

MARIN LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NO. 23-17

ADOPTION OF THE SEWERAGE AGENCY OF SOUTHERN MARIN MUNICIPAL SERVICE REVIEW

WHEREAS the Marin Local Agency Formation Commission, hereinafter referred to as the “Commission”, is a political subdivision of the State of California with regulatory and planning responsibilities to produce orderly growth and development under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS the Commission is responsible under Government Code Section 56430 to regularly prepare studies to independently assess the availability, performance, and need of governmental services to inform its regulatory and other planning activities; and

WHEREAS part of such reviews, LAFCos must compile and evaluate service-related information and make written determinations regarding infrastructure needs or deficiencies, growth and population projections for the affected area, financing constraints and opportunities for shared facilities, government structure options, including advantages and disadvantages of consolidation or reorganization of service providers, evaluation of management efficiencies, and local accountability and governance; and

WHEREAS a written report on the municipal service review was presented to the Commission in a manner provided by law; and

WHEREAS Marin LAFCo issued a Draft Service Review on Thursday, September 14, 2023, which included a public hearing, and a Final Service Review on Thursday, December 14, 2023, which also included a public hearing; and

WHEREAS as part of the municipal service review, the Commission is required pursuant to Government Code Section 56430(a) to make a statement of written determinations with regards to certain factors.

NOW, THEREFORE, the Marin Local Agency Formation Commission **DOES HEREBY RESOLVE, DETERMINE AND ORDER**, based upon the information contained in the written report, correspondence from affected agencies and information received during the public hearings, as follows:

1. The Commission determines this municipal service review is a project under the California Environmental Quality Act but qualifies for an exemption from further action as an informational document consistent with State CEQA Guidelines Section 15306, Class 6.
2. The Commission adopts the municipal service review and the statement of written determinations generated from the information presented in the written report on the municipal service review as set forth in Exhibit “A”.
3. The Commission refers the public to the report on the municipal service review for additional details and important context, including – but not limited to – documenting each agency’s active and latent service powers.


PASSED AND ADOPTED by the Marin Local Agency Formation Commission, on December 14, 2023, by the following vote:

AYES: Coler, Chu, Burke, Murray, Rodoni _____

NOES: Kiouss _____

ABSTAIN: _____

ABSENT: Lucan _____




[Barbara Coler \(Dec 19, 2023 09:21 PST\)](#)
Barbara Coler, Chair
Marin LAFCo

ATTEST:



Jason Fried, LAFCo Executive Officer

APPROVED AS TO FORM:



[Malathy Subramanian \(Dec 19, 2023 16:58 PST\)](#)
Malathy Subramanian, LAFCo Counsel

Attachments to Resolution No. 23-17

- 1) Exhibit "A"

EXHIBIT A
SEWERAGE AGENCY OF SOUTHERN MARIN REGIONAL STUDY

MUNICIPAL SERVICE REVIEW DETERMINATIONS
GOVERNMENT CODE SECTION 56430

1. Growth and population projections for the affected area.

a) Anticipated growth in the study area is projected to be minimal. The vast majority of developable land that is zoned for residential development within the study area is essentially built out, and the rezoned areas intended to comply with the State's Regional Housing Needs Assessment will not be of significant enough size or density to be impactful to municipal service providers. The combined population growth within the jurisdictional boundaries of the four special districts was approximately 0.8% over the course of 10 years between 2010-2020. The projected annual growth rate (combined) within the study area through 2040 is approximately 0.073%. While not reviewed in this study, as member agencies of SASM, it is pertinent to mention that the City of Mill Valley has a projected annual growth rate through 2040 of approximately .38%, and Tamalpais Community Services District (as part of the greater census-designated place of Tamalpais-Homestead Valley) has a projected annual growth rate through 2040 of approximately 0.064%.

2. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

a) At this time, there are no disadvantaged unincorporated communities identified within the study area.

