

Action Minutes
San Mateo Local Agency Formation Commission
March 20, 2013

In the Board of Supervisors' Chambers, Hall of Justice and Records, Redwood City, California, Chair Horsley called the regular March 20, 2013 meeting of the Local Agency Formation Commission to order at 2:30 p.m.

Chair Horsley said that Commissioner Nadia Holoher, the new City member, was unable to attend today's meeting due to illness.

Members Present: Commissioners David Altscher, Linda Craig, Richard Garbarino, Joe Sheridan, Adrienne Tissier, Chair Don Horsley

Members Absent: Commissioners Nadia Holoher, Naomi Patridge

Staff Present: Martha Poyatos, Executive Officer
Rebecca Archer, Deputy County Counsel
Brenda Bennett, Executive Secretary

CONSENT AGENDA

a) Approval of Action Minutes: December 19, 2012

Commission Action: M/S Craig/Altscher to approve the consent calendar.

Motion carried 5-0.

PUBLIC COMMENT

There was none.

NEW MATTERS

Resolution Honoring Sepi Richardson for her Service to the Commission

Commission Action: M/S Horsley/Craig adopting a resolution honoring Sepi Richardson for her service as a City Member on the Commission and with the CALAFCo Board.

Motion carried 5-0.

CONTINUED MATTERS

Municipal Service Review and Sphere of Influence Update for Highlands Recreation District

Executive Officer Poyatos said the Commission had received a final set of comments from the five associations that represent the unincorporated area within the sphere of influence of the City of San Mateo. She said they also received a March 13 report with comments and responses to comments, the latter of which also related to the municipal service review and sphere of influence update for the City of San Mateo, County Service Area 1 and related County-governed Districts (the next item on the agenda).

Ms. Poyatos said that LAFCo had released a circulation draft in November 2012 to the Highlands Recreation District and associations. She said the Commission heard just a preliminary report in December and LAFCo staff hosted a community workshop in the Highlands on February 20, 2013. She emphasized that this municipal service review was a state mandated report that was done in the state by all county LAFCos for cities and special districts, and it was not a proposal for annexation or a proposal for reorganization. She said it contained information on budget and services provided by the District and its purpose was to either amend or reaffirm the sphere of influence. She said the sphere of influence was the plan for the boundary of a city or a special district.

Ms. Poyatos reviewed the location of the Highlands Recreation District as shown on the overhead adjacent to the City of San Mateo to the east and bounded by Highways 92 and 280. She said staff's recommended municipal service review determinations were found on pages 18 through 21, sphere determinations were found on page 23 and the recommendation to amend the Highlands Recreation District sphere of influence to be an independent district regardless of whether the area remains unincorporated or is annexed to the City of San Mateo with sphere boundaries either coterminous with current boundaries or to include the Ticonderoga Open Space lands was found on pages 23 and 24. She said the major change since the circulation draft was the recommendation that the District remain an independent district upon future annexation of the area to the City of San Mateo.

Ms. Poyatos referred to the maps showing the study area and the boundaries of the various special districts serving the area, noting that the Crystal Springs County Sanitation District (CSCSD) includes the entire unincorporated area. She stated the boundaries of County Service Area 1 include only developed portions of the unincorporated area and that this County-governed district, which receives property tax and parcel tax, funds one Sheriff's deputy 18 hours a day, seven days a week and a full time fire engine.

Ms. Poyatos identified the boundaries of Highlands Recreation District (HRD), which includes the Highlands neighborhood only. She summarized that the HRD is an independent special district serving a portion of the unincorporated area and is included in the boundaries of the two County-governed County Service Area 1 and CSCSD.

Ms. Poyatos referred to the sphere of influence map showing the Highlands/Baywood Park/Baywood Plaza unincorporated area and the Peninsula Golf Club in the sphere of influence of the City of San Mateo and noted that the map should also include the County facilities at Tower Road. She stated that the study area is bounded on the north and northeast by the Town of Hillsborough, by the City of San Mateo to the east and southeast and by SFPUC lands to the west as well as the wholly surrounded Peninsula Golf Club.

