



NOTICE OF REGULAR MEETING MINUTES

Marin Local Agency Formation Commission

Thursday, December 9, 2021

CALL TO ORDER

Chair McEntee called the meeting to order at 7:04 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
Judy Arnold
Larry Loder

Alternate Commissioners Present: Tod Moody
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: Damon Connolly

Alternate Members Absent: Richard Savel

AGENDA REVIEW

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

Ayes: Commissioners McEntee, Kious, Arnold, Rodoni, Coler, Murray, and Loder

Nays: None

Abstain: None

Absent: None

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 October 14, 2021, Regular Meeting
2. Commission Ratification of Payments from October 1, 2021, to November 30, 2021
3. Approval of Resolution 21-19 Allowing for Video and Teleconference Meetings During the COVID-19 State of Emergency Under AB 361

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

Ayes: Commissioners McEntee, Kious, Arnold, Rodoni, Coler, Murray, and Loder

Nays: None

Abstain: None

Absent: None

Motion approved unanimously.

PUBLIC HEARING ITEMS

4. Approval of Resolution 21-20, Reorganization of 4916 Ranch Road (APNs 038-053-17,038-061-14, 038-061-27, and 038-061-30) to the Town of Tiburon and (APNs 038-053-17,038-061-14, and 038-061-30) to Sanitary District #2 (LAFCo File #1360) or Alternatively, Approval of Resolution 21-20, Reorganization of 4916 Ranch Road (APNs 038-053-17,038-061-14, 038-061-27, and 038-061-30) to the Town of Tiburon and (APNs 038-053-17,038-061-14, and 038-061-30) to Sanitary District #2 (LAFCo File #1360), Including a Portion of Paradise Drive

EO Fried gave the staff report, providing background information on the application. It was initially a single annexation to SD2, but per LAFCo's dual annexation policy, Tiburon was added. Town approved the pre-zoning for the parcel. There were two supplemental agenda items relevant to the application released after the agenda packet was initially released. One was a request from Tiburon another was from a Tiburon Town Council member, both against including Paradise Drive in the application. EO Fried provided some contextual comments pertaining to the supplemental items.

Town of Tiburon staff was invited to make additional comments, but staff expressed that the submitted supplemental agenda items covered the Town of Tiburon's stance. She reiterated the high-level points of those supplemental items and the request that Paradise Drive be excluded from this application because it was not analyzed by the Town.

Applicant Jacqui Bos was also invited to speak. She thanked staff members for guidance and remarked that the applicants have intentions to build a new single-family home on the property.

Chair McEntee opened the floor for Commissioner questions.

Commissioner Murray wanted to make sure that the council member who submitted correspondence speaks for the Council. Dina clarified that the councilmember does not speak for the entire council, but did note that the councilmember had asked explicitly if Paradise Drive was going to be included in the application, and Town Council had told the councilmember no. Had the answer been yes, it may have changed her ultimate vote.

Commissioner Rodoni wanted to know what LAFCo's role was in solving the Paradise Drive issue, and what progress LAFCo had made towards solving the issue. EO Fried gave some highlights of progress, acknowledging barriers that had caused solutions to lag, including staff turnover and COVID, but also highlighting progress that has been made so far.

Chair McEntee asked some clarifying questions regarding MSRs and the issue of Paradise Drive. She also asked Dina if the Town of Tiburon was open to a more comprehensive discussion of Paradise Drive.

Dina remarked that the Town was open and had participated in a meeting earlier in 2021. That meeting concluded with the determination that more data collection was necessary from both the County and the Town before conversations move forward.

Chair McEntee opened the public hearing, hearing no public comment, she closed public hearing.

EO Fried gave a clarification of the two resolutions presented to the Commission and instructed the Commission to choose one.

Commissioner Coler advocated against including Paradise Drive and provided reasoning for this position.

Commissioner Murray echoed Commissioner Coler's sentiments, adding some additional comment. He also asked Legal Counsel Subramanian if two separate motions were necessary or if the motions could be made together. Legal counsel clarified that it would be one motion for one application which includes the annexation to the two boundaries.

Vice-Chair Kious reiterated the position of the other two Commissioners.

Chair McEntee agreed with the previous Commissioners but stressed the importance of adding some urgency to the resolution of the Paradise Drive issue.

Approved: M/S by Commissioners Coler and Kious to approve the resolution for the reorganization of 4916 Ranch Road not including Paradise Drive; Vice-Chair Kious added a friendly amendment that the County and the Town of Tiburon move towards a resolution of Paradise Drive which Commissioner Coler accepted.

Ayes: Commissioners McEntee, Kious, Arnold, Rodoni, Coler, Murray, and Loder

Nays: None

Abstain: None

Absent: None

Motion approved unanimously.

5. Continue Hearing for the Reorganization of the Lands of Marin County Open Space District (A 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) for Eventual Addition of APN Portion to 800 Corte Madera

EO Fried provided the staff report for this item, giving highlights for the item but noting that it needs to be continued until the next meeting because of a public noticing issue for a sphere of influence update and to provide time to reach a tax exchange agreement.

