



# Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

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## NOTICE OF REGULAR MEETING MINUTES

### Marin Local Agency Formation Commission

**Thursday, August 12, 2021**

#### CALL TO ORDER

Chair McEntee called the meeting to order at 7:05 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 Kious, Vice-Chair  
Craig K. Murray  
Barbara Coler

Alternate Commissioners Present: Tod Moody  
Richard Savel (Seated as Regular)  
Dennis Rodoni (Seated as Regular)  
James Campbell

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: Larry Loder  
Damon Connolly  
Judy Arnold

Alternate Members Absent: Tod Moody

#### AGENDA REVIEW

Approved: M/S by Commissioners Murray and Coler to accept the agenda as is.

Ayes: Commissioners McEntee, Kious, Rodoni, Murray, Coler, and Savel

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

#### PUBLIC OPEN TIME

Chair McEntee opened the public open time period. Hearing no request to speak, Chair closed the public open time.

### CONSENT CALENDAR ITEMS

1. Approval of Minutes for June 10, 2021, Regular Meeting
2. Commission Ratification of Payments from June 1, 2021, to July 31, 2021

Approved: M/S by Kious and Coler to approve the Consent Calendar with amendments to the meeting minutes.

Ayes: Commissioners McEntee, Kious, Rodoni, Murray, Coler, and Savel

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

### PUBLIC HEARING ITEMS

3. Approval of Resolution 21-13, Annexation of 666 Sequoia Valley Road (APN 046-192-07) to Homestead Valley Sanitary District (LAFCo File #1355)

Clerk/Jr. Analyst Gingold introduced this application, which requests to annex a lot .47 acres to move off septic into Homestead Valley Sanitary District. The application is in unincorporated area. It went through 30-day review and all comments received were neutral or in support. An easement was necessary, and applicants had recorded this easement with the Recorder's Office.

Commissioner Murray wanted to confirm the details of the easement.

The applicants stated that the easement was for 663 Sequoia Valley Road owned by John and Susan Nides, and confirmed they had a formal letter for the easement submitted to the Recorder's Office which was on record by the date of the hearing.

Chairman McEntee opened public hearing. Hearing no public comment, she closed the hearing.

Commissioner Kious added he had checked with Bonner Bueler at HVSD and that Bonner had no objections and was in favor.

M/S Commissioners Rodoni and Coler to approve Resolution 21-13.

Approved: Commissioners McEntee, Kious, Rodoni, Murray, Coler, and Savel

Ayes:

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

4. Approval of Resolution 21-14, Annexation of 105 Roblar Drive (APN 157-400-14) to Novato Sanitary District (LAFCo File #1356)

Clerk/Jr. Analyst Gingold introduced this application, received from Sonoma Marin Area Rail Transit for annexation to Novato Sanitary District, to annex .82 acres in incorporated Novato. Proposal is for connection to District's sewer main. Staff received stipulations from the Sanitary District for the applicant to agree to. Clerk/Jr. Analyst confirmed this had been communicated to the applicant who had agreed. Clerk/Jr. Analyst Gingold also clarified that there had been discussion about whether a conditional agreement was necessary but since the applicant had verbally agreed to the conditions, the sanitary district did not feel a conditional approval was necessary.

Commissioner Murray wanted to know if the resolution needed to mention the Sanitary District's stipulations since Sphere of Influence stipulations had also been mentioned. He also wanted to know if Urban Growth Boundary needed to be discussed.

EO Fried clarified that since the property was within Novato's city limits that a discussion of the Urban Growth Boundary was not necessary.

Chairman McEntee clarified that this was an annexation to the Sanitary District, not the City, which EO Fried confirmed.

Commissioner Murray said some words about process with the Urban Growth Boundary and asked to hear from Erik Brown of NSD.

Erik Brown commented that their district has no further comments than what were already submitted. SMART has been connected through an OSA for the last 5 or so years and now that connection is going to become permanent, NSD supports it assuming SMART fulfills the permitting requirements.

Commissioner Savel had a few clarifications which Clerk/Jr. Analyst Gingold and EO Fried addressed.

Commissioner Murray wanted to know if the conditions from Novato needed to be in the resolution. Legal Counsel Subramanian clarified that it had been discussed but was deemed unnecessary. EO Fried concurred.

