

## MINUTES - MARIN LOCAL AGENCY FORMATION COMMISSION

On September 11, 2008, 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  
Judy Arnold  
Einar Asbo  
Jeffry Blanchfield  
Carla Condon (7:08)  
Barbara Heller  
Dennis J. Rodoni

Commissioners Absent: Charles McGlashan  
Jeff Slavitz

Alternate Commissioners  
Present: Christopher Burdick (7:22)  
Fred Hannahs

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

1. Public Comment - None.

### CONSENT CALENDAR ITEM(S)

2. Regular Meeting Minutes - July 10, 2008
3. Financial Reports - July and August 2008
4. Annexation of the Lands of Diaz to Novato Sanitary District (File #1295)  
Annexation of .3 acres located on Virginia Avenue to the Novato Sanitary District.

M/S Adams - Arnold to approve the consent calendar.

Chair Blanchfield abstained from the Minutes.

Approved unanimously.

**CONTINUED PUBLIC HEARING(S)****5. Annexation of the Lands of Hamilton Main Gate Area to Novato Sanitary District (File 1293):**

The Executive Officer reported that this proposal had been continued from the May meeting to allow the Sanitary District time to draft terms and conditions that would ensure the District's access for maintenance and improvements to existing private sewer facilities within the annexing area. Since that time, Novato Sanitary District has determined that attaching terms and conditions to the proposed annexation will not be necessary. Staff recommended approving the application as submitted.

M/S Adams – Arnold to close the public hearing.

Approved unanimously.

M/S Arnold – Adams to approve Resolution 08-04 approving the Annexation of the Lands of Hamilton Main Gate to Novato Sanitary District (File #1292).

Approved unanimously.

**PUBLIC HEARING(S)****6. Marin Resource Conservation District Service Review and Sphere of Influence Update:**

Staff added to the written report a brief history on the origin of the Resource Conservation Districts and their connection to federal conservation programs. Staff stated the Marin Resource Conservation District (MRCD) has been providing service in a constructive and consistent manner, enabling west Marin agricultural landowners to access federal and state funding for local conservation projects. Staff proposed that the sphere of influence for the District be continued as a coterminous sphere of influence since there does not appear to be any significant advantage to expanding the District's jurisdiction. Staff recommended that the Commission open the public hearing at this meeting to receive testimony on the report and then continue the public hearing to the November 13, 2008 Commission meeting to allow time for any additional comment.

Commissioner Rodoni requested the use of an additional color on the maps to clearly identify the areas not in the Sphere of Influence for the District.

Commissioners Heller and Asbo inquired as to why certain areas were not included in the boundary. The Executive Officer invited the district manager of MRCD, Nancy Scolari to elaborate.

Chair Blanchfield opened the hearing for public comment.

- Ms. Nancy Scolari, District Manager MRCD: Ms. Scolari responded that it was unclear why those areas were not included in the District, however if anyone in that area requested assistance the district would accommodate them.

Commissioner Adams noted that it was her understanding that properties in east San Rafael, such as Silveira property, were not in the MRCD. Ms. Scolari responded that she was unfamiliar with that, but that perhaps it was the Natural Resources Conservation Service which is the Federal nexus that sometimes excludes areas in eastern Marin.

The Executive Officer will research any advantage to including areas not already in the district's boundary in west Marin into the sphere of influence and report any findings to the Commission.

No other public comment was received.

## **BUSINESS ITEM(S)**

### **7. Policy Amendments:**

The Executive Officer reported that the staff was continuing to review the Commission's adopted policies, procedures and guidelines. Staff proposed that the Commission consider adding policies for the withdrawal of a proposal by the applicant(s) and an indemnification of LAFCO against legal expense arising from the processing of proposals. This item had been continued due to problem areas of the proposed policy on withdrawal of proposals as well additional suggestions made by Commissioner Burdick on the proposed indemnification policy.

Staff reported that the areas of concern on the proposed policy on withdrawal of proposals had been resolved as there was no inconsistency with the provisions in the Cortese-Knox Hertzberg Act.

Staff recommended that the Commission adopt these new policies as outlined in the staff report (including changes proposed by Commissioner Burdick) or provide additional direction to staff.

M/S Adams - Arnold to approve the policy amendments as outlined in the Executive Officer's staff report.

Approved unanimously.

8. **Cost of Living Adjustment to Staff Salaries:**

Staff reported that the budget for FY 2008-09 adopted May 8, 2008 allowed for a maximum 4% cost of living increase. The Board of Supervisors approved a 3% increase for non-represented employees along with a biweekly fringe benefit package increase. Based on the Commission's Policies, Procedures and Guidelines, staff recommended a 3% cost-of-living adjustment effective July 13, 2008 as well as a biweekly fringe benefit package increase to staff salaries to maintain comparability to the County of Marin staff compensation.

Commissioner Rodoni requested a review of the budget to ensure the fringe benefit increase would not result in LAFCO going over budget for FY 2008-09.

M/S Adams - Arnold to approve a 3% cost of living increase comparable to the County of Marin staff positions and an increase to the biweekly fringe benefit package to \$370 + 2%.

Approved unanimously.

**COMMISSIONERS' REPORTS**

Commissioners offered no reports.

**EXECUTIVE OFFICER'S REPORT**

9. **Progress Reports:**

The Executive Officer added to his written report on the following projects:

- CALAFCO: No Marin LAFCO commissioners or staff attended this year's Annual CALAFCO conference that was held September 3-5, 2008 in Orange County. The conference materials will be posted on the CALAFCO website within the next few weeks.

