



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

NOTICE OF REGULAR MEETING MINUTES

Marin Local Agency Formation Commission

Thursday, February 10, 2022

CALL TO ORDER

Chair McEntee called the meeting to order at 7:02 P.M.

ROLL CALL BY COMMISSION CLERK

Roll was taken and quorum was met. The following were in attendance:

Commissioners Present: Sashi McEntee, Chair
 Lew Kiou, Vice-Chair
 Dennis Rodoni
 Barbara Coler
 Larry Loder

Alternate Commissioners Present: Tod Moody (Seated as regular)

Marin LAFCo Staff Present: Jason Fried, Executive Officer
 Jeren Seibel, Deputy Executive Officer
 Olivia Gingold, Clerk/Junior Analyst

Marin LAFCo Counsel Present: Mala Subramanian

Commissioners Absent: Judy Arnold
 Craig K. Murray

Alternate Members Absent: Richard Savel
 Damon Connolly
 James Campbell

AGENDA REVIEW

Chairman McEntee called for any requests from the Commission to change the agenda, none were heard.

Chairman McEntee then opened public comment, hearing none, she closed public comment.

Approved: M/S by Commissioners Kiou and Coler to approve the agenda as is.

Ayes: Commissioners McEntee, Kiou, Rodoni, Coler, Moody, and Loder

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

PUBLIC OPEN TIME

Chair McEntee opened the public open time period.

A member of the public, Frances Nunez, wanted to know if her comments for Agenda Item 7 had been posted to the website. Staff confirmed that the comment had been received, shared with the Commission, and posted on the LAFCo website.

Seeing no further comment, Chair closed the public open time.

CONSENT CALENDAR ITEMS

1. Approval of Minutes for December 9, 2021, Regular Meeting
2. Commission Ratification of Payments from December 1, 2021, to January 31, 2022
3. Approval of Resolution 22-02 Allowing for Video and Teleconference Meetings during COVID-19 State of Emergency Under AB 361

Chair McEntee asked if any Commissioners wanted to pull any items from the Consent Calendar, no requests were made.

Chairman McEntee opened the floor for the public to make any requests, hearing none, she closed public comment.

Approved: M/S by Commissioners Coler and Kious to approve the consent calendar.

Ayes: Commissioners McEntee, Kious, Rodoni, Coler, Moody, and Loder

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

PUBLIC HEARING ITEMS

4. Approval of Resolution 22-03, Sphere of Influence Update and Reorganization of the Lands of Marin County Open Space District (Portion of APN 033-200-01) Including Detachment from the City of Mill Valley and Annexation to the Town of Corte Madera and Sanitary District No. 2 (LAFCo File #1361) with Waiver of Notice, Hearing and Protest Proceedings for Eventual Addition of APN Portion to 800 Corte Madera Avenue.

EO Fried gave the staff report, providing background information on the application. There was an encroachment on open space area as part of development done by 800 Corte Madera. This application is a clean-up item to resolve the boundaries so they better align with land being used by 800 Corte Madera rather than MCOSD. The clean-up includes a detachment from the City of Mill Valley and annexations to Corte Madera and Sanitary District No. 2. An arrangement has been made between MCOSD and the property owner for exchange of land. The only two outstanding items are the approval of the tax exchange agreement by the Town of Corte Madera and pre-zoning of the property by the Town as well. Staff is requesting a conditional approval for this item conditioned upon those two outstanding items.

Craig Richardson, the applicant on behalf of MCOSD, provided some more comments on the context of the land exchange.

EO Fried asked the Commission if they had any questions, none were heard.

Chair McEntee opened the public hearing. Seeing no public comment, Chairman McEntee closed public comment.

She asked the Commission if they had any deliberative comments or questions, none were heard.

Approved: M/S by Commissioners Coler and Rodoni to approve the requested reorganization and attached resolution with the two conditions noted in the resolution for approval.

Ayes: Commissioners McEntee, Kious, Rodoni, Coler, Moody, and Loder

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

5. Approval of Resolution 22-04, Request for Outside Sewer Service from the City of Mill Valley for 11 Brighton Blvd., Mill Valley. (APN 045-193-16) (LAFCo File #1362)

EO Fried provided the report for this item, noting that the owner of 11 Brighton needed to move off of septic and was close enough to Mill Valley to connect to the City's sanitary district. Although the property is adjacent to Mill Valley's boundary, the roads that access do not directly lead to the City and annexation would create an island. The City has asked for an OSA instead of annexation; this OSA is compliant with the requirements of State Government Code. The City signed the application and was the official applicant, the authorized agent was landowner John Grabham.