Chairman McEntee opened public hearing. Seeing no member of the public wishing to comment, she closed the public hearing.

M/S Commissioners Murray and Kious to approve Resolution 21-14.  
Ayes: Commissioners McEntee, Kious, Rodoni, Murray, Coler, and Savel  
Nays: None  
Abstain: None  
Absent: Arnold  
Motion approved unanimously.

5. Approval of Resolution 21-15, Annexation of 2090 Vineyard Road (APN 132-291-32) to Novato Sanitary District (LAFCo File #1357)

Clerk/Jr. Analyst Gingold introduced this application, received from Janet Sternberger, to annex an incorporated lot, .4 acres in size, to Novato Sanitary District. Staff sent comments to affected and impacted agencies. All comments received were in support or neutral. She noted that Chairman McEntee had noticed 2 places where the address in the resolution was wrong. This would be fixed in the resolution before getting sent for signature. It just needed to be amended in the motion.

Chairman McEntee opened public hearing. Seeing no member of the public wishing to comment, she closed the public hearing.

M/S Commissioners Coler and Murray to approve Resolution 21-15 with amendments.  
Ayes: Commissioners McEntee, Kious, Rodoni, Murray, Coler, and Savel  
Nays: None  
Abstain: None  
Absent: Arnold  
Motion approved unanimously.

6. Approval of Resolution 21-16, Annexation of 32 Fairway Drive (APN 016-021-50) to San Rafael Sanitary District (LAFCo File #1358)

Clerk/Jr. Analyst Gingold introduced this application. 32 Fairway Drive was an OSA that came to LAFCo more than a year ago as Application File 1341. The parcel is connected to the district, but it is now being moved through to finalize the parcel's annexation to the district. It is in an unincorporated island, and the applicant agreed to sign a dual annexation agreement which staff has received a picture of but not the physical signed agreement yet. The agreement is in the mail to LAFCo. Staff sent comments to affected and impacted agencies. All comments received were in support or neutral. Staff recommends approving the application.

Commissioner Murray noticed a different font and typestyle in the resolution and wanted to make sure LAFCo was not having engineers prepare the resolutions. Clerk/Jr. Analyst Gingold clarified that LAFCo recently transitioned from Calibri to Arial to make editing in Adobe PDF easier and that resolution had probably just been missed when changing fonts.

Chairman McEntee opened public hearing. Seeing no member of the public wishing to comment, she closed the public hearing.

M/S Commissioners Coler and Murray to approve Resolution 21-16.

Ayes: Commissioners McEntee, Kious, Rodoni, Murray, Coler, and Savel

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

## BUSINESS ITEMS

7. Approvals on Items Related to CALAFCO Conference in October 2021

Since this item had 3 subsets, EO Fried would introduce all 3 and then one motion could be made at the end.

a) Approval of voting delegates to CALAFCO conference

EO Fried noted that the Commission needed to approve the voting and alternate delegates for the CALAFCO Conference to represent Marin LAFCo at the board elections and the business meeting. Chair McEntee and Commissioner Coler were planning to attend, Marin LAFCo tradition is that voting delegate is given in a specific order: to Chair, Vice-Chair, any other Commissioner attending, and then staff. Since Chairman McEntee and Commissioner Coler were both planning to attend, they would be the natural selections for Voting and Alternate Delegate.

b) Nominations to CALAFCO Board of Directors

CALAFCO has 4 seats per region: 1 City, 1 County, 1 Special District, and 1 Public Seat. They rotate who gets elected each year on a 2-year cycle, 2 seats available each year. EO Fried had communicated eligibility to Commissioners, and none had expressed interest in running, but he wanted to make that opportunity open to Commissioners one more time.

c) Marin LAFCo Position on CALAFCO Regional Make-Up

Two years ago, CALAFCO changed its fee structure. In the staff memo, there is a table on how many counties are in each region and how much the dues are that are paid in each region. Coastal Region, Marin LAFCo's region, has 15 Counties in the region and the 4 seats represent 15 counties. The region pays \$113,000 dues between all of their LAFCos. The Southern Region only has 6 members and pays half as much as the Coastal Region LAFCos. They have the same amount of representation but pay half as much and have less competitive board elections. Staff recommends that Marin LAFCo continue to advocate that CALAFCO change how they delegate their regions.

