

MINUTES - MARIN LOCAL AGENCY FORMATION COMMISSION

On March 8, 2012, the regular meeting of the Marin Local Agency Formation Commission was held at the San Rafael Council Chambers, 1400 Fifth Avenue in San Rafael. Chair Blanchfield called the meeting to order at 7:10 p.m.

ROLL CALL

Commissioners Present: Judy Arnold
Einar Asbo
Jeffry Blanchfield
Barbara Heller
Dennis J. Rodoni
Kathrin Sears
Herb Weiner

Alternate Commissioners

Present: Craig K. Murray

Commissioners Absent: Carla Condon

Staff present: Peter Banning, Executive Officer
Candice Bozzard, Clerk to the Commission

Commissioner Rodoni requested the meeting be adjourned in David Ware's honor.

1. **Public Comment** - No comments from the public.

ACTION OR POSSIBLE ACTION ITEMS

CONSENT CALENDAR ITEM(S)

2. **Regular Meeting Minutes - January 12, 2012**
3. **Regular Meeting Minutes - February 9, 2012**
4. **Financial Reports - February 2012**
5. **Annexation of the Lands of Koblick to the San Rafael Sanitation District (File #1306)**

M/S Arnold - Sears to approve the Consent Calendar.

Approved unanimously.

PUBLIC HEARING(S)**6. Reconsideration Annexation of the City of Sausalito to the Southern Marin Fire Protection District (File #1304) - Evaluation Results of Protest Petition, Impartial Analysis:**

The Executive Officer stated that staff received the official evaluation of protest petition signatures from the Registrar of Voters. The report concluded that 27% or 1,370 valid signatures were collected therefore requiring an election to confirm or reject the annexation approved by LAFCO.

Staff explained that under section 57000 of the Cortese-Knox-Hertzberg Act, the Commission was required to adopt a resolution certifying the results and then forward the adopted resolution to the City of Sausalito for the City Council to call the election. Staff reported that it was also required that within five (5) days of the call for election, that LAFCO must adopt an impartial analysis of the annexation for inclusion in the voters' handbook. The Executive Officer stated that due to time restraints and to avoid calling a special meeting, staff recommended the Commission review the draft impartial analysis included in the staff report, revise as needed and approve for use in the upcoming election.

Staff noted that some of the Commissioners may have received an email by an opponent of the annexation requesting changes to staff's proposed analysis. Staff indicated that there would be an opportunity for interested parties to submit their own statements in support or opposition for use in the voters' handbook.

Commissioner Asbo voiced his disapproval that the impartial analysis was not presented to the Commission earlier for review. Staff explained that earlier action could not be taken in advance of certification of sufficient valid protest signatures from the Registrar of Voters.

Hearing no additional questions of staff, the Chair opened the hearing for public comment.

- Mike Kelly, Mayor of the City of Sausalito - Mr. Kelly addressed Commissioner Asbo's concern by responding that it was not necessary to compose an impartial analysis prior to the verification of signatures on the protest petitions. Mr. Kelly stated that the issues raised in the letter sent to the Commission proposing changes to the impartial analysis contained misinformation. Mr. Kelly continued that it was time for this annexation matter to be resolved and urged the Commission to approve the resolution and the impartial analysis so that it may be included on the June 5, 2012 ballot.

Chair Blanchfield reminded the public to focus their comments on the resolution and the impartial analysis.

- Charles Donald, Resident of the City of Sausalito– Mr. Donald stated that he had no objection to the certification of petition signatures made by the Registrar of Voters however there were too many unanswered questions surrounding the annexation of the City of Sausalito to the Southern Marin Fire Protection District. Mr. Donald felt that the rush to have this matter on the June 5, 2012 ballot was unreasonable.
- John Flavin, Resident of the City of Sausalito – Mr. Flavin maintained that the \$1.4 million figure used in the impartial analysis was capricious and that there was no inclusion of costs related to pensions and healthcare liabilities. Mr. Flavin commented that the cost of the new fire house was relevant in the analysis and future expenditures would only increase.
- Linda Pfeifer, Sausalito City Councilmember – Ms. Pfeifer played a recorded portion of a Sausalito City Council meeting regarding a discussion between the Sausalito City Council and their consultant, Citygate Associates. Ms. Pfeifer urged the Commission to consider amending the draft impartial analysis.
- Vicki Nichols, Resident of the City of Sausalito – Ms. Nichols stated she fully supported the annexation and that since no new information had been presented by the opponents, the Commission should approve the resolution and the impartial analysis.
- Joan Cox, Resident of the City of Sausalito – Ms. Cox commented that the portion of the impartial analysis regarding the transfer of property tax was unclear. She stated that the impartial analysis should explain in greater detail that the percentage of property tax revenue would remain the same continually regardless of whether the property tax values in Sausalito appreciated. She was concerned there would be a windfall to Southern Marin Fire Protection District that would financially burden the residents of the City of Sausalito.
- Jim Irving, Fire Chief of the Southern Marin Fire Protection District – Chief Irving responded to comments made previously regarding the costs for the fire station. He stated that the costs had no bearing on the annexation as the citizens of Sausalito voted for the tax to construct a new fire station. Mr. Irving then responded to Councilmember Pfeifer's remark on Citygate Associates pursuing other organizational options. He said that the City and the District hired Citygate Associates to assist with achieving the most cost saving organizational alternative. He continued that Citygate Associates evaluated several options all of which were

