APPROVED

Action Minutes

San Mateo Local Agency Formation Commission

May 16, 2012 Meeting

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

Members Present: Commissioners David Altscher, Iris Gallagher, Don Horsley, Naomi Patridge, Sepi Richardson, and Chair Linda Craig

Members Absent: Commissioner Adrienne Tissier

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

CONSENT AGENDA

a. Approval of Action Minutes: March 21, 2012

Commission Action: M/S Richardson/Horsley to approve the minutes of the March 21, 2012 LAFCo meeting.

Motion carried 6-0.

PUBLIC COMMENT

There was none.

CONTINUED MATTERS

LAFCo File No. 12-02--Proposed Extension of Water Service by the City of Redwood City to Proposed Single-family Residence at 698 Edgecliff pursuant to Section 56133

Executive Officer Poyatos reported that this proposal was submitted by City of Redwood City resolution and is a condition of approval of the San Mateo County Planning Commission for

design review and construction of a single family home. She said the subject area is within the sphere of influence of the City of Redwood City and the City's water service area and noted that Government Code Section 546133 allows LAFCo to approve extension of water service in anticipation of annexation.

There were no public comments.

Chair Craig said she thought that the City of Redwood City had exceeded its apportionment of Hetch-Hetchy water supply, and asked whether this service extension would need SFPUC approval. Ms. Poyatos said that would be mandatory for a large project but not for a small one such as a single-family residential water connection.

Commission Action: M/S Horsley/Richardson certifying that the proposed water extension for 698 Edgecliff is exempt from CEQA pursuant to Section 15303 of Public Resources Code, Class 3 construction of exempt facilities (single family home) and approving LAFCo File No. 12-02- Proposed Extension of Water Service by the City of Redwood City to 698 Edgecliff and directing the Executive Officer to send a letter of approval to the City of Redwood City and the property owner of 698 Edgecliff.

Motion carried 6-0.

NEW MATTERS

Consideration of Preliminary Municipal Service Review and Sphere of Influence Update for the San Mateo County Mosquito and Vector Control District

Executive Officer Poyatos reported that a circulation draft of the Preliminary Municipal Service Review and Sphere of Influence Update for the San Mateo County Mosquito and Vector Control District was released on April 18, 2012 and four comment letters were received and were attached to the staff report dated May 9, 2012. She said more recently comments on behalf of the District were received from Ms. Joan Cassman, Hanson Bridgett, now retained by the District as legal counsel. She said the recommendation was for the Commission to consider the circulation draft, written comments, the District's comments and addendum report, public comments at the hearing and to continue the public hearing for preparation of a final report and recommended determinations and sphere designation for consideration at the next Commission meeting.

Questions of Staff

Commissioner Horsley asked if the Council of Cities could appoint delegates to the District's Board rather than individual city councils. Ms. Poyatos said that would require enabling legislation. Chair Craig asked what would replace the District Board if the District was dissolved and its functions taken over by the County. Ms. Poyatos said that if dissolution occurred and responsibilities of the District were taken over by the County that this would be similar to other

County-owned service areas with the Board of Supervisors as the governing body.

Chair Craig opened the public hearing and noted that it would remain open through the next LAFCo meeting scheduled for July 18, 2012.

Dr. Samuel Lerner, President of the SMCMVCD Board, read prepared comments that are attached to these minutes. He expressed his embarrassment and deep disappointment that embezzlement of District funds had occurred and how this reflected adversely on an agency dedicated to fulfilling its mission. He noted that the District's attorney had provided a recent letter summarizing the internal control measures implemented by the District. He said they were requesting the Commission make a determination of status quo for the District's sphere of influence. He noted that another Board Trustee, Betsy Schneider, had written a letter that was submitted in the record for this meeting but noted that she was speaking as an individual and did not represent the position of the District.