Ms. Poyatos emphasized that the report is not a proposal for annexation or reorganization and said there was substantial community opposition to potential annexation. Ms. Poyatos said discussion of governance and annexation is consistent with LAFCo's mission to encourage annexation of areas in need of municipal services and is a required component of municipal service review. She noted the report makes clear that annexation would be the product of consensus on the part of residents and City that annexation is feasible, that annexation would require pre-zoning by the City and that the City has discretion to adopt land use policies that retain the character of the neighborhood. She displayed an annexation flow chart illustrating the various steps in the process including pre-application feasibility studies and establishing consensus to move forward with annexation.

Ms. Poyatos displayed a slide of the HRD website home page providing access to District board agenda, financial and program data and noted that the District has plans to upgrade the website.

Ms. Poyatos reported that one requirement of the sphere update is for LAFCo to establish the active versus inactive services that are authorized by the District's enabling legislation and establish that the District would need to apply to LAFCo to add new service. She explained that the report details that as a community services district HRD enabling legislation includes all of the municipal services of a city except land use and that the only active HRD service is park and recreation, which includes the early education center and open space component. She noted that activation of any of the other services would require application to LAFCo and LAFCo approval.

Ms. Poyatos stated that the recommendation is to amend the sphere of influence of the HRD to be coterminous with District boundaries and that the District be independently governed regardless of the service area remaining unincorporated or being annexed to the City of San Mateo. She summarized the recommended Commission actions including receive report, accept public comment, adopt municipal service review determinations found on pages 18 through 21, adopt the sphere determinations found on page 23 and amend the sphere of influence of the HRD to be coterminous with current boundaries and independent whether the area remains unincorporated or is annexed to the City. She noted District representatives would make a prepared presentation at today's meeting.

Chair Horsley opened the public hearing.

Hal Carroll, Board Member, Highlands Recreation District

Mr. Carroll noted he has lived in the Highlands for twenty-two years and indicated support for the staff recommendation. He provided background on the history of the Highlands unincorporated area including the area's remoteness and lack of public transit and background on the Highlands Recreation District as a hub of the community operating at capacity and services for all ages including the newly constructed Early Education Center. Mr. Carroll cited the District's strong fiscal health resulting from sound fiscal management and the Board's policy establishing rates that reduce reliance on property tax. Mr. Carroll noted the tremendous support from the residents. He stated that the District receives support from CalFire, the Sheriff's office and California Highway Patrol.

Ms. Leisje Nicholas, Co-Vice President, Highlands Community Association

Ms. Nicholas stated that she had a resolution of "no annexation" from the five community associations in the study area requesting that the Commission make no annexation recommendation. She summarized the Highlands Recreation District history, stated that the Highlands neighborhood was not contiguous to the City of San Mateo and that the map in the report incorrectly labeled the study area the Highlands when the area actually includes five neighborhoods. Ms. Nicholas stated that the community values their unincorporated status.

Jean-Pierre Bernard, Co-Vice President, Highlands Community Association

Mr. Bernard said his comments were the official comments of the five homeowners associations (HOA) in County Service Area 1 including Baywood Park HOA, Baywood Plaza HOA, Highlands Community Association, Polhemus Heights HOA and San Mateo Oaks HOA. He stated that the Associations oppose annexation of any of the community services including fire, sheriff, sewer and recreation. He noted the active participation by the community with service providers and stated the report provided no evidence that annexation would result in savings and noted that the concerns of the Associations were formalized in a letter submitted to LAFCo.

Supervisor Dave Pine, District 1

Supervisor Pine thanked LAFCo staff and the Commission for preparation of the municipal service reviews and stated that there is value in completing the reports. He acknowledged the strong sense of community and opposition to annexation and noted the need to address challenges faced by the CSCSD.

There being no other speakers, Chair Horsley asked about sewer rates and statements about overcharges.

Deputy Public Works Director Ann Stillman summarized Department of Public Works' efforts since 2007 to work with the community to set sewer rates that will support sewer operations, treatment and capital improvements. She stated, in particular, that millions of dollars of capital improvements are required resulting from a Cease and Desist Order issued by the Regional

Water Quality Control Board. Ms. Stillman stated that to support the cost of these in-district and downstream capital improvements and qualify for financing, the County is looking at additional costs from the rate payers and other creative ways to pay the District's fair share. In regard to reference to overcharges, Ms. Stillman stated that these comments relate to sewage treatment charges assessed by the City of San Mateo to the CSCSD and determined by a flow meter. She stated that the flow meter had been replaced after it was determined to be reading incorrectly.