Chair McEntee asked some clarifying questions.

Chair McEntee opened the public hearing, the applicant's representatives present at the meeting were invited to make public comment.

A representative for the parcel owner, Rob Hodil of Coblenz, Duffy, and Bass, made some comments on timing, noting that pre-zoning has not been completed yet and that a conditional approval may be necessary in February. There was discussion of whether approving the reorganization on a conditional approval or continuing the application to April would be best, with the conclusion that the conditional approval probably made the most sense so long as pre-zoning will not take more than a year.

Chair McEntee asked for any other public comment, hearing none, she closed the public hearing.

Commissioner Murray wanted to know if the public hearing was being continued, this was confirmed by Legal Counsel Subramanian.

Approved: M/S Commissioners Murray and Loder to continue Item 5, the public hearing for the reorganization of the lands of Marin County Open Space District to the February meeting.

Ayes: Commissioners McEntee, Kious, Arnold, Rodoni, Coler, Murray, and Loder.

Nays: None

Abstain: None

Absent: None

Motion approved unanimously.

BUSINESS ITEMS

6. Discussion and Approval of Unspent FY 20-21 Funds and Transfer Funds to FY 21-22 Budget

EO Fried gave the staff report, adding some preliminary comments on the budget and leftover, unspent funds from the previous year. He offered either moving the money to next year's carry forward or reallocating some of the remaining funds to two budget line items—professional services and storage line items—and then placing remaining funds into the carry forward fund. EO Fried advocated for the latter.

Vice-Chair Kious noted that as a Commissioner and not as Chair of the Budget Committee, he had no issue with the reallocation and felt it was aligned with recommendations the Budget Committee had made in the past.

Commissioner Coler echoed this sentiment.

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

Approved: M/S Kious and Coler to approve the Staff recommended reallocation of the funds per Section 3.01(B)(vii).

Ayes: Commissioners McEntee, Kious, Arnold, Rodoni, Coler, Murray, and Loder.

Nays: None

Abstain: None

Absent: None

Motion approved unanimously.

7. Approval of Contract with Left Coast for Digitization of LAFCo Files

EO Fried gave the staff report, noting that LAFCo staff had researched companies that digitize files with the ultimate goal of getting files online. LAFCo Staff considered hiring a company for both digitization and remediation but given the cost of remediation services, LAFCo decided to have documents digitized and work on remediation in-house. LAFCo collected quotes from a variety of companies and did their best to get a consistent comparison of companies. EO Fried highlighted potential concerns in general with the scan companies and efforts Staff had made to mitigate these concerns. With all of these efforts in mind, EO Fried presented Left Coast as the company LAFCo staff had decided to contract with and the contract with Left Coast was the contract Staff was asking the Commission to approve.

Commissioner Coler asked about the scope of the project, EO Fried replied to her question remarking that scanned files would date back to Marin LAFCo's inception in 1963.

Commissioner Murray made a comment about the utility of this project for information requests, and wanted to know if there would be a word search functionality. EO Fried and Clerk/Jr. Analyst confirmed there would be word search and pointed the Commission to LAFCo's website which has the preliminary components of an online library for research like the type Commissioner Murray highlighted in his comments.

Alternate Commissioner Moody wanted to know how files would be coded for usability, and EO Fried made comments on the indexing process that Left Coast would use to make the documents clear and accessible to staff.

Chair McEntee wanted to know if files would be digitized and ADA-accessible, it was clarified the documents would be digitized but not necessarily ADA-accessible. Staff would be able to make documents ADA-accessible and plans to remediate on an as-needed basis, whether that be for the website or a specific information request.

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

Approved: M/S Commissioners Murray and Arnold to authorize the Executive Officer to enter an agreement with Left Coast with a not to exceed amount of \$15,000.

Ayes: Commissioners McEntee, Kious, Arnold, Rodoni, Coler, Murray, and Loder.

Nays: None

Abstain: None

Absent: None

Motion approved unanimously.

8. Approval of the 2022 Commission Calendar and Discussion of Returning to In-Person Meetings

EO Fried gave the report, noting that usually this item is a consent calendar item but that it became a business item because a discussion of when and how to return to in-person meetings was necessary.

Commissioner Rodoni wanted to know if LAFCo was exploring hybrid meetings, noting that it has been a fairly seamless and useful transition for the County. EO Fried remarked on difficulties LAFCo faces in implementing a hybrid schedule but was open to an exploration of a hybrid structure.

Commissioner Coler noted that she was not sure if MCE, LAFCo's normal meeting space, was equipped for hybrid meetings. She also knew MCE had not explored returning to in-person meetings yet.

Commissioner Campbell contributed his experience with a hybrid structure with the City of Belvedere remarking that it was fairly easy to implement. He also felt that right now things were too uncertain for it to be safe to gather.

EO Fried asked legal counsel what the regulation with a hybrid model was. Legal Counsel Subramanian noted that during the State of Emergency and AB 361 still applying, LAFCo had a lot of flexibility. Original Brown Act without AB 361 would require the board to be together in a room. If the board is in separate locations, all locations have to be listed on the agenda and made available to the public, and members of the public would also be able to participate via zoom.