Ms. Joan Cassman, Hanson Bridgett law firm, said she represented the SMCMVCD in this proceeding. (Ms. Cassman's remarks are attached in full to these minutes.) She said she was impressed by the engagement and interest of the District Board and its management in carrying out their duties to protect public health through the control of vectors. She said as mentioned by Dr. Lerner that the embezzlement was a terrible incident that tarnished the District's reputation which from all accounts received has done an excellent job in protecting the public from disease-carrying vectors. She said the District promptly upon discovery of the crime began a comprehensive examination of its managements, administrative, employment and fiscal practices revealing the need to strengthen and update existing policies, and alter and improve how employees perform jobs. She said in 2003, LAFCo conducted a Municipal Service Review and Sphere of Influence Update and formally expanded the District's sphere to be coterminous with the entire County boundaries. She said in 2008 and 2011 the County transferred responsibilities for rat and rodent control programs to the District. She said the Director of Environmental Health Services, Dean Peterson, said in his April 30, 2012 letter that the District's services were "professional, responsive, focused and excellent." She said that the only other development of particular note since the 2003 update was the embezzlement incident, and without minimizing the significance of that incident, the District has openly and earnestly challenged tightening, improving and adopting policies and practices to minimize the risk of fraud moving forward. She said that in addition to changes already made that the District has already implemented suggestions contained in this draft municipal service review related to financial practices. She said the District continues to provide excellent service to the public and welcomes opportunities as suggested in the draft municipal service review to look for shared services opportunities and become more efficient in delivery of its services and programs. She said there was nothing in the District's record to support a change in its sphere of influence or to warrant further consideration of reorganization. She said reorganization raised serious concerns related to resource availability and additional costs including the necessity of a county wide election. She said the $245,000 cited as potential cost savings in the draft municipal service review were speculative and insubstantial regard to the nature,

magnitude, and complexity of the programs and responsibilities, transfer costs, and other unknown factors and risks in any reorganization. She said the record supported maintaining a status quo sphere of influence for the District. She said they urged the Commission to reach that determination and conclude the proceeding at the earliest possible time.

Mr. Dennis Praeger, Burlingame, said he previously served on the District Board for a number of years. He noted the District has maintained dedicated funding for its purpose, and has a number of established policies for the governance of the District. He said he was very concerned that fraudulent activities had occurred at the District and asked whether the 21 trustees had been thoroughly questioned. He said he was a longtime friend of Mr. Gay, the District Manager, and though he found it difficult to say, he thought the Manager should be thoroughly questioned as well.

Mr. Leonard Woren, Montara, said that he opposed any countywide special district. He said the embezzlement scheme at the SMCMVC District underscored the problems associated with such districts. He said that he was concerned that elected people appointed non-elected people to represent their agencies on this Board. He said he also did not support a county service area model either, and said that a county department should be created.

Mr. Bob Adler, County Controller, said that the lack of internal financial controls for this District and other small special districts raised a red flag. He said that often small agencies use a very basic accounting system such as Quicken and these systems do not have the internal controls needed. He said he reviewed the letter prepared by Hanson Bridgett related to the tightening of the District's fiscal procedures and policies and found that there were really one to two people with oversight and that was concerning. He suggested the District consider outside financial services provision.

Chair Craig asked for Commission comment. Commissioner Richardson said she was impressed with the day to day field operations of the District and staff's work taking care of the District's mission. She said that the proposed fiscal and personnel internal controls were weak and needed to be strengthened.

Commissioner Patridge asked why the County had transferred vector responsibility to the District. Recognized by the Chair, Mr. Dean Peterson, Director of County Environmental Services, said it was due to a lack of County resources, funding that was not dedicated to vector control and that it was desirable to have all vector monitoring together.

Commissioner Horsley said he was concerned that the same persons at the District had the same functions in the internal control policies as previously and that he had asked the County Controller to look at what the District was proposing with its internal controls.

Chair Craig said there needed to be a Human Resources function separate from the District Manager.

Commissioner Gallagher said it was not possible for one person, the District Manager, to review all line item transactions.

Ms. Poyatos said the revised report would have amplified discussion on internal controls and sequestering of duties.

Commissioner Richardson suggested there be term limits for the Board Members.
Commissioner Patridge asked if there could be background provided in the revised report on what determines terms.

Chair Craig said the hearing was continued to the July 18, 2012 meeting.

Consideration of Adopted Budget for Fiscal Year 2012-13

Ms. Poyatos noted that there was a correction on Page 1 under Recommendation.2. and that the recommended adopted budget was $313,020 as shown in the attached worksheet and not $312,505. She reviewed the process for adopting a LAFCo budget.

There was no public comment.

Commission Action: M/S Richardson/Horsley to adopt the Recommended Adopted Budget for 2012-13 of $313,020 as proposed, and direct the Executive Officer to distribute it to the County, cities, and independent special districts.