Commissioner Craig requested that this discussion be deferred to the next item concerning City of San Mateo and the Sanitation District.

Commissioner Craig moved that the public hearing be closed. Chair Horsley seconded the motion which passed unanimously.

Commissioner Craig moved that the Commission adopt the recommendations found on page 25 of the report and that by resolution the Commission receive the report, accept public comment, adopt municipal service review determinations found on pages 18 through 21, adopt the sphere determinations found on page 23 and amend the Sphere of the Highlands Recreation District to be status quo coterminous with current boundaries and independent whether the area remains unincorporated or is annexed to the City.

Commissioner Craig commented that the report also included an alternative to expand the sphere boundaries to include the Ticonderoga subdivision and she understood that expansion could be considered at a later date, noting the current motion is to maintain the District's current sphere boundaries as stated in staff's recommendation. Commissioner Tissier seconded the motion which passed unanimously on voice vote.

Commissioner Tissier thanked Ms. Poyatos for her work on the study and outreach with the community and thanked the members of the public for their participation.

Commissioner Altscher stated that he viewed the reports as important opportunities for cities and districts under study to be assessed and see that assessment.

Municipal Service Review and Sphere of Influence Update for the City of San Mateo, County Service Area 1 and Related County-governed Districts

Ms. Poyatos stated that this report concerning the Municipal Service Review and Sphere of Influence report for the City of San Mateo, County-governed districts and unincorporated areas was much lengthier than the Highlands Recreation District report due to the multiple layers of service providers and several challenges the County faces in serving unincorporated areas as well as the operations and finance of the City of San Mateo. She reviewed the sphere map and stated that the report includes discussion of annexation in spite of considerable opposition to discussion of annexation because state law and local policy recognize that areas in need of urban services should be annexed to cities. She explained that while there are rural areas in the

County that are not in a city sphere of influence, on the Bayside all urban areas are in the sphere of influence of a city and the Commission is not in the position to remove urban areas from city spheres for several reasons. She stated that the sphere designations must be consistent with the Cortese Knox Hertzberg Act and local policies such as the County's General Plan and recognize the challenge the County faces in providing services to non-contiguous unincorporated areas. She stated that the municipal service review is an opportunity for the Commission and the agencies under study to assess cost and level of services as well as challenges and opportunities for sharing resources.

Ms. Poyatos displayed a map of the County showing the numerous unincorporated pockets illustrating the challenge the County faces in serving these areas. She stated that ten of these unincorporated areas are served by County-governed sewer districts that, with the exception of one, are too small to be economically viable. She stated in regard to comments that the report doesn't address the issues related to the sewer district that extensive comments from the County Department of Public Works regarding Crystal Springs County Sanitation District operations, needed capital improvements and rates are incorporated into the report and found starting on page 52 of the report.

Ms. Poyatos referenced a map illustrating the layers of service providers in the study area and noted that while the Highlands neighborhood is not contiguous to the City the surrounding unincorporated area is contiguous. She reviewed the boundaries of the various districts, noting that CSCSD included the entire study area and County Service Area 1 included only developed portions. She showed two additional slides showing the boundaries of the lighting districts and drainage maintenance districts and indicated information about these districts, including budget information.

Ms. Poyatos showed an aerial photo of the study area illustrating its location near Highways 92 and 280 and bifurcated by Polhemus Drive. She showed a second aerial of an area in the City of Menlo Park near Sand Hill Boulevard and Highway 280 that has similar characteristics as the study area in being divided by major streets and wholly within the City of Menlo Park. She noted that most of the bayside cities are bifurcated by Highway 101, many cities have unique neighborhoods and that being in a city and divided by major streets does not preclude the City from providing adequate services.

