

MINUTES - MARIN LOCAL AGENCY FORMATION COMMISSION

On March 8, 2007, 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 7:04 p.m.

ROLL CALL

Commissioners Present: Susan Adams (7:10)
Jeffry Blanchfield
Barbara Heller
Charles McGlashan
Dennis J. Rodoni
Jeff Slavitz
George Quesada

Commissioners Absent: Einar Asbo

Alternate Commissioners
Present: Christopher Burdick

Staff present: Peter Banning, Executive Officer
Candice Bozzard, Clerk to the Commission
Evelyn Ellis, Assistant Planner

1. Public Comment - None

NOTICE OF APPLICATION (Information Only)

2. New application(s) have been received for the following proposals:
 - Annexation of the Lands of McMillen to Sanitary District #5 (File #1283)

ACTION OR POSSIBLE ACTION ITEMS

CONSENT CALENDAR ITEM(S)

3. Regular Meeting Minutes - January 26, 2007
4. Financial Report - January and February 2007

5. **Annexation of the Lands of Servat to Homestead Valley Sanitary District (File #1282):** Annexation of .64 acres located on Panoramic Highway near its intersection with Sequoia Valley Road.

M/S Heller – Slavitz to approve the consent calendar.

Commissioner Quesada abstained.

Approved unanimously.

BUSINESS ITEM(S)

6. **Review of Proposed Onsite Wastewater Disposal Zone Formation:**

The Executive Officer reported that the Marin County Environmental Health Services (EHS) had requested Marin LAFCO review a proposed formation of an onsite wastewater disposal zone in the downtown area of Marshall. Staff stated that Government Code section 56434 enabled LAFCO to work with county governments on county actions, such as formation of improvement districts, that extended service to a new area, but did not require LAFCO approval. Staff recommended that the Commission authorize staff to send a letter stating that the formation of the new wastewater disposal zone was consistent with Cortese Knox Hertberg Act.

Commissioner Rodoni inquired when a discussion would be held regarding other alternatives than the County running the Wastewater Disposal Zone. Staff responded that Mr. Phil Smith from County EHS was at the meeting to answer questions. Chair Blanchfield then called Mr. Smith to the podium.

- Mr. Phil Smith, Marin County Environmental Health Services – Mr. Smith first wanted to thank the Executive Officer for all his help with this project. Mr. Smith then responded to Commissioner Rodoni's question regarding alternatives by stating there would be a local advisory board that would act under the authority of the Board of Supervisors. The zone would be operated and maintained by a yet to be determined service provider. Mr. Smith noted that the system would incorporate a new technology, which would communicate directly with the service provider.

Staff added to Commissioner Rodoni's concern regarding other alternatives, that the County had reviewed other organizational options such as sanitary and community services districts.

M/S McGlashan – Adams to approve the authorization of staff sending the recommended letter.

Approved unanimously.

PUBLIC HEARING(S)

7. **Annexation of the Lands of Jansheski to Tiburon Sanitary District (File #1281):**

The Executive Officer stated that LAFCO received an application for annexation of residential properties in the Paradise Drive area between the Trestle Glen Boulevard/Paradise Drive intersection and the Playa Verde/Paradise Drive intersection to Sanitary District #5 (Tiburon). Mr. Mark Jansheski organized this proposal in order to receive sewer service for his residence on Paradise Drive in the unincorporated area of Tiburon. Mr. Jansheski's petition for annexation is signed by 22 other property owners. An additional 44 property owners have submitted written requests to be added to the proposal.