Motion carried 6-0.

Consideration of Appointment of Alternate Public Member for Vacant Term Ending May 2014

Ms. Poyatos noted that the Alternate Public Member Selection Committee of Commissioners Altscher, Horsley and Richardson had interviewed three candidates, and were recommending Ms. Jayne Herman as the Alternate Public Member. Ms. Herman resides in unincorporated Redwood City.

Commission Action: M/S Horsley/Richardson to appoint Ms. Jayne Herman as the Alternate Public Member to LAFCo for term ending May 2014.

Motion carried 6-0.

Legislative Report – Consideration of Report on Pending Legislation of Interest to LAFCo

Chair Craig noted AB2014 related to Health Care Districts would impact the County's two Health Care Districts. She said they would keep the Commission posted.

Update on Fire Agency Service Sharing in San Mateo County

Ms. Poyatos said she had no additions to the written report.

Commissioner/Staff Reports

There was none.

Adjournment

The meeting adjourned at 3:40 p.m.

Remarks for LAFCO Hearing

May 16, 2012

I am Samuel Lerner, a Doctor of Veterinary Medicine and Board President of the San Mateo County Mosquito and Vector Control District. I know that you have been provided with a copy of my letter of March 19th to your Executive Director that outlines the history of the District and the background regarding the embezzlement scheme that was perpetrated upon the District by two employees working in concert. My letter outlined a summary of the actions the District has taken in response to the theft. You have also received a letter from Joan Cassman of Hanson Bridgett, the attorney for the District in this proceeding that provides a more recent summary of the internal control measures we have implemented and requests that this Commission retain the District's Status Quo Sphere of Influence.

My purpose in addressing you today is three-fold. First, I want to personally acknowledge in this forum the District's embarrassment and deep disappointment that this terrible incident occurred. This incident has reflected adversely on an agency devoted to its mission and on many dedicated individuals who made the mistake of trusting others to do their jobs in an honest and forthright manner without all of the proper internal controls in place. We have learned a great deal and we recognize that many people share in the responsibility to the public to maintain effective systems and procedures to protect public funds. We are very thankful that the District maintained sufficient insurance coverage to cover the magnitude of this theft.

Second, as Ms. Cassman's letter and the other materials you have been provided show, the District has aggressively undertaken a remedial program to institute strong fiscal and management controls, some at the suggestion of your staff and others drawn from the experts we have retained and from the training and educational programs we have attended. We believe that we have done an excellent job in instituting measures that we admittedly should have had in place before. We also note that all of the best practices in the world will make it more difficult for individuals to find ways to skirt the system for their own gain, but they will not eradicate this risk altogether. We are now much more mindful of the need to follow these systems and to be watchful of those who handle our funds. We view this process as one of continuous improvement. We are very open to hearing from the Commission any other suggestions as to how we can do our job better.

Third, I want to emphasize to you how important the District's function is in protecting the health and safety of the residents of our County. While we recognize the understandable concern that LAFCo and other public officials have expressed regarding this matter, we also need to keep the District focused on its job of controlling mosquitos, rats and other vermin in our community. We hope the Commission will determine to maintain the District's Status Quo Sphere of Influence. Let the District apply and use these new control measures and focus on its mission of protecting the citizens of San Mateo County.

Finally, in closing, I draw your attention to one letter that has been submitted in the

record of this proceeding. It is from a Trustee on the District's Board, Betsy Schneider. Please understand that this letter does not represent the position of the Board or speak for the District.

We appreciate your concern and input and look forward to your support of the District's continued good work to control vectors and eradicate diseases they cause in this County.

Thank you.

JLC's Remarks for LAFCO Hearing

May 16, 2012

I am Joan Cassman from the Hanson Bridgett law firm and represent the San Mateo County Mosquito and Vector Control District in this proceeding. Our engagement came about because the Office of the County Counsel, which normally represents the District, also represents this Commission. To guard against potential conflicts, the decision was made to seek outside counsel and we are honored to be here.

I see many familiar faces at the dais. I know many of you from other public bodies on which you sit. I have seen you all in action and I value your commitment as public servants. I think we all care deeply about the delivery of effective government to the citizens of San Mateo County in an honest and efficient manner. The Mosquito and Vector Control District and its Board members share this same desire. I have had the privilege thus far of attending a District Board meeting and getting to know the District Manager. I am impressed by the engagement, interest and passion of this large Board and its management in carrying out their duties as public servants and implementing the District's mission to protect the public health through the control of vectors.