- Tomales Community Services District Sphere of Influence Update: The study has been completed. Staff has been working with a consultant to perform environmental review of an extended sphere of influence for the District. The \$16,000 allocated for the environmental review will not be sufficient due to potentially growth inducing impacts of the expanded sphere of influence alternative under new provisions of the Countywide Plan. Staff will be arranging meetings with the Tomales Village Community Sanitary District staff, development interests in the area and County planning staff to explore ways in which all might cooperate to complete the necessary review.
- Sanitary Agency of Southern Marin (SASM): The Executive Officer gave a background on the Sewerage Agency of Southern Marin (SASM), LAFCO studies of SASM and its member agencies and actions of the Regional Water Quality Control Board (RWQCB) penalizing SASM for recent sewage spills. In 2004-2005 Marin LAFCO produced a study recommending the consolidation of sewer agencies in southern Marin that would result in significant cost savings. Since the adoption of the interim spheres of influence for SASM member agencies, few steps have been taken to implement functional consolidation of the agencies and achievement of potential cost savings.

Staff reported that since the January sewage spills there has been continuous media coverage, inquiries by local officials and a proposed \$1.6 million fine by the RWQCB. The RWQCB will receive and evaluate SASM's proposals for Supplemental Environmental Projects (SEPs). The RWQCB will accept or reject these proposals and give reasons, but will not propose what SEPs would be appropriate. Staff noted that LAFCO policy favored consolidation of agencies providing the same service in the same geographical area. Staff recommended that the Commission consider asserting its policies to the agencies involved and identified the following alternatives:

- a) The Commission could take no action at this juncture;
- b) The Commission could write letters to the SASM agencies and to the RWQCB urging SASM and its member agencies to commit significant resources under the SEP mechanism to develop organizational reforms;
- c) LAFCO could work with the media to improve the public's understanding of LAFCO's role in this situation;

- d) Staff could attend the SASM meetings as well as each of its six member agencies to reiterate its policies and research findings on public record, particularly including the Mill Valley City Council, which is the agency most subject to costs from the spill and best equipped to lead a consolidation effort.

At this point staff requested direction from the Commission on how to proceed.

Chair Blanchfield stated that this was an opportunity to have staff work closely with the RWQCB regarding the efficiencies that could be gained by consolidation since the RWQCB was there to help in cases like this.

Commissioner Asbo stated that political consolidation would not be helpful at this time. The agencies should be given more time to work together before considering political consolidation to allow an easier transition. SASM and Homestead Valley Sanitary District (HVSD) have jointly sent a letter to the EPA urging that SEPs be oriented toward locating and repairing the source of inflow and infiltration in collection systems.

Commissioner Rodoni commented that he felt it was inappropriate for the Commission to take a stand other than to state the facts as outlined in the Commission's studies. It was important not to confuse the issue since the cause of the spill was not the fault of the districts' boards of directors or the infrastructure, but a result of faulty pipes and human error and therefore should be treated as such. Commissioner Rodoni suggested that one alternative could be for SASM to become a special district with its own Board of Directors which would in turn achieve some of the goals LAFCO had recommended in the southern Marin study. In addition, he recommended this item to be on LAFCO's next meeting agenda for further discussion and review.

Commissioner Adams said that it had been three years since the release of the study and there has been little effort by the agencies to work together on consolidation. The sewage spill created a health and environmental issue that needs to be addressed. Commissioner Adams encouraged public outreach to allow for further discussion and proposed writing a letter to the various agencies involved addressing the opportunities for use of the fines in a construction manner. Commissioner Adams suggested that staff attend the various meetings, work with local officials to avoid having the state legislature getting involved and add this item to next meeting's agenda.

Commissioner Rodoni reiterated that the letter should be based on the content of the Commission's southern Marin study.

Commissioners Arnold and Heller agreed with Commissioners Adams and Rodoni to add this item to the next meeting's agenda.

Commissioner Burdick also agreed with adding this item to the next agenda and suggested at the very least to write a letter to the RWQCB.

Commissioner Hannahs stated that staff hit the nail on the head with its recommendations and agreed with Commissioner Rodoni's suggestion that SASM becoming a special district was one way to make progress.

Chair Blanchfield summarized the discussion by stating that this item would be added to the next meeting's agenda to allow for more public outreach. In the meantime staff would write a letter to the various agencies pointing out the facts and opportunities available, attend agency meetings and work closely with Assemblyman Huffman's office.

Commissioner Burdick asked for the deadline for LAFCO to respond to the RWQCB's action. Staff responded the deadline for written testimony would be October 10<sup>th</sup> or 15<sup>th</sup>. Chair Blanchfield concluded that the correspondence being addressed to RQWC Board would need to be sent prior to the October deadline and it would be based on LAFCO's role and capabilities in this matter. The Executive Officer clarified that staff would draft a letter relating LAFCO's role and responsibilities based on history and facts from the study.

- Sue Brown, Resident of San Anselmo and Board of Director for Ross Valley Sanitary District: Ms. Brown questioned the rationale for directing the letter only to the Regional Water Quality Control Board. Chair Blanchfield responded, suggesting that original letters would also be addressed to the various agencies directly involved.

Commissioner Heller requested the dates scheduled for the SASM and the RQWCB meetings be sent to the Commissioners.

- Granicus System for the San Rafael City Council Chambers: Staff reported that planning for the Granicus system's installation in the Council Chambers of the City of San Rafael was still in the beginning stages. Staff has been informed that donations by other agencies that would utilize the system to help alleviate the initial costs would be welcomed. Staff recommended this item be agendaized for further discussion on the budget for fiscal year 2009-10.

**ADJOURNMENT**

M/S Adams - Arnold to adjourn.

Approved unanimously.

The meeting was adjourned at 8:43 p.m. The next regular LAFCO meeting was scheduled for Thursday, October 9, 2008.

Respectfully submitted,

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PETER V. BANNING, Executive Officer

ATTEST:

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JEFFRY BLANCHFIELD, Chair