Commissioner Coler wanted to know if there was an explanation of how the fee schedule was decided. She does not feel that the fee schedule makes sense from a rational perspective but wanted to know what the decision-making process was.

EO Fried noted that CALAFCO changed the process a while ago to get the Southern Region on board. Over time, CALAFCO has increased its workload and what it does so the budget also increased, but there is a hard cap on how much each County pays and most of the Southern region hits that cap. This is why the Southern region pays the dues it does.

Commissioner Murray felt it was important to bring the item forward and indicated he believed there were still discrepancies that could have undue consequences. He endorses seeking the best way to secure equal and equitable representation.

Chairman McEntee opened public hearing. Seeing no member of the public wishing to comment, she closed the public hearing.

Chairman McEntee echoed Commissioner Murray's comments and endorsed re-opening the discussion with CALAFCO about dues.

Alternate Commissioner Campbell made a note in the chat that this was a year for redistricting.

M/S Commissioners Coler and Murray to nominate and approve Chairman as voting delegate, Commissioner Coler as alternate delegate, and EO Fried as second alternate.

Ayes: Commissioners McEntee, Kious, Rodoni, Murray, Coler, and Savel

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

No official motions on items "b" or "c" were needed.

#### 8. Approvals for Marin LAFCo to enter into an MOU with SECURE

EO Fried commented that Marin LAFCo has been working to move towards paperless, and one of the last things is signatures on documents. Although many state agencies can accept e-signed documents, the Recorder's office is not able to but is part of the SECURE system which allows for electronic submission of documents to the Recorder's office. Although it is called an MOU, EO Fried likened it more to a contract to use the SECURE Software. The MOU was included in the meeting materials and confirmed that the MOU had been shared with and approved by Legal Counsel. Staff is recommending that the Commission authorizes EO Fried to sign on and join the SECURE system.

Commissioner Murray and Chairman McEntee asked some clarifying questions about the SECURE process, the County's involvement, and the satisfaction of legal requirements which Legal Counsel Subramanian and EO Fried responded to.

Chairman McEntee opened public hearing. Seeing no member of the public wishing to comment, she closed the public hearing.

M/S Commissioners Coler/Kious to authorize staff to sign the MOU with SECURE

Ayes: Commissioners McEntee, Kious, Rodoni, Murray, Coler, and Savel

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

9. Approval of Restated Fourth Amendment to Executive Officer Employment Agreement

Legal Counsel Subramanian introduced the item, noting that it would be a \$10 reduction of EO Fried's pay to make the compensation divisible by 26 pay periods. The salary will be \$157,716 instead of \$157,726. This was the amount negotiated between Chairman McEntee and Commissioner Connolly and the Executive Officer. Counsel is recommending that the Chair be authorized to execute this re-stated 4<sup>th</sup> amendment.

Chairman McEntee added that it was simply correcting a typo but the Commission wanted to keep it transparent.

Chairman McEntee opened public comment. Seeing no member of the public wishing to comment, she closed public comment.

M/S Commissioners Kious/Rodoni to approve the Restated Fourth Amendment and authorize a \$10 reduction of EO Fried's salary.

Ayes: Commissioners McEntee, Kious, Rodoni, Murray, Coler, and Savel

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

10. Creation of Working Groups and the Potential Application of the Brown Act and Options for the Commission to Consider

Legal Counsel Subramanian introduced the item, noting that the Commission has at times approved MSRs with the recommendation to create a working group. If the Commission creates the working group, the working group is considered a legislative body under the Brown Act and that the Brown Act would apply to the working group. This agenda item was to discuss that further and consider other options for how to create a group with the intended purpose. Legal Counsel Subramanian offered some background on the application of the Brown Act and the nuances of that application in various situations.

Chairman McEntee mentioned that there was concern that Brown Act could inhibit discussion in the working group. Although LAFCo wants to be transparent and compliant of the law, it also wants to fill its purpose as a neutral convener.

Commissioner Coler wanted to clarify what distinction Legal Counsel Subramanian was making. If LAFCo wants to avoid being subject to Brown Act, would those working groups need to be separate from the MSR? How would LAFCo structure those MSRs?

EO Fried suggested language such as "Staff, we see a problem, can you go find a solution for this problem and bring it back to the Commission." This would give Staff the freedom to approach the problem without creating an official working group.