As Dr. Lerner, the Board President, has indicated, the embezzlement that occurred at the District was a terrible incident that tarnished the reputation of an agency that, by all accounts, has done an excellent job in protecting the public from mosquitos, rats, and other disease-carrying vectors. In the wake of this crime, the District immediately conducted a comprehensive examination of its management, administrative, employment and fiscal practices. That inquiry has revealed a need to adopt new policies and procedures, to strengthen and update existing policies, and to alter and improve the manner in which our employees perform their jobs. We have provided in this record in several places detailed descriptions of the District's new policies and practices and its ongoing program of continuous improvement in this area. To be sure, the District has become a model of best practices as it vigorously implements and follows these measures. We remain open to suggestions as to any other steps the District can take to ensure that it will never again be a victim of employee theft or fraud.

But let's bring some historic perspective to this discussion. In 2003, this Commission conducted a thorough Municipal Service Review and Sphere of Influence Determination of the District and took formal action to expand the District's sphere to be continuous with the boundaries of the entire County. This action was based on the recommendation of local and state health officials in recognition of the need to facilitate mosquito and vector abatement services for all residents and areas in the County and on the District's excellent service record. What has changed since this Commission took this action and made these determinations regarding the District's SOI in 2003?

First, the County has seen fit on <u>two</u> occasions in 2008 and in 2011 to shed itself of vector control programs for rats and rodents and to transfer these responsibilities to the District. These transfers occurred with full assistance and cooperation from the County Office of Environmental Health, but very few resources accompanied these transfers to financially support these new responsibilities assumed by the District. These transfers

demonstrate in deeds, not just words, the confidence the County has in the manner in which the District achieves its mission. Nothing has changed in this regard as evidenced by the April 30, 2012 letter from Dean Peterson, Director of the County's Office of Environmental Health. The County continues to hold in high regard the District's services – and I quote from Mr. Petersen's letter the description of these services as "professional, responsive, focused and excellent."

The only other development of particular note since 2003, is the embezzlement incident. We do not minimize the significance of this incident, but as described in our letters and reflected in this record, the District has faced with openness and earnestness the challenge to tighten, improve and adopt policies and practices to minimize the risk of fraud going forward. We are committed to ensuring that our management, financial and administrative practices meet the same standard of excellence as our technical and mission-related programs, services and operations.

So where do we go from here? Let me recount what the record demonstrates:

- The District has vigorously addressed and will continue to attend to the issues that contributed to the embezzlement incident that gave rise to this review by LAFCO. In addition to all the other changes, the District has already implemented suggestions contained in the Draft MSR to enhance our financial practices. Board and staff members will be very vigilant about these new effective policies and practices.

- The District continues to provide excellent service to the public and carries out its mission in an efficacious manner. The District welcomes opportunities, as suggested in the Draft MSR, to look for shared services opportunities and to become more efficient in the delivery of its services and programs.

In summary, there is nothing in this record which would support a change in the District's SOI or warrant further consideration of a reorganization. Most significantly, it does not appear that the County is eager to take on vector control responsibilities and programs. Moreover, such a reorganization raises some serious issues of resource availability and additional costs associated with such a change, including a countywide election that would be required to establish a County Service Area. The $245,000 cited as potential cost savings in the Draft MSR - are speculative at best and seemingly insubstantial in light of the nature, magnitude and complexity of the programs and responsibilities, the transfer costs, and other unknown factors and risks in any reorganization.

Let the District pursue its business of protecting the public health from vector caused diseases with renewed and strengthened policies and ever vigilant oversight from the Board and Management staff that will jealously protect the public funds.

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Human beings are not perfect. The institutions we create are not perfect. No employer – large or small, public or private – is immune from employee theft and fraud. But we do learn from our mistakes and this record underscores all the learning and changes that have made the District a more perfect agency in the areas that needed attention in that regard – administrative and financial management.

Thank you for your concern, suggestions and the opportunity to showcase how the District has become a stronger agency in all respects. The record supports maintaining a Status Quo Sphere of Influence for the District. We urge the Commission to reach this determination and conclude this proceeding at the earliest possible time.

Thank you.