presented to the City Council. Mr. Irving added that it was time to let the residents vote on the annexation.

- Adam Politzer, City Manager, City of Sausalito – Mr. Politzer felt it was important to mention that Mr. Banning had been an impartial advisor throughout the development of the annexation proposal. Mr. Politzer stressed that the City Council needed to call the election promptly in order to place this matter on the June ballot. Placing the annexation on the June ballot would allow for budgetary decisions to be made prior to the beginning of the next fiscal year rather than having to prepare two budgets contingent on the outcome of a November election on the annexation issue. Mr. Politzer reported that he had spoken with other local agencies regarding shared fire service alternatives and found that they would be unable to sustain the burden of the additional fire support.
- Bob Mitchell, City of Sausalito Resident – Mr. Mitchell identified himself as the person that sent the proposed amended impartial analysis to LAFCO members. Mr. Mitchell expressed that he was not opposed to the certification of the signatures but felt that the analysis was not truly impartial. Mr. Mitchell handed out his proposed alternative statement to the Commissioners. He stated that there was adequate time to review and consider a more neutral analysis. Mr. Mitchell declared that if this impartial analysis goes forward as written, he would take the matter to a judge for resolution.

Commissioner Weiner noted for the record that Mr. Mitchell was the husband of Sausalito Councilmember, Carolyn Ford. Mr. Mitchell countered that Mr. Weiner was a member of the Sausalito City Council.

- Carolyn Ford, Sausalito City Councilmember – Ms. Ford stated that no independent financial analysis had been performed for evaluation of the annexation. Ms. Ford said that the Sausalito City Council was only made aware of the permanent 45% property tax exchange at the September 2011 meeting and at the same meeting, the Council approved its application for annexation without further public input. Ms. Ford emphasized that the residents of Sausalito should be made aware of all the facts and requested that the Commission reconsider the language of the impartial analysis.

M/S Asbo – Heller to close the public hearing.

Approved unanimously.

Chair Blanchfield reminded the Commission that first they needed to vote on Resolution 12-04 accepting the Registrar of Voter's verification of the protest petition

signatures and then the impartial analysis that would be included in the June voter's handbook.

Commissioner Sears stated concern about the ambiguity of the language used in paragraph 13 of the resolution, stating the question that would appear on the ballot.

Staff responded that this language was taken directly from the government code as required, but would check with the Registrar of Voters to see if a clarifying statement would be allowed.

Commissioner Rodoni inquired about the sequence of events once the resolution was adopted.

Staff responded that action to adopt the resolution confirming validity of the protest petition was required within 30 days of notice received by the Registrar of Voter's. The Executive Officer continued that the resolution would then be forwarded to the City of Sausalito to call an election. Within five days of the City calling for the election LAFCO was required to submit the text of an impartial analysis for inclusion in the voters' handbook.

M/S Arnold – Asbo to approve Resolution 12-04, Resolution of Conducting Authority Making Findings on Value of Written Protest Filed and Not Withdrawn and Ordering a Change of Organization Subject to Confirmation by the Voters with the condition of possible clarification of paragraph 13.

Vote was taken by roll call.

Ayes: Commissioners Arnold, Asbo, Blanchfield, Heller, Rodoni, Sears and Wiener.

Noes: None

Abstain: None

Approved unanimously.

Commissioner Sears asked the reasoning why on paragraph 1 of page 2 of the impartial analysis staff was not more specific in the language on the property tax exchange amount. Staff responded that that was no particular reason.

It was agreed to change the phrase from "an equal proportion" to "45%" in order to add clarification.

Commissioner Rodoni inquired that since most of the information was a result of the City documents and consultant reports, how much research was conducted by staff. The Executive Officer responded that he had been included in the City's supervision of its consultants' work and that his participation was to ensure that the Commission

would have a complete and adequate proposal to consider, including the required analysis. The Executive Officer stated he acted in the same manner as he would for any application presented for the Commission for review.

Commissioner Rodoni asked what Marin LAFCO's responsibility was if legal action was taken.