Some clarifying questions about the OSA were asked by Chairman McEntee to which EO Fried responded.

Commissioner Rodoni wanted to know if the OSA would allow anyone else to connect to the lateral. EO Fried clarified that the lateral would go across one other property owner's property directly into the main sewer line in the street. Vice-Chair Kious clarified the question asking if this application would allow other parcels on septic to connect to the sewer, to which EO Fried is saying "No, that is not the case."

Commissioner Rodoni wanted to know if there was a way to cut off service if needed. EO Fried noted that disconnecting from wastewater would require going back to septic, so cutting off service is difficult to do.

Chairman McEntee opened public hearing, hearing no comments she closed the public hearing.

Approved: M/S by Commissioners Moody and Kious to approve staff's recommendation.

Ayes: Commissioners McEntee, Kious, Rodoni, Coler, Moody, and Loder

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

6. Approval of Resolution 22-05, Annexation of 1203 Simmons Lane (APN 141-090-45) to Novato Sanitary District (File #1364) with Waiver of Notice, Hearing and Protest Proceedings

Jr. Analyst Gingold gave the staff report, noting the highlights of this application. The parcel is an incorporated parcel requesting annexation to Novato Sanitary District to move off of septic. Agency comment had been sent out, all comments received were positive or neutral, and there are no issues with the Urban Growth Boundary because the parcel is within the City of Novato's boundaries.

The landowner was given the opportunity to comment, he affirmed everything that Clerk/Jr. Analyst Gingold had shared with the Commission.

Chairman McEntee opened the public hearing, hearing no public comment, she closed the public hearing and brought the item back to the Commission for deliberation or a motion.

Approved: M/S by Commissioners Rodoni and Kious to approve staff's recommendation.
Ayes: Commissioners McEntee, Kious, Rodoni, Coler, Moody, and Loder
Nays: None
Abstain: None
Absent: Arnold
Motion approved unanimously.

7. Approval of Resolution 22-06, Approving a Sphere of Influence Amendment and Reorganization of County Service Area #18 Including Detachment of 2753 Parcels and Divestiture of Power to Provide Certain Service with Marin County Open Space District (LAFCo File #1363)

EO Fried gave the staff report, given the historical context of this application dating back to Marin LAFCo's 2019 San Rafael area Municipal Service Review. He also clarified some of the elements of the application that have been most confusing. There has been some concern that CSA 18 would maintain medians, but CSA 18 is not authorized by LAFCo to maintain street medians. CSA 18 has never spent any money on street medians. Street medians have been discussed at the CSA 18 Advisory Board meeting but no money has ever been spent on street medians, nor is the CSA authorized to spend money on medians. Castro Park is also going to be an island because it is maintained by CSA 18, but none of the parcels around Castro Park pay into CSA 18 and it is preferable to keep only parcels that pay into CSA 18 in its jurisdictional boundary. He noted that there has been a lot of public participation and comment on this item, and that a supplemental agenda item was released with those comments received, and that Staff met with the CSA 18 advisory board six separate times when determining which properties to remove from the CSA. Finally, he made a comment that a divestiture of powers was not approved by the County and this divestment of powers could not be made without approval from the County. An amended resolution was presented to the Commission with corrected language.

Commissioner McEntee asked if that would be a clean-up item brought to LAFCo later, EO Fried noted that it was a possibility but not likely.

Jim Chayka, the agent for the application, introduced himself to the Commission and noticed that both he and Marin Parks director, Max Korten, were available for questions if needed.

Chair McEntee wanted to clarify that reducing the size of CSA 18, and that parcels being removed from CSA 18 would receive their park and rec services from Marin County Open Space District (MCOSD). EO Fried agreed for the most part, clarifying that the Zone of Benefit is not being changed at all, and that parcels being detached would receive service from either MCOSD or the City of San Rafael.

Commissioner Coler noted that she had not seen the proposed changes on the screen and wanted to know if the matter should be continued to the next hearing.

Legal Counsel Subramanian noted that it was by no means a necessity to continue the item, and also clarified that she did not feel that the removal of the divestiture of power was a significant language change.

Commissioner Coler asked a handful of other clarifying questions to which EO Fried replied, she finally noted that she did not want to delay the item but did have reservations about the fact that the change was not noticed in advance.

EO Fried re-shared the changes on the screen and clarified that LAFCo's resolution was consistent with the County's actions, so the public would be aware of the item.

Chair McEntee clarified the difference between a change of organization versus a reorganization and the specific power that would or would not be divested from CSA 18, there was a bit more clarifying discussion about this aspect of the application between Chair McEntee and EO Fried.