Staff stated that there were three areas of concern that should be well thought-out before approval of this application. First, staff recommended that a reimbursement agreement between the proponent and the district be in place prior to the approval. This agreement would remove any reservations held by the other property owners included with this application and would assure proper reimbursement to the proponent. Second, the property owners' of the smaller parcels that fell under the Dual Annexation policy should be required to enter into an agreement with the Town of Tiburon not to oppose annexation in the future, as is usually required in such cases. For the larger parcels of SODA and Sorokko, staff recommended creating a subcommittee to address the County's '400 foot rule' that would be triggered by the construction of the new sewer line. Third, staff recommended that the Commission consider modification of the original proposal boundary to include most of the properties that have given written consent. However, the properties on Acacia and Hacienda Drives should not be included in this annexation proposal since the environmental analysis could not adequately describe how the services would be extended.

The Executive Officer noted that LAFCO was the lead agency for environmental review under the CEQA guidelines and introduced, Scott Davidson, the consultant who prepared the Initial Study. Staff stated that Mr. Davidson would address the reasons for exclusion and possible remedies for the property owners on Acacia and Hacienda Drives to annex to Sanitary District #5 at a later date.

- Scott Davidson, Land Use Consultant – Mr. Davidson stated that a Negative Declaration was prepared and distributed in February. Mr. Davidson stated that at the time the study was prepared, information on physical connection of the homes on Acacia and Hacienda Drives was preliminary and could not be fully evaluated. However, since the publication of the study new information had become available. Mr. Davidson stated that LAFCO staff would like to accommodate the homeowners on Hacienda and Acacia with connection to the

district and would continue to work with the property owners. Mr. Davidson suggested an extension of time for the review and comment period of the initial study from March 20th to April 5, 2007 to allow more time to provide additional project information that would allow inclusion of Acaia and Hacienda Drive properties in the proposed annexation.

Commissioner Slavitz inquired about having to amend the initial study when more information became available regarding the Acacia and Hacienda properties. Mr. Davidson responded that the initial study included those properties, however, the information about a physical connection was not available. Those properties would have to connect through an undeveloped, privately owned property. Mr. Davidson noted that work would have to be done to research the possible environmental impacts.

Commissioner McGlashan inquired as to what happens if those properties on Acacia and Hacienda were added and the result showed an environmental impact and at what point would it be necessary to generate an Environmental Impact Report (EIR). Mr. Davidson responded that the amended study would need to be re-circulated for comment and would need to be a full EIR if additional study showed significant environmental impacts. Commissioner McGlashan questioned the possibility of connecting through another route. The Executive Officer stated that it would probably not be as efficient.

The Executive Officer concluded his staff report with the recommendation that the Commission open the hearing for public testimony and continue the hearing to the April 12th Commission meeting. The Executive Officer recommended that the Commission consider the extension of the comment period of the initial study from March 20 to April 5th and consider appointing a subcommittee to study issues associated with eventual annexations to the Town of Tiburon under the Dual Annexation Policy.

Commissioner Heller reported that she had attended a community meeting held at the Town of Tiburon on February 13th to gain better understanding of the proposal and wanted to know why the sanitary district was not building the pipeline for the annexing area. Staff responded that different policies apply for a private vendor. Staff stated that the district manager for Sanitary District #5 was in the audience and might be better suited to answer the question. Chair Blanchfield called Mr. Lynch, General Manager of Sanitary District #5, to the podium.

- Mr. Robert Lynch, District Manager, Sanitary District # 5 – Mr. Lynch stated that the regulations for a private vendor are not the same as the requirements for construction by a public agency. The construction standards would be the same but the cost would be significantly greater if the district were to construct the pipeline.

Commissioner Adams inquired about when the ownership of the pipeline would be turned over to the District. Staff stated that the recommended period of private ownership should not exceed 18 months, however the period would still need to be determined. Commissioner Adams also stated concerns about who would be responsible for pipeline maintenance problems and road maintenance issues that arise with the eventual annexation of Paradise Drive to the Town of Tiburon. Commissioner Adams went to request clarification on which properties would be affected by the Dual Annexation Policy. Staff responded that slightly more than half would be subject to the Dual Annexation policy.