Staff responded that the applicant, City of Sausalito, signed an indemnification agreement, therefore the City would be liable for expenses incurred in any legal action to defend the Commission's action to approve the annexation.

Commissioner Rodoni commented that there should be some validation to the facts included in the impartial analysis.

Chair Blanchfield inquired if special counsel had reviewed the impartial analysis.

Staff responded that LAFCO's general legal counsel had reviewed the impartial analysis.

Commissioner Asbo suggested adding "has been estimated" instead of "is" in the language referring to the \$1.4 million cost to re-establish the City's independent fire department.

Chair Blanchfield suggested writing out the acronyms to clarify and maintain consistency.

M/S Heller – Weiner to approve the Impartial Analysis including the following language changes:

- The first sentence in the first paragraph on page 2, change "for FY2012-13 and an equal proportion of total property tax" to "for Fiscal Year 2012-13 and 45% of total property tax"; and
- Change the next sentence from "the proposed annexation is approximately \$1.4 million" to "has been estimated to be approximately \$1.4 million"; and
- Clarifying the acronyms.

Vote was taken by roll call.

Ayes: Commissioners Arnold, Asbo, Blanchfield, Heller, Rodoni, Sears and Wiener.

Noes: None

Abstain: None

Approved unanimously.

7. **FY 20012-13 Budget:**

The Executive Officer reported that staff met with the Budget Committee on February 27, 2012 to review three (3) separate draft budget proposals. Staff continued that each alternative included different contribution amounts by the County, cities and special districts. The Executive Officer stated that the proposed alternatives assumed no significant changes to the program or level of effort from the previous year. As recommended by the Budget Committee, the submitted proposed draft included a 10% increase to the agency contributions from FY2011-12 and a minimal appropriation from the Commission's reserve fund.

(Commissioner Weiner left the meeting.)

Commissioner Heller noted that she presented the draft budget to several city managers and there was no opposition to the 10% increase. Commissioner Arnold added that the Board of Supervisors had no reservations about the increased contribution.

Commissioner Rodoni reported that the Budget Committee discussed the option of future municipal service reviews and felt it would be financially wise to study the water district spheres of influence before doing the five-year review of the City of San Rafael and Ross Valley Sanitary District.

Commissioner Murray added that the Las Gallinas Valley Sanitary District was looking into further action on recycled wastewater and other regional water projects which may have an impact on the water district municipal service review.

Chair Blanchfield opened the public hearing for comment. There was none.

The hearing was continued to the May 10, 2012 meeting to allow time for the contributing agencies to review and comment on the preliminary draft budget.

COMMISSIONER REPORTS

Chair Blanchfield commented that Tom Roberts, District Manager of Alto and Homestead Valley Sanitary Districts extended an invitation to attend board meetings of the two districts. Chair Blanchfield continued that he and Maureen Parton, Aide to Supervisor Sears, attended both sanitary district board meetings in February. He expressed appreciation for the invitation and felt it was an important opportunity to continue open dialog between LAFCO and the southern Marin sewer districts.

8. EXECUTIVE OFFICERS REPORT

The Executive Officer added to his written report that the Grady Ranch application should be submitted shortly and inquired about the Commissioners preferred transmittal method for Environmental Review documents. It was the consensus of the Commission to receive a website link to view the reports with a hard copy available at the LAFCO office.

Commissioner Rodoni asked about the requirements for submission of ethics training certificates. The Executive Officer responded that staff will review the policy and report back to the Commission.

Commissioner Asbo asked about the hearing dates for consolidation of southern Marin sanitary districts.

The Executive Officer responded that staff recently received draft terms and conditions from Scott Smith, Best, Best and Krieger and would circulate them for comment to the affected districts, requiring additional time. Staff stated that the districts requested an additional meeting to review terms and conditions and it was at the discretion of the Commission on how quickly to proceed.

Chair Blanchfield added that he felt that more time was needed for discussion and that staff should continue to work with the affected agencies.

ADJOURNMENT

Commissioner Rodoni expressed that he was deeply saddened by the passing of Mr. David Ware, former LAFCO Member. Commissioner Rodoni shared that Mr. Ware had been his mentor in LAFCO matters and his reason for being on the LAFCO Commission. The Executive Officer added that Mr. Ware had been the driving force behind getting special district representation on LAFCO in the 1990s.

M/S Rodoni - Arnold to adjourn in honor of Mr. David J. Ware.

Approved unanimously.

The meeting was adjourned at 8:46 p.m. The next regular LAFCO meeting was scheduled for Thursday, April 12, 2012.

Respectfully submitted,

PETER V. BANNING, Executive Officer

ATTEST:

BARBARA HELLER, Vice-Chair