Chair McEntee asked what the effect would be if CSA 18 decided to spend money on street medians without activating a latent power for street median maintenance. EO Fried responded that LAFCo could and would take action against CSA 18 if the CSA did spend money on street medians.

She also asked some clarifying questions about the Castro Park Island, including who the responsibility for Castro Park would fall to if it were not part of CSA 18 and that CSA's responsibility. EO Fried responded that it would likely be Marin County, although he also clarified that LAFCo is not suggesting this takeover in responsibility nor is that anything the County has shown interest in doing.

Commissioner Moody noted he had never seen this many comments about an item. He wanted to know if any parcels would be annexed who were receiving benefit but not paying into the CSA. EO Fried replied, including some historical context on the Zone of Benefit and Castro Park and some comments on ideals versus reality.

Hearing no additional questions from the Commission, Chairman McEntee opened the public hearing and reminded the public that comment time would be limited to two minutes and that staff would call upon members one by one and give them the

Ron Ford spoke first, noting that he was formally on the board of CSA 18's advisory board who helped acquire Castro Park. He also noted that he was a director at LGVSD but was not representing LGVSD that evening. Ron Ford clarified that none of the parcels around Castro Park pay into Castro Park's maintenance. If Castro Park were absorbed into the Zone of Benefit, taxes would not increase; everyone pays 1%. Taxes would only rise if the parcels approved an assessment. He then noted that he does not understand why the tail on the map is there and that he opposes this tail.

Frances Nunez spoke next, she noted that Gallinas Village CSD was created in 1959 and that North San Pedro Road had never been within that boundary. This CSD does not have money to spend on medians, the CSD predates the CSA, and Gallinas Village also pays for open space but now only pays for parks. She asks: "Will this proposal change the boundaries of the Zone of Benefit?" She wants an answer to that question. She also noted that the Board of Supervisor's resolution detached 549 parcels, the Gallinas Village Zone of Benefit, while LAFCo's proposal detaches 2753. Detaching parcels does not change the boundary of Gallinas Village, and Gallinas Village did not get to comment on the detachment because the Board of Supervisors Resolution was for 549 parcels.

Linda Stein commented that the application is a complicated issue because of the CSA boundaries and she does not feel the community has had the understanding to comment on the application or voice the community's opinion.

Linda Levy of the public stated that she has lived in Santa Venetia for a long time and volunteered on the Santa Venetia Board of Directors and CSA 18 Advisory Board, the Advisory Board has worked for the last two years on this application and noted that the decisions to broaden the sphere and include the medians

and Castro Park within the boundary were all conscious and intentional decisions. She also noted that the dream for the future is to create a new CSA for street median maintenance, not to use CSA 18 for that purpose. Finally, she noted that the people signing the petition that was circulated were not in the zone of benefit and did not necessarily understand what they were signing. She asked the Commission to approve the resolution.

There was a discussion between Chairman McEntee, Clerk/Jr. Analyst Gingold, and Legal Counsel Subramanian on comments submitted by email.

Commissioner Coler asked about some of the issues that one of the public commenters stated and asked EO Fried to clarify.

Chairman McEntee also wanted to see the map that had been mentioned by some commenters.

EO Fried clarified that there has been significant exchanges between himself and one public commenter, including an email of his that directly responds to a question of Ms. Nunez's that she felt had not been answered. He confirmed that the Zone of Benefit is not impacted by this application, nor will any money be spent by CSA 18 on street medians now or in the future. EO Fried also replied that CSA 18's money comes from ad valorem and changing this ad valorem would require a tax exchange agreement. Otherwise, another agency would have to give up some of their ad valorem for CSA 18 and that is not likely to occur.

Chairman McEntee clarified what EO Fried was saying in respect to what the public commenter was saying as well.

Finally, EO Fried noted the number of meetings at community forums that have been available to the public, that sufficient opportunity to comment has been given, and that he continues to endorse the staff recommendation which is to approve the application.

Jim Chayka shared the map on the screen for clarification. There was an explanation of this map, and a discussion of the "tail" of North San Pedro Road that some public commenters had noted, including clarification, explanation, and justification of this tail.

Chairman McEntee wanted to know if LAFCo could do a detachment or annexation that was different from a Zone of Benefit? Is there anything in LAFCo law that requires congruency? EO Fried replied that LAFCo does not have jurisdiction over Zone of Benefit, but that he would take issue with making a boundary smaller than a Zone of Benefit and he takes no issue with making a boundary larger than a Zone of Benefit.

Chairman McEntee made some summarizing and clarifying comments of the high-level points and points of contention for this application, which EO Fried affirmed.