Commissioner Slavitz inquired who would be responsible for maintaining the pipeline while it was under private ownership. Staff responded that in the first year, the pipeline would be under warranty and the subcontractor would assume responsibility. Mr. Lynch added that the district would be first to respond and that under the District's NPDES permit, the District would handle the repair and then get reimbursed by the contractor. At the request of Mr. Jansheski, Mr. Lynch further explained that in the first year, the contractor would maintain the pipeline and then the district would assume responsibility. If an emergency occurred in that first year, the district would respond and then bill the contractor.

Commissioner Slavitz inquired about the Town of Tiburon taking responsibility for the roadway in the Seafirth area. Staff responded that the Town boundary did not yet include the Paradise Drive right-of-way around the Seafirth area and that road maintenance responsibilities would not change until further annexations to the Town of Tiburon occurred.

Commissioner Rodoni requested a better map for the next meeting and noted that reimbursement agreements are very common practice for water and sanitary districts.

Commissioner Slavitz inquired about the differences between the annexation of the Lands of Shaw in 2001 and this proposal. Staff responded that the main difference was the initial Shaw proposal was only for annexation of the Shaw property. After the Shaw annexation was approved, ten other properties applied separately for annexation and connection to the sewer main built by Mr. Shaw.

Commissioner McGlashan asked staff for direction on the concern of some property owners for cost transparency. Staff stated that the recommendation for a reimbursement agreement between the proponent and Sanitary District #5 included in the proposed terms and conditions of approval would address that concern.

Commissioner Slavitz inquired about what would the proposed sub-committee be asked to discuss in regards to the SODA and Sorokko properties. Staff responded

that discussion would be needed on how the dual annexation policy would be implemented in this area and whether it would be considered "orderly development" to subject subdividing land owners to the policy during the County's development review process. Staff noted that SODA has not as yet applied for annexation to the Town, however Sorokko has applied for annexation to the County.

Commissioner Quesada inquired if Sanitary District #5 had stated whether the district had the capacity to handle the additional pipeline. Staff responded that Mr. Jansheski received a will-serve letter stating there was adequate capacity regarding the project.

Commissioner McGlashan asked Mr. Davidson if any growth potential was researched for the CEQA report. Mr. Davidson responded that the potential for future development was researched and was consistent with residential uses under the general plan. Commissioner McGlashan asked if there were any comments made by County planners. Mr. Davidson responded that a meeting was held with County planners and that they are formulating comments for submittal prior to the Commission's April 12, 2007 meeting.

Chair Blanchfield asked the Commissioners for additional questions or comments for staff and, hearing none, opened the hearing for public comment.

- Mark Jansheski, Project Sponsor - Mr. Jansheski stated that when he purchased his property on Paradise Drive, it included approval for the development of a septic system. He learned the sanitary district would not provide sewer service to that area for economic reasons. Mr. Jansheski stated that as a private vendor, it would be more cost effective for him to construct the pipeline than for a public agency. Mr. Jansheski stated that in sponsoring this project, he offered his neighbors a fixed and reasonable price to keep the process simple.
- Neil Bloomfield, Attorney for Mr. Jansheski - Mr. Bloomfield stated that he was working with Sanitary District #5 on a reimbursement agreement. Mr. Bloomfield went on to discuss the process and problems that had taken place regarding the reimbursement agreement up to this point and how they were trying to address the District's concerns. Mr. Bloomfield stated that he and Mr. Jansheski felt strongly that the Commission should not include the reimbursement agreement issue as a condition of approval.

Commissioner Heller inquired about the need for private ownership of the sewer line. Mr. Bloomfield responded that the length of ownership would be between 1 to 6 years or when there was sufficient participation, which ever came first and that there was no benefit to holding ownership indefinitely.

Commissioner McGlashan questioned if Mr. Bloomfield and Mr. Jansheski were satisfied with the terms and conditions for approval. Mr. Bloomfield stated that they

did not feel the Commission should determine the terms of the reimbursement agreement as a condition of approval.

