. While water demand for proposed development under the 2023-2031 Housing Element will be met, during single and multiple dry years, EMID's total annual water demand is expected to exceed EMID's available water supplies from 2025 to 2045 with or without the additional demand from the 2023-2031 Housing Element. The City and EMID is aware of this issue and are working on implementing policies and programs to address this.

LAFCo determined that there are no issues with the City's or EMID's budget practices and recommended exploring the potential merger between both entities including a study of potential efficiencies and cost savings.

LAFCo staff recommended that the Commission opens a public hearing to provide Commissioner comment and accept public comment while directing Executive Officer to schedule the Final Municipal Service Review for the City of Foster City and EMID for a public hearing at the September 18, 2024, Commission meeting, and circulate it with the suggested changes and any other necessary amendments to the County, cities, and independent special districts.

Commissioner Draper would like to include verbiage in the MSR to commend Foster City for taking actions and addressing the sea level rising. Mr. Bartoli accepted the suggestion and will include it in the report.

Chair Martin open and closed public comment. No comments were made.

Commission Action: Commissioner Bigstyk moved to approve the approve the consideration of Municipal Service Review Circulation Draft for the City of Foster City and the Estero Municipal Improvement District. Commissioner Draper seconded the motion. Motion passed unanimously by roll call vote. (Ayes: Commissioners Martin, Bigstyk, Chang-Kiraly, Draper, Rarback, Slocum, Mueller; Noes: None)

Commissioner Mueller – left the meeting at 4 PM.

7. Broadmoor Police Protection District and LAFCo Initiated Dissolution Process

Mr. Bartoli presented the LAFCo dissolution process.

At the May 15, 2024 LAFCo meeting, the Commission adopted a Municipal Service Review (MSR) for the Broadmoor Police Protection District (BPPD). The report highlighted that LAFCo had several areas of concern for BPPD including the fiscal health of the District and the ability to continue to provide police services to residents. BPPD has had significant budget deficits in five of the last six fiscal years for a total loss of \$1.4 million. These budget deficits, and the reduction of fund balance, have now directly impacted the District. BPPD has made dramatic cuts to spending since the start of FY23-24 by eliminating two officer positions, eliminating some per-diem officers, and moving other per-diem officers into unpaid volunteer positions. These cuts have lowered the number of sworn officers to 7, a decrease from 9 officers just last year.

Mr. Bartoli summarized the general LAFCo dissolution process for a special district.

Mr. Bartoli notes there would be impacts to both the LAFCo workplan and costs to LAFCo to move a dissolution forward. The LAFCo Budget Committee reviewed this report to make sure that all potential fiscal and work plan issues were considered.

LAFCo staff recommended that the Commission receive the report and, if desired, can direct staff to prepare an application for the dissolution of BPPD, to produce follow-up reports or additional studies on BPPD, or to take no additional action related to BPPD at this time.

Mr. Bartoli stated that two written comments were received after the publication of the staff report.

Andrea Hall – expressed concerns in a letter regarding the recently passed resolution to place a special tax on the November ballot and her continued concerns about transparency and fiscal mismanagement at BPPD.

Paul Davis – sent a letter that responded to a previous letter from Andrea Hall regarding social security liability.

Chair Martin opened public comment.

John Aguerre – spoke in support for BPPD and against the LAFCo initiated dissolution of the District.

Broadmoor Police Chief Connolly – spoke in support of BPPD.

Commissioner Draper opposed any additional action from the Commission for the dissolution until after the parcel tax election in November.

Commissioner Rarback spoke in favor of the LAFCo initiated dissolution and mentioned that LAFCo has a responsibility to ensure that special districts are transparent, fiscally sound, and provide adequate public safety.

Commissioner Chang-Kiraly agreed with Commissioner Draper's comment and stated that the BPPD board meeting was not transparent for the public. A staff report should have been presented for better clarity and administrative improvements are necessary.