Ms. Poyatos referenced a map showing the location of the County fire station and City of San Mateo fire station and noted that comments on the report indicated that residents like having a dedicated fire engine for the neighborhood and are willing to pay the \$65 parcel tax. She stated that a concern in the long term for the community is the fiscally sustainability of this model and that it is inconsistent with the Countywide model of regional delivery of fire and emergency response.

Ms. Poyatos emphasized that the report identifies governance and service delivery alternatives including annexation but that annexation is not being forced on the community by this Commission, rather the Commission is recognizing state policy that require the Commission place this area in a city sphere of influence.

Ms. Poyatos noted that the report includes information on annual budgets of County-governed districts that when combined total \$6 million dollars. She stated that this study is the first opportunity the community and the County have had to see the cost of service in this unincorporated community and consider opportunities to create efficiencies.

Ms. Poyatos stated the governance alternatives for the sanitation district are found on pages 56 and 57 of the report. She noted that the report also cites the County's efforts to work with the ratepayers and the downstream agencies including a study of consolidation of the CSCSD with the City of San Mateo being prepared jointly by the City and the County. She said governance alternatives include: annexation to City of San Mateo; continued unincorporated status for CSCSD as a subsidiary district of the City of San Mateo; a merger of the county-operated sewer system with the City sewer system with the City as the governing body and operator; expanding boundaries of either CSA 1 or HRD to consolidate county-governed lighting and maintenance districts; and continued existence with no changes in governance limiting options to control sewer costs over time. She stated that the record indicates that the current governance and operation model for CSCSD is not sustainable and it is reasonable to conclude that efficiencies and savings would be achieved by including this small sewer system in a larger system. She said it is a statement of fact that if there are no changes in operation and governance the sewer rates will increase.

Ms. Poyatos noted that the City was represented at the Commission meeting and summarized the City's budget stating the report includes substantial information on efforts to mitigate a structural budget effort including cost containment efforts, successful voter approved revenue measures and the various services provided by the City.

Ms. Poyatos referenced a slide showing the ten county governed sewer and sanitation districts and noted that with the exception of the larger Fair Oaks Sewer Maintenance District, these districts are proving to be unsustainable and underscore the challenge the County faces in serving small unincorporated communities. She stated that recognizing this challenge is one of the underpinnings in the Commission's work noting the situation of having over \$1 million in capital improvements that must be shared over 1500 or fewer connections.

Ms. Poyatos said that a letter from the Homeowners Associations indicated that County Service Area 1 (CSA 1) was taking a position on the service review. She clarified that while the Associations closely identify with CSA 1 as their police and fire agency, the Associations do not speak for CSA 1 because CSA 1 is governed by the Board of Supervisors.

Ms. Poyatos summarized the recommended actions including accepting the report and public comment, adopting the municipal service review and sphere determinations and reaffirming the spheres of influence for the City of San Mateo and CSA 1. She stated other districts do not have sphere designations based on their enabling legislation but that if in the future there is an application to create a subsidiary district for sewer that application would be subject to LAFCo review and approval.

Peter Lawrence, 1542 Ascension Drive, San Mateo, thanked LAFCo for the report and urged the Commission to hear the issue of consensus and expressed concern that while the sanitation district challenges have been identified they have not been resolved.

James Goodman, board member of Highlands Community Association stated that he was a member of the group that has been meeting with the Department of Public Works regarding CSCSD. He asked the Commission to keep in mind that the community likes their special districts and is willing to pay for them but that the sanitation district is a complicated issue because the small size of the district enabled the ratepayers to successfully protest rates, thus leading to the meetings between Department staff and ratepayer representatives, and the discovery that the District's flow meter was inaccurate. He stated that local control was an important issue. He said thus far there is not a study analyzing potential savings in consolidation of sewer service and that unless a study shows significant savings, he believes the community will choose local control over consolidation. He concluded that some believe that one district being merged will lead to other districts being merged and it needs to be clear that this is not the case.

Commissioner Craig moved to close the public hearing. The motion was seconded by Commissioner Altscher and was unanimously passed.

Commissioner Craig stated that it appears that savings could be achieved in the smaller maintenance districts and County Service Area 1 that could then be available for the sanitation district as it is clear the sanitation district that does not have adequate revenues to complete needed capital improvements.