3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

a) Each of the reviewed agencies has shown a sufficient level offered of both services and infrastructure necessary to continue to provide the core services currently being provided at the levels at which they are being provided as well as having the capability to handle future growth based on current projections. Each of the agencies reviewed has retained the services of an engineering firm to aid in the creation of robust capital improvement plans with significant percentages of annual revenues being dedicated to updating older infrastructure.

b) As noted above, there are no unincorporated communities within the study area that have been identified as disadvantaged.

4. Financial ability of agencies to provide services.

a) The Sewerage Agency of Southern Marin, Almonte Sanitary District, Alto Sanitary District, Homestead Valley Sanitary District, and Richardson Bay Sanitary District all prepare annual budgets and prepare financial statements in accordance with established governmental accounting standards. The respective governing boards may amend their budgets by resolution during the fiscal year in order to respond to emerging needs, changes in resources, or shifting priorities.

Expenditures may not exceed appropriations at the fund level, which is the legal level of control.

b) District Managers and the Wastewater Treatment Plant Director are authorized to transfer budgeted amounts between accounts, departments, or funds under certain circumstances, however; the governing boards of each agency must approve any increase in the operating expenditures, appropriations for capital projects, and transfers between major funds and reportable fund groups. Audited financial statements are also prepared for each agency by independent certified public accounting firms.

5. Status of, and opportunities for, shared facilities.

a) As member agencies of SASM, each of the four districts in this study shares the wastewater treatment facility. Annual revenues from each of the districts support the operations and maintenance of the wastewater treatment plant as well as the capital improvements. Beyond the current facilities being shared, no specific opportunities that would be advantageous for both participating parties were identified during the course of this study. With three of the five agencies being reviewed having no administrative offices, facilities as a whole between these agencies are minimal.

6. Accountability for community service needs, including governmental structure and operational efficiencies.

a) Almonte Sanitary District currently provides service to six parcels within the jurisdictional boundary of Tamalpais Community Services District. Government Code Section 56133 requires cities and special districts to request and receive written approval from LAFCo before entering into agreements to provide new or extended services outside their jurisdictional boundaries. At this time, Marin LAFCo has no record of any approved outside service agreement (OSA) between the two agencies. As such, Almonte Sanitary District should submit a formal request to Marin LAFCo for an OSA to continue to provide these services moving forward. This action should be followed by discussions on the feasibility of transferring this service from the Tamalpais Community Services District to Almonte Sanitary District and formally annexing those parcels into Almonte Sanitary District.

b) Homestead Valley Sanitary District currently provides service to two parcels within the jurisdictional boundary of Tamalpais Community Services District. Government Code Section 56133 requires cities and special districts to request and receive written approval from LAFCo before entering into agreements to provide new or extended services outside their jurisdictional boundaries. At this time, Marin LAFCo has no record of any approved outside service agreement (OSA) between the two agencies. As such, Homestead Valley Sanitary District should submit a formal request to Marin LAFCo for an OSA to continue to provide these services moving forward. This action should be followed by discussions on the feasibility of transferring this service from Tamalpais Community Services District to Homestead Valley Sanitary District and formally annexing those parcels into Homestead Valley Sanitary District.

c) Currently, each of the member agencies that comprise the Sewerage Agency of Southern Marin has, while at varying levels, room for growth within each of their agreed-upon allocated capacities within the SASM treatment plant. With that said, future development could push one or multiple of the agencies above the number of equivalent dwelling units that it has been allocated with the agreement. The current iteration of the SASM agreement states the following on this scenario: "Member Entities may enter into agreements with one or more other Member Entities to acquire, temporarily or permanently, some portion or all of that Member Entity(ies') unused Capacity

Allocation upon such terms and conditions as the affected Member Entities may mutually agree in writing; but no such agreement shall be effective without the consent of the Agency, which consent shall not be unreasonably withheld. Agency considerations will include an assessment of the impact on the adequacy of Agency facilities. Any reallocations of Capacity Allocations pursuant to this Subsection shall be recognized by the Agency for the purpose of capital facilities charges and other similar purposes.”