He also made a clarifying comment on an error in the BOS resolution that was mentioned by a public commenter and stressed that LAFCo has corrected this error and the final documents that will be approved by the Commission are correct.

Approved: M/S by Commissioners Coler and Kious to approve resolution 22-02 as amended and presented by the Executive Officer.

Ayes: Commissioners McEntee, Kious, Rodoni, Coler, Moody, and Loder

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

8. Approval of Resolution 22-07, Approving a Comprehensive Update to the Fee Schedule

EO Fried made summarizing comments on the context and motivation of this proposed amendment. This amendment would allow a one-time application fee waiver to fix the boundaries for parcels that have been receiving service from a district without being within a district's boundaries. The intention is to help clean up district boundaries.

Chair McEntee opened public comment. Hearing none, she closed public comment.

There were no questions or deliberative comments from the Commission.

Approved: M/S by Commissioners Coler and Moody to approve the proposed item.

Ayes: Commissioners McEntee, Kious, Rodoni, Coler, Moody, and Loder

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

BUSINESS ITEMS

9. Approval of Policy Handbook Amendments

EO Fried gave summarizing comments of all of the proposed amendments before giving the Commission the opportunity to comment on the individual items. He noted that all items had been approved unanimously by the Policy & Personnel Committee.

Chairman McEntee opened public comment, hearing no comments, she closed public comment.

Commissioner Rodoni expressed hesitation over authorizing the EO to approve OSAs without any Commission review because of the insight that the Commission Board has into the politics and sensitivities of the County. He asked for at minimum notification to the Commission.

EO Fried expressed concern about Brown Act violations if he sent notification to the Commission, Legal Counsel Subramanian clarified what instances would or would not be Brown Act violations.

Commissioner Rodoni noted that there was a difference between practice and policy and that making this policy could pose issues in the future if someone's practices were to be different from EO Fried's. Vice-Chair Kious expressed a similar concern.

Chair McEntee asked a question about Neg. Decs. (Negative Declarations) to which Legal Counsel Subramanian replied.

Chair McEntee wondered if language on Neg. Dec. should be clarified in the handbook as well.

Commissioner Coler noted that 4.9(D)(i) stated that the EO could defer a decision if they determine a high level of controversy surrounding the OSA or the OSA to be precedent-setting. Commissioner Coler worried about the same points that Commissioner Rodoni raised. She suggested an amendment of that wording. She spoke in favor of keeping EO approval for emergency OSAs only.

EO Fried reminded the Commission that any OSA has to be approved by the connecting agency meaning that a public review process does occur earlier in the life-cycle of the application.

Chair McEntee asked Legal Counsel Subramanian if there would be any remedy for the decision if the Commission disagreed with the EO's judgment. Legal Counsel Subramanian stated that the decision would be extremely difficult if not impossible to reverse.

Vice-Chair Kious recommended passing this item with all items except this disputed item and pass it back to the Policy & Personnel Committee for some amended language.

Chair McEntee said that would be fine if the Commission wanted to do that at all or if the Commission would prefer to just keep the policy language for OSAs as is.

Vice-Chair Kious was comfortable with continuing to work on the language.

Commissioner Moody, Policy & Personnel Chair, spoke in support of streamlining processes as long as language was satisfactory to the Commission.

Commissioner Rodoni spoke in favor of sending the language back to the Policy & Personnel Committee for further review. He wanted to maintain transparency.

Commissioner Coler agreed with Commissioner Rodoni's sentiment and Vice-Chair Kious's recommendation.

Commissioner McEntee noted that she felt there was a split in the Commission with two Commissioners comfortable with an EO having the authority to approve non-emergency OSAs, and two Commissioners uncomfortable. She was not sure if the Commission wanted more time to think about it, to send it back to the committee, or to take some other approach but wanted to see more consensus.

Commissioner Loder felt that Chairman McEntee's recommendation to approve all other items and carry over the specific policy amendment for OSAs to another meeting.

Chairman McEntee proposed a change to the Policy Handbook amendments to better reflect the current preference of the Commission.

There was clarifying discussion between Vice-Chair Kious, Commissioner Coler, and Chairman McEntee of Chairman McEntee's proposed changes to what was presented to the Commission by staff. Clerk/Jr. Analyst Gingold shared these changes with the Commission on the screen.

Approved M/S by Commissioners Kious and Coler to approve Policy Handbook changes with an amendment to the proposed changes of Section 4.9(D).

Ayes: Commissioners McEntee, Kious, Rodoni, Coler, Moody, and Loder

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

10. Discussion of April LAFCo Commission Meeting and Whether to Meet in Person

EO Fried asked the Commission if they wanted the April meeting to be in person, virtual, or a hybrid model.