Commissioner Tissier moved approval of the staff recommendation to accept the municipal service review and public comment, adopt the municipal service review and sphere determinations and reaffirm the sphere of influence of the City of San Mateo and County Service Area 1. Commissioner Altscher seconded the motion, which passed unanimously on voice vote.

Request for Extension to Meet Conditions for LAFCo File No. 11-07-Proposed Minor Sphere of Influence Amendment and Annexation of a Portion of APN 041-101-290 Known as Proposed Lots 1-4 of the Ticonderoga LLP/Chamberlain Group to County Service Area No. 1 (Highlands) (0.246 Acres)

Executive Officer Poyatos said the conditions for the referenced item had been met and Commission action was no longer necessary on the item. In response to a question from Commissioner Craig, Ms. Poyatos stated that any subsequent annexation of these parcels to Highlands Recreation District could be initiated by the homeowners once the homes are built.

Update on the San Mateo County Mosquito and Vector Control District

Rosendo Rodriguez, Finance Director for the San Mateo County Mosquito and Vector District, thanked the Commission for the opportunity to update them on District activities since the municipal service review. He summarized improved hiring practices including background checks, hiring of an Assistant General Manager to assist in District management, and hiring of a Laboratory Director. He noted that the City of Pacifica had filled their trustee vacancy with former Mayor Peter Dejarnett. He said that the upcoming budget includes hiring a lab assistant and a public information officer, noting that the public information officer would be responsible

for public outreach and maintaining the District's website. He stated that the municipal service review identified problems with internal controls and segregation of duties. He said the District has taken several measures to address these problems such as eliminating wire transfers and limiting credit cards to the Department heads and administrative assistant with restricted transaction limits, segregation of duties and implementation of purchase orders. He reported the District hired new auditors to complete Fiscal Years 2010-11 and 2011-12 and noted that the audit will include recommended changes based on those fiscal years and not what is in place now. He said the auditor will also review current internal controls. He summarized the budget report format and contents for full transparency. He said that previously the District provided an entomology report that is now a 'district report' and includes general activities and financial information, is uploaded to the District's website and provided to District trustees to forward to respective cities. He said that the District continues to review and update financial policies.

Commissioner Tissier said she had a concern with the use of credit cards and asked that the District's Board reconsider the use of credit cards since use of the cards needs approval anyway.

Ms. Poyatos acknowledged the great work Mr. Rodriguez has done to provide information for the municipal service review and implement recommended changes, and thanked him for his assistance in the municipal service review. Chair Horsley and Commissioner Craig concurred.

Public Comment:

Dennis Preger, Burlingame, stated he was a former SMVCD board member of 30 years and had served on the finance committee. He said the District is spending twice as much on attorneys and auditors as they are on their primary mission. He stated that this is an indicator of mismanagement and asked for resignation of the General Manager and four members of the finance committee.

James Counts said he was operations director of the district for forty years and stated that the District is still breaking policies and procedures regarding sick time and retirement benefits. He concurred with Mr. Preger that serious culture changes were needed at the District.

Commissioner Craig stated her disappointment that the General Manager did not appear at today's meeting.

Update on the Los Trancos County Water District

Ms. Poyatos reported that in 2006 LAFCo completed a municipal service review and reaffirmed a sphere of influence of dissolution of the Los Trancos County Water District because the District had sold their water system to CalWater. She said the Commission had adopted several determinations regarding practices of the District that continue to exist even though their system was sold. She said one determination concerned the District practice of rebating

property tax to the CalWater customers with a formula that rewarded consumption. She said the Commission also established that the District had no active services and could not provide a new service without application to LAFCo and approval by LAFCo.

Ms. Poyatos stated that since that time the District continued using property tax as revenue for different activities and have started to recreate the District as a district to provide ancillary services which they determined were authorized under Water Code. She said this was detailed in her March 14 staff report. She stated that LAFCo has since communicated to the District that activation of new services required LAFCo approval. She said the District is operating under a conflicting legal opinion that since the creation of the District predated LAFCo laws concerning activation of powers they were not subject to LAFCo approval.