At this time, there is no specific language within the SASM agreement as to what the parameters of the purchasing of unused capacity allocation from another member agency would entail. Prior to this hypothetical becoming a reality, it would be prudent for the SASM member agencies to begin preliminary discussions with one another regarding the addition of specific language to the agreement on what the exact structure of this transaction would look like should the time come.

d) The municipal service review requirements added to LAFCo’s responsibilities in 2000 are intended to generate a rethinking of government structure where change might yield either cost savings or improvements to service. More recent economic and fiscal problems affecting local government revenues add to the reasons for an active approach to considering alternative service arrangements where the possibility of greater efficiency clearly exists.

The level of public engagement in matters relating to sewer service in southern Marin is very low. With the exceptions of major capital improvement planning and service rate reviews, public information on sewer operations is not widely distributed. Since 1967, members of the four sanitary district governing boards within this study have necessitated a formal election a total of 12 times in a combined 107 possible election cycles. Two of the Districts, Almonte and Alto, held zero elections in that time. In addition, the Board of Supervisors was forced to appoint 21 members to these boards during that span, with Almonte and Alto having the two highest numbers of Board of Supervisors appointments of any special district in Marin County. In addition, in the November 2022 election cycle, when the Board of Supervisors went to the public to make the appointments for two of the three seats on the Alto Sanitary District Board in response to nobody filling out the paperwork to run for those seats in the election, the Board of Supervisors was faced for the first time in its history with any special district in Marin County of being unable to secure appointees for the seats. The seats were eventually filled by way of appointment by the existing Alto Sanitary District Board members.

The vast majority of the annual sewer service expenditures for each of the four districts go to the cost of contract treatment service and capital improvements. The local control over a municipal service afforded by a special district board is meaningful only if the scope of activities and decisions of that governing board are known to the public and attract participation by constituents. Where this is not the case because the service role is very limited or board discretion over spending is very narrow, the practical meaning of “local control” is diminished.

7. Any other matter related to effective or efficient service delivery, as required by commission policy

a) Currently, Alto, Almonte, Homestead Valley, and Richardson Bay Sanitary Districts share what is known within Marin LAFCo policy as a sphere of influence in common. In 2010, the Marin LAFCo Policy Handbook was updated with the following in section 5.1 (b)(iii):

“The policies, procedures, and guidelines of Marin LAFCo provide that, where two or more single-purpose special districts providing the same service are contiguous, those districts may be allocated a sphere of influence in common to include the areas served by both (or all) districts. This designation may be assigned where LAFCo believes that the particular service would be most

efficiently provided to multiple communities by a single special district.”

Considering the manner in which the prior attempt at the consolidation of the four districts was unsuccessful, the removal of the language of AB 1232 from State Government Code that granted the Commission the power to consolidate these agencies without protest hearings, the 13 years that have passed since the creation of this policy and the adoption of this sphere of influence determination, and with the low protest threshold needed to defeat future consolidation efforts (especially in light of the diminutive size of each district’s population), it is recommended that the Commission re-examine whether it still believes that a single special district would most efficiently provide the service to these communities and, if so, whether there is a feasible path toward the consolidation of these agencies in the foreseeable future. If the Commission deems both of these things to still be the case, then the current policy needs no adjustment and the current sphere of influence in common should be reaffirmed. If, however, the Commission no longer believes that a single special district would most efficiently provide the service to these communities and/or that there is no feasible path toward the consolidation of these agencies in the foreseeable future, the Commission should explore the removal of this policy as it would be fundamentally ineffectual. This would in turn also require the amendment of the current sphere of influence in common to each agency having its own sphere of influence that is coterminous with its current jurisdictional boundary.












Item 8 - Resolution 23-17 SASM MSR


Final Audit Report

2023-12-20


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