Commissioner Slavitz asked if once the revenue from additional participants reached a certain level, ownership would be turned over to Sanitary District #5. Mr. Bloomfield responded that the criteria for turn-over would be set with Sanitary District #5. Commission Slavitz asked about the transparency of project costs. Mr. Bloomfield responded the prices were not transparent since there was a fixed price offered by Mr. Jansheski.

Commissioners Adams clarified the reason for maintaining ownership of the sewer line would be so that Mr. Jansheski would meet or exceed costs. Mr. Bloomfield responded that was correct.

Commissioner McGlashan further clarified with Mr. Bloomfield that it was in their opinion that no regulatory body was necessary to ensure that the terms of the agreement were being enforced properly. Mr. Bloomfield responded that a proposed contract was sent to other property owners for their review and consideration.

- Mr. Greg Swart, Seafirth Estates Representative – Mr. Swart stated that Seafirth Estates strongly agrees with staff recommendations for terms and conditions. Mr. Swart stated that Seafirth Estates would like the sewer line to be constructed, however there were several points that need to be addressed and that a reimbursement agreement should be included in the conditions of approval.
- Mrs. Barbara Kautz, Paradise Drive Property Owner – Mrs. Kautz stated that as long-standing homeowner on Paradise Drive, she was pleased with the idea of the proposal, but feels strongly that a reimbursement agreement needs to be in place prior to approval. Mrs. Kautz requested that the Mitigated Negative Declaration should be amended to show the existing privately-owned (“Rabin” or “93”) line as an alternative.
- Ms. Becky Pringle, Paradise Drive Property Owner – Ms. Pringle stated she supported the inclusion of the Acacia and Hacienda Drive parcels in the annexation to Sanitary District #5. Ms. Pringle requested that a T-stub be included with the construction of the sewer line. Ms. Pringle stated that the “93 line” was an important consideration for future sewer lines and would like to see that alternative pursued further in the study. Ms. Pringle stated that she supports staff’s recommendations.
- Ms. Carol Requadt, Paradise Drive Property Owner – Ms. Requadt stated that as a long-time property owner, she supported the construction of the sewer line and strongly agreed with staff’s recommendations.

- Mr. Dennis Doyle, Eden Lane Property Owner – Mr. Doyle stated he supported the construction of the sewer line and agreed with staff’s recommendations.
- Mr. Jim Kautz, Paradise Drive Property Owner – Mr. Kautz first wanted to thank Peter Banning for his diligence with this application then stated he was in support of staff’s recommendations.
- Mr. John Ohmer, Acacia Drive Property Owner – Mr. Ohmer distributed a letter stating the opinions of the property owners’ on Acacia. Mr. Ohmer stated that he felt the extension of sewer line was a win/win situation for both the property owners and Mr. Jansheski, but he wanted the process to be conducted fairly.
- Mr. Steve Shaw, Acacia Drive Property Owner – Mr. Shaw stated that he supported staff’s recommendations and the need for cost transparency. Mr. Shaw wanted to clarify that the owners that pay Mr. Jansheski for connection of their properties now would still have to pay Sanitary District #5 other fees for service. Mr. Shaw noted that property owners would be willing to assist the district to make the construction of the sewer line happen. Mr. Shaw stated that reimbursement agreements happen often and could be easily resolved.
- Mr. John Roberto, Sorokko Property Representative – Mr. Roberto requested an extension of time for review and comment of the Mitigated Negative Declaration.

Commissioner Rodoni inquired if Mr. Roberto would return to the April Commission meeting to share the concerns of Mr. Sorokko.

Commissioner McGlashan inquired if Mr. Roberto had any knowledge of how his client felt regarding the “93 Line”. Mr. Roberto stated that Mr. Sorokko was supportive of the new sewer line project.