Ms. Poyatos reported that more recently the District started expanding services and resources for what they call water movement control, which other entities call storm drain control and run off control. She said receiving District correspondence and photographs of major storm runoff resulting from a December storm was the cause for bringing this issue to the Commission's attention including that the District continues to operate in conflict with requirements of LAFCo law. She said it would be appropriate to report back to the Commission on a future agenda what course of action could be taken regarding the District.

Commissioner Sheridan asked for a copy of the 2006 municipal service review.

Stan Gage, former District Board member, stated that he ceased being a Board member in 2007 due to the corrosive environment which has evolved and the change of focus of the District. He said he believes something needs to be done about this District and that water movement control did not rate as a priority on the most recent customer survey, yet significant resources are being spent on water movement control. He noted also that participation at Board meetings was contentious. He noted that some good things are being done by the District including water conservation. He stated that the most important matter for the community was the maintenance in perpetuity of District owned lands and in retrospect wishes the District lands had been transferred when the system was transferred.

Chair Horsley stated he believed the water movement control was a County function, cited other overlapping agencies and potential duplication of service and stated he would like a report back.

Commissioner Craig stated that the District was proceeding contrary to LAFCo law and wanted to learn what the Commission's alternatives were aside from legal action.

Ms. Poyatos noted when the District sold the system to CalWater that legislation in place at the time only required LAFCo approval for addition of new services. She said since that time legislation has been amended to require LAFCo approval for divestiture of service, which would have been the opportunity for the Commission to address the issues of a district divesting its primary power and disposition of District owned lands. She cited the example of Skyline County

Water District which sold their system and assets to CalWater and applied to LAFCo for dissolution. Ms. Poyatos stated she would report back on what LAFCo can do within its power and budget to respond to this case.

Consideration of Adoption of Proposed Net Operating Budget for Fiscal Year 2013-14

Ms. Poyatos stated the Commission received a staff report dated March 14, 2013 that is the reflection of the Budget Committee's review of a draft budget. She said that by state law LAFCo is required to consider a proposed budget prior to May 1 and a final budget prior to June 15. She noted that the proposed budget is based on estimated year to date expenditures and estimated fund balance and after the close of the fiscal year it is necessary for the Commission to amend the budget based on actuals.

Ms. Poyatos said the Proposed Budget of \$374,325 includes expenditures related to the Commission's contract for staffing, offices and legal counsel as well as a reserve. She stated that a new feature in this budget is appropriation of \$50,000 for consulting to hire consultants to finish what is called the first round of municipal service reviews. Ms. Poyatos stated that it has become evident that with the existing staffing level and the complexity of the studies that the time it takes to complete a service review depends upon the cooperation or lack of by the agencies under study and the level of participation by the communities affected by the studies. She noted the LAFCo funding formula of one-third funded by the County, one-third by the 20 cities and one-third by the 22 independent special districts. She said the fiscal impact to the funding groups is an increase of \$21,177 per group.

Commissioner Tissier moved approval of the recommended 2013-14 budget in the amount of \$374,325. Commissioner Garbarino seconded the motion which passed unanimously.

Appointment of Vice Chair for 2013

Chair Horsley said based on the rotation order for Chair and Vice Chair that it was the turn of the City members to be Vice Chair. He noted that Naomi Patridge had indicated she would not be able to serve and that Nadia Holober is willing to serve.

Chair Horsley moved that the Commission appoint Nadia Holober as Vice Chair. Commissioner Garbarino seconded which passed unanimously.

Legislative Report Report-Possible Action: Consideration of Letter of Support for Assembly Bill 453 (Mullin)

Ms. Poyatos said the Commission had received a draft letter and the bill language, and summarized that this bill would make LAFCo eligible for grants for more comprehensive municipal service reviews that would include data integral to strategic growth planning.

Commissioner Craig moved approval of sending the letter supporting AB 453. Commissioner Altscher

seconded the motion which passed unanimously.

Commissioner/Staff Reports

None

Adjournment

The meeting adjourned in memory of retired Broadmoor Police Chief Tim Guiney, former San Mateo LAFCo Executive Officer Bill Davis, and Commissioner Linda Craig's mother Patricia Yeomans.

The meeting was adjourned at 4:21 p.m.