There was discussion between EO Fried, Legal Counsel Subramanian, and Commissioners Coler, Murray, and McEntee on the balance between public transparency and not hindering Staff's workflow.

Vice Chair Kious wanted to know if the described or changed process changes EO Fried's ability to do his job, or if he was comfortable doing his job within those guidelines.

EO Fried responded that if LAFCo continues to create working groups the way it has in the past, with the emerging knowledge of Brown Act requirements surrounding working groups that would need to be fulfilled, the work style of staff would change and the time it took to reach an outcome would increase.

Chairman McEntee opened public comment. Seeing no member of the public wishing to comment, she closed public comment.

Chairman McEntee acknowledged the nuance to this dual-sided issue between wanting to equip Staff with the tools they need to do their job without subverting a legal process when managing thorny problems.

Alternate Commission Campbell, Legal Counsel Subramanian, and EO Fried had a discussion to clarify the need for this amended approach and the application of the approach.

Commissioner Coler wanted to know, in the case that the Commission felt a Working Group was necessary for an issue, if a closed session would be authorized. Legal Counsel Subramanian clarified that closed sessions are limited by what is allowed by the Brown Act and the issues EO Fried is highlighting would not be authorized for a closed session. The working group may create an ad hoc committee that is formed from less than quorum of the Committee but in smaller working groups this would be difficult to do.

Commissioner Coler advocated for a mixed bag and adding more flexibility to Staff without limiting them to this new approach.

Vice Chair Kious clarified that the goal is to enable Staff to do their jobs effectively without the burdens that are imposed by certain legal restrictions. He proposed continuing this issue to the next meeting and creating an ad hoc committee in the interim to create a proposal for the Commission to approve at the next meeting.

Chairman McEntee asked if Commissioner Rodoni had any input since his MSR was coming up next.

Commissioner Rodoni acknowledged Staff's need for flexibility and was comfortable with the non-Brown Act approach except in the cases that the Commission decides it is important enough to take to a Brown Act Committee. He advocated for informed flexibility.

Chairman McEntee agreed that there was not a one-size fits all approach here, and that the Commission seemed comfortable with letting Staff make the determination situationally on which approach is appropriate.

Commissioner Savel concurred with Commissioner Coler's initial statement about public input.

Commissioner Murray and Vice Chair Kious asked in the chat for the discussion to move on.

There was further discussion of an ad hoc committee between EO Fried, Chairman McEntee, Commissioner Coler, and Vice Chair Kious, including whether or not to create one, who the members would be, and when it should be formed by.

M/S Commissioners Kious/Coler to create an Ad Hoc Committee for further discussion with Commissioners Kious and Coler as members.

Ayes: Commissioners McEntee, Kious, Rodoni, Murray, Coler, and Savel

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

**EXECUTIVE OFFICER REPORT** (discussion and possible action)

a) Budget Update FY 2021-22

EO Fried stated that the previous FY had just finished and the budget presented was not the final budget but that it would be finalized soon. He also stated that the audit is moving along, and that LAFCo overall ended the year spending less than they took in, partially due to COVID reductions in travel/conferences. A few line items were also a bit higher than usual and are explained in Staff's report. Current year budget was preliminary, and County has sent invoices for member agencies to pay bills. Some income had since been received. He also warned that a line item or two would be over in the current year budget. It would not hurt from a big-picture budget perspective, but staff wanted to remain transparent with the Commission.

b) Current and Pending Proposals

1 new application was received the week of the Commission meeting. Staff also brought up 255 Margarita with the Commission, asking if the Commission wanted to create a formal item for discussion at the following meeting. The Commission confirmed, yes, they would like to discuss more formally at the following meeting.

c) Commission Communications

EO Fried mentioned the letter from the auditor addressed to the Commission and action that individual Commissioners could take on it.

EO Fried also did an update on the Marin City RFP and mentioned some time off in August and September for the Commission to be aware of.

Chairman McEntee opened public comment on the EO report. Hearing none, she closed public comment.

**COMMISSIONER ANNOUNCEMENTS AND REQUESTS**

Chair McEntee adjourned the meeting at 8:46 P.M.

**ADJOURNMENT TO NEXT MEETING**

Thursday, October 14, 2021

Zoom

Attest:       Olivia Gingold  
                  Clerk/Junior Analyst

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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.

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