Commissioner Heller questioned the district fees for the property owners that pay Mr. Jansheski now. Staff responded that the district fee was a one-time sewage treatment fee that was set by ordinance. Commissioner Heller questioned the one property on Acacia Drive that is currently within Sanitary District #5 boundary. Staff believed that the property was on septic and not connected to a sewer line. Mr. Lynch stated that there were pipes and manhole on Acacia, but they were not connected to District facilities for services.

Commissioner McGlashan asked Mr. Bloomfield and Mr. Jansheski if they would be receptive to including the reimbursement agreement as terms of approval after hearing the public’s testimony. Mr. Jansheski responded that having a fixed price would keep the agreement simple.

Commissioner Adams shared her concern with the cost transparency.

Commissioner Slavitz questioned Mr. Jansheski's hesitation to implement cost transparency. Mr. Jansheski responded that the fixed price was to keep the process as simple as possible.

Commissioner McGlashan recommended that Mr. Jansheski meet with Sanitary District #5 to try to create a reimbursement agreement that resembled staff's recommendations.

Commissioner Rodoni commented that ownership of the line and a reimbursement agreement were not connected and that ownership should be turned over to the district in no more than one year. Commission Rodoni commented that the construction of the pipe should include T-Stubs and that the size of the line be ample for future users. Commissioner Rodoni requested there be more information regarding the "93 Line" and would like better maps showing the proposed area.

M/S Adams - McGlashan to appoint Commissioners Slavitz, Heller and McGlashan form a sub-committee to address potential annexations to the Town of Tiburon and how future annexations would proceed in an orderly fashion.

Approved unanimously.

M/S McGlashan - Adams to extend the deadline for written comment to April 5, 2007.

Approved unanimously.

8. **FY 2007-08 Budget and Work Plan:**

The Executive Officer stated that staff met with the Budget Committee on February 12, 2007 to compile a budget proposal for review by the Commission and circulation to the cities, County and special districts that contribute to the budget. Staff reported that the proposed budget assumed no significant changes to the program or level of effort from the previous year. The Commission's total expenditures would increase 5.3% from the budget adopted for FY 2006-07 in May 2006, which would increase costs to contributing agencies a corresponding 5.3%. Staff reported that the Budget Committee proposed appropriating funds, as much as \$19,572 from the reserve, to offset the increase and maintain a constant contribution compared to the previous fiscal year.

The Executive Officer explained that the Work Program attached to the budget proposal showed how the Commission would expend funds in program activities.

M/S Adams - Rodoni to approve the preliminary budget for distribution to the contributing agencies.

Approved unanimously.

The Chair opened the hearing for public comment. Having no public comment the hearing was continued to the May meeting.

BUSINESS ITEM(S)

9. **Strategic Plan Review:**

Staff explained that a draft Strategic Plan had been compiled from the "Key Outcomes" documented by the facilitator at the workshop held January 26, 2007. Staff recommended that the Commission review the draft and adopt the Strategic Plan for 2007.

M/S Slavitz - Rodoni to adopt the Strategic Plan 2007.

Approved unanimously.

10. **Merit Salary Increase:**

M/S Adams - Rodoni to approve the merit salary increase for the Clerk to the Commission.

Approved unanimously.

COMMISSIONERS' REPORTS

Commissioner Rodoni noted that this was George Quesada last meeting and wanted to thank him for his excellent service to the Commission.

Commissioner Adams reported that Marin County was a sponsor in the National Association of Counties Climate Change Resolution that passed. She added that ABAG met with MTC and Bay Area Air Quality District regarding visioning and the next steps.

EXECUTIVE OFFICER'S REPORT

11. **Progress Reports:**

The Executive Officer reported that the Ross Valley Sphere of Influence Study would be ready for Commission review on the April agenda.

ADJOURNMENT

M/S Slavitz - Adams to adjourn.

Approved unanimously.

The meeting was adjourned at 9:55 p.m. The next regular LAFCO meeting was scheduled for Thursday, April 12, 2007.

Respectfully submitted,

PETER V. BANNING, Executive Officer

ATTEST:

JEFFRY BLANCHFIELD, Chair