Chair McEntee advocated for proceeding with remote meetings for the February meeting and revisiting the issue in February.

Commissioner Murray wanted to know if the meeting decisions needed a resolution of any kind. Legal Counsel Subramanian remarked that it would simply require the AB 361 resolution to be passed again.

Commissioner Rodoni asked Legal Counsel Subramanian if AB 361 extended longer than March 2022, she clarified that although AB 361 extends through the end of 2022, a state of emergency is also necessary and current state of emergency declarations only extend through March 2022.

Approved: M/S Coler and Murray to approve the meeting schedule for 2022.

Ayes: Commissioners McEntee, Kious, Arnold, Rodoni, Coler, Murray, and Loder.

Nays: None

Abstain: None

Absent: None

Motion approved unanimously.

9. Receive and File GASB 75 Report and Approve Contract with MacLeod Watts, Inc. for FYE 2021 GASB 75 Report

EO Fried introduced the staff report noting that the GASB 75 report relates to CALPERS and retirement. The report concluded LAFCo is in a good position, it is 100% funded and will need to start contributing again soon but not immediately.

EO Fried also presented a BBK approved the contract to continue the next GASB 75 report with MacLeod Watts, noting that they do good work and are helpful and available to staff.

Chair McEntee asked a clarifying question about current and future retirees which EO Fried responded to.

Approved: M/S Arnold and Kious to approve the contract with MacLeod Watts

Ayes: Commissioners McEntee, Kious, Arnold, Rodoni, Coler, Murray, and Loder.

Nays: None

Abstain: None

Absent: None

Motion approved unanimously.

10. Authorization to Make Payment from County Fund Account to MCERA

EO Fried introduced the item, giving an overview of how money with LAFCo is collected and stored, being saved in the County account but paid out of the Bank of Marin Account. He noted that money is transferred once a quarter from the County to the Bank of Marin. MCERA was the exception, and LAFCo is making quarterly payments to MCERA, EO Fried requested Commission permission to make the first quarter payment. He noted that automating the MCERA payment would be considered by the Policy Committee in January but for the time being it needed the Commission's approval.

Approved: M/S Kious and Arnold to approve the transfer of funds payment from County Fund to MCERA

Ayes: Commissioners McEntee, Kious, Arnold, Rodoni, Coler, Murray, and Loder.

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

EXECUTIVE OFFICER REPORT (verbal report only)

a) Budget Update FY 2021-2022

LAFCo is at 32.5% spent, based on how far in the year we are then being under 42% is ideal. However, because of when payroll was done last month there is technically one November payroll missing. He had no additional updates for other line items.

b) Current and Pending Proposals

LAFCo has had a fairly consistent flow of applications, EO Fried pointed out CSA 18 which derived from the San Rafael MSR which made the determination that CSA 18 was significantly larger than it needed to be.

- c) Applications Submitted for CALAFCO Awards
Chair McEntee had asked the EO to share the applications that had been submitted to CALAFCO. She noted that it was the Commission's words about the EO and wanted it in the public record.
- d) Commission Correspondence
The Commission received a letter from Davis Farr notifying the Commission that the next audit had been started and the Commission should contact Davis Farr, not the EO if they have issues or comments. There was also a communication from Commissioner Murray.
- e) LAFCo Internship (verbal report only)
Tying into the conversations about digitization, LAFCo is in the process of looking for an intern to help with remediating the digitized files LAFCo will receive. He remarked that there may not be an intern for the spring semester but that LAFCo does hope to have one by summer or fall as well. He invited the Commission to refer anyone who may be interested in remediation work.

Finally, the EO reminded the Commission the LAFCo office will be closed from Christmas Eve to the Monday following January 1st. He also notified the Commission LAFCo may be transferring the Commission to One Drive and was going to test it with the Commission at the February meeting.

Chair McEntee wanted to know if OneDrive would be read-only. EO Fried confirmed he would forward that question to Fort Point IT. The intention would be for Commissioners to be able to pull the document but not be able to edit the master document.

Commissioner Coler wanted to know what the pay for the Intern program would be, and noted she could include it in a Town of Fairfax newsletter. EO Fried clarified that the internship would be unpaid but through SJSU, students would be paid in college credit.

CLOSED SESSION

The Commission moved to closed session. Legal Counsel Subramanian reported that the Commission gave direction to legal counsel regarding the closed session matter.

COMMISSIONER ANNOUNCEMENTS AND REQUESTS

Chair McEntee commented that per the closed session discussions, she wanted to propose an item to revisit the reverse policy to create a reserve for pursuing legal action to enforce the work LAFCo does, it was proposed by EO Fried that that would be discussed with the Policy and Personnel Committee. No Commissioners objected.

Chair McEntee opened the floor to other Commissioner Announcements and requests, none were brought.

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

ADJOURNMENT TO NEXT MEETING

Thursday, February 10, 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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