Chairman McEntee opened public comment, hearing no comments, she closed public comment.

Commissioner Coler expressed that she was fine with returning to in-person but was concerned about where the Commission would meet. EO Fried added that this would be a concern of his as well, especially because the West Marin MSR would be released before the April meeting. He wondered if it would be better to meet in West Marin or if a virtual meeting would instead better serve the Commission.

Chairman McEntee wanted to know what would happen if the Commission decided to meet virtually but that option was revoked by the State by the time April comes along.

Commissioner Coler made recommendations of some spaces that could be available to host the meeting.

Chairman McEntee asked what the value of making a call on virtual or not would be if that option may not be available come April. EO Fried clarified that the question is simply: if virtual is allowed come April,

Commissioner Rodoni wanted to know if remote access for the public would be a required provision even if LAFCo met in person. Legal Counsel Subramanian clarified that no, virtual access for the public would not be a requirement.

Chairman McEntee commented that the Commission could choose to have its meeting in West Marin. She wanted to know how the Commission felt about meeting virtually unless not legally allowed to do so. Commissioners were in favor of this.

There was some discussion of alternatives in the case that virtual meetings are not permitted come April.

No official Commission action was taken.

11. Authorize the Executive Officer to Enter Into an Agreement With Alyssa Schiffmann for Bookkeeping Services

EO Fried noted that Alyssa does numerous things for the Commission and that her contract expires at the end of the fiscal year. His goal had been to align agreements with the fiscal year rather than the calendar year. There is a small increase in her rate this year, although smaller than inflation. This contract would be for 3 years. The contract is the template provided by BBK.

No questions for the Commission, no comments from the public, and no deliberations from the Commission.

Approved: M/S by Commissioners Coler and Kious to authorize the EO to enter into an agreement with Alyssa Schiffman for Bookkeeping Services

Ayes: Commissioners McEntee, Kious, Rodoni, Coler, Moody, and Loder

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

EXECUTIVE OFFICER REPORT (verbal report only)

- a) Budget Update FY 2021-22
Commission is at 48% of total budget spent, 10% under the expected 58% for 7 months into the year. The budget has been updated to include the items added at the December meeting.
- b) Current and Pending Proposals
Four applications were heard at the evening's meeting. No proposals are currently in the queue although some are anticipated.
- c) Update on Marin City Incorporation Process
Marin City has asked the organizing committee to dissolve and stop any work or collaboration on the incorporation process at the time being. The organizing committee has disbanded and the EO does not expect this to move forward any time soon.

- d) 2022 Committee Assignments
2022 Committee Assignments have been made by the Chair. EO provided the option to the committee to form an Ad Hoc DUC Committee. There was favor from the Commission to create that Committee.

- e) 2022 LAFCo Workshop (verbal report)
Workshop has been scheduled, not much other planning has occurred but it is in progress. The June meeting will include a priming discussion for the workshop to get Commissioners thinking about the discussion the workshop will entail.

Finally, EO Fried gave reminders for Form 700s and AB 1234 trainings.

The Commission adjourned to closed session.

CLOSED SESSION

There was no reportable action from closed session.

COMMISSIONER ANNOUNCEMENTS AND REQUESTS

Chair McEntee adjourned the meeting at 9:29 P.M.

ADJOURNMENT TO NEXT MEETING

Thursday, April 14, 2022

Zoom

Attest: Olivia Gingold
 Clerk/Junior Analyst

Any writings or documents pertaining to an open session item provided to a majority of the Commission less than 72 hours prior to a regular meeting shall be made available for public inspection at Marin LAFCo Administrative Office, 1401 Los Gamos Drive, Suite 220, San Rafael, CA 94903, during normal business hours.

Pursuant to GC Section 84308, if you wish to participate in the above proceedings, you or your agent are prohibited from making a campaign contribution of \$250 or more to any Commissioner. This prohibition begins on the date you begin to actively support or oppose an application before LAFCo and continues until 3 months after a final decision is rendered by LAFCo. If you or your agent have made a contribution of \$250 or more to any Commissioner during the 12 months preceding the decision, in the proceeding that Commissioner must disqualify himself or herself from the decision. However, disqualification is not required if the Commissioner returns that campaign contribution within 30 days of learning both about the contribution and the fact that you are a participant in the proceedings. Separately, any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or a copy of all the documents constituting the agenda packet for a meeting upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting. Please contact the LAFCo office at least three (3) working days prior to the meeting for any requested arraignments or accommodations.

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