Commissioner Slocum agreed with postponing further Commission action during an election as he stated that the Commission could be viewed by voters as prejudicial.

Commissioner Bigstycck spoke in support of LAFCo dissolution.

Commissioner Mueller mentioned that he is concerned that the taxpayers are responsible for paying the five-year tax term should BPPD dissolve and the tax measure should be included on the BPPD ballot. Additionally, the BPPD board meeting process needs to be to promote efficiency and accuracy for the public.

Chair Martin spoke in agreement to Commission comments and to postpone this item to the next LAFCo regular meeting on November 20, 2024. Chair Martin also suggested that BPPD should contact other special districts for examples of governance.

Commissioner Chang-Kiraly noted that the LAFCo staff report offers alternative options which is not included in the consultant report for BPPD.

Commissioner Muller left for another meeting at 4:16 PM.

Commission Action: Commissioner Draper moved to continue this item to the November 20, 2024, LAFCo meeting. Commissioner Chang-Kiraly seconded the motion. Motion passed unanimously by roll call vote. (Ayes: Commissioners Martin, Bigstycck, Chang-Kiraly, Draper, Rarback, Slocum; Noes: None; Absent: Mueller)

8. Legislative and Policy Committee

- a) Legislative Report – Information Only

Mr. Bartoli reported that as of July 9, 2024, CALAFCO is tracking 10 bills, and presented the staff report

9. Commissioner/Staff Reports – Information Only

a) CALAFCO 2024 Annual Conference – Information Only

Registration is now open for the CALAFCO 2024 annual conference that will be held on October 16-18, 2024, in Fish Camp, CA, just outside of Yosemite National Park.

As of July 10, Commissioners Martin, Mueller, Chang-Kiraly, and Draper have stated they wish to attend the Conference. Commissioners who wish to attend should notify staff at their earliest convenience in order for staff to submit the conference registration for all San Mateo LAFCo participants before the July 31 deadline.

b) CALAFCO Nominations for 2024-2025 Board Members

The Commission nominated Commissioner Chang-Kiraly as a candidate for the CALAFCO Board for 2024-2025.

Commission Action: Commissioner Bigstyk moved to the nomination. Commissioner Rarback seconded the motion. Motion passed unanimously by roll call vote. (Ayes: Commissioners Martin, Bigstyk, Chang-Kiraly, Draper, Rarback, Slocum; Absent: Mueller)

c) Voting Delegates at 2024 California Association of LAFCOs (CALAFCO) Annual Conference

The Commission selected Chair Martin as the primary voting member and Commissioner Chang-Kiraly and Commissioner Draper as the two alternates participating in the Annual Conference. LAFCo staff will also be in attendance.

Commission Action: Commissioner Chang-Kiraly moved to the nomination. Commissioner Rarback seconded the motion. Motion passed unanimously by roll call vote. (Ayes: Commissioners Martin, Bigstyk, Chang-Kiraly, Draper, Rarback, Slocum; Absent: Mueller)

d) CALAFCO Newsletter for May 2024 – Information Only

10. Commissioner/Staff Reports – Information Only

a) Mr. Bartoli stated that it is anticipated that September 18, 2024 LAFCo meeting in new Board of Supervisors Chambers at 500 County Center. He will confirm the meeting location with the Commission before the meeting.

11. 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)

The Commission adjured to closed session at 4:30 PM.

The Commission returned to open session at 4:59 PM There was no reportable action.

4. Certification of Protest Hearing Results for LAFCo File 22-09 - Proposal to Establish the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto

Commission Action: Commissioner Slocum moved to approve the proposal to establish the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto. Commissioner Rarback seconded the motion. Motion passed unanimously by roll call vote. (Ayes: Commissioners Martin, Bigstycck, Chang-Kiraly, Draper, Rarback, Slocum, Noes: None; Absent Mueller)

12. Adjournment

The meeting ended at 5:15 PM.