

MINUTES - MARIN LOCAL AGENCY FORMATION COMMISSION

On December 13, 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 7:11 p.m.

ROLL CALL

Commissioners Present: Susan Adams
Einar Asbo
Jeffrey Blanchfield
Barbara Heller
Charles McGlashan
Dennis J. Rodoni
Jeff Slavitz

Alternate Commissioners
Present but not seated: Christopher Burdick
Carla Condon

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

1. **Public Comment** - None.

As suggested by Commissioner Rodoni, Chair Blanchfield moved agenda item #8, Legislative Report, to be heard after agenda item #12 and the Executive Officer's performance was postponed until the Commissioner's Strategic Planning Workshop in February.

NOTICE OF APPLICATION (Information Only)

2. New application(s) have been received for the following proposals:
 - Reorganization of the Lands of Thompson & Brooks Including Annexation to Richardson Bay Sanitary District and Detachment from Sanitary District #5 (Tiburon) (File #1291)

ACTION OR POSSIBLE ACTION ITEMS

CONSENT CALENDAR ITEM(S)

3. **Regular Meeting Minutes - October 11, 2007**
4. **Financial Reports - October and November 2007**
5. **Annexation of the Lands of Ten Eyck & Keegan to Novato Sanitary District (File #1275):** Annexation of 7.4 acres located on Seventh Street between Carmel Drive and Ike Court.
6. **Annexation of the Lands of Pater to Novato Sanitary District (File #1289):** Annexation of .72 acres located on Tamalpais Avenue south of Center Road and east of Highway 101.
7. **Annexation of the Lands of Israel to Tiburon Sanitary District #5 (File #1290):** Annexation of .66 acres located northwesterly from the Town of Tiburon on Paradise Drive.

M/S Slavitz - McGlashan to approve the consent calendar.

Commissioner Heller abstained from voting on the Minutes.

Approved unanimously.

PUBLIC HEARING(S)

9. **Annexation of the Lands of San Rafael Marina LLC to San Rafael Sanitation District (File #1288):**

The Executive Officer summarized the staff report and recommendation. The proposal was submitted by petition of the property owner requesting annexation to the San Rafael Sanitation District for a 33.95-acre parcel located at the San Rafael Marina at Loch Lomond. The annexation area is a part of a larger project involving the redevelopment of the existing San Rafael Marina. Six of the 81 residential units approved by the City would be located in the affected area. The Executive Officer stated that the District was able to extend service to the area and had consented to the proposal in writing. The City of San Rafael had certified an EIR for the project and LAFCO would act as a responsible agency under CEQA.

Staff recommended approval, including actions related to the environmental document as outlined in the resolution.

Chair Blanchfield opened the hearing for public testimony. Receiving no request for comments, called for a motion to close the public hearing.

M/S Heller – Adams to close the public hearing and approve the Annexation of the Lands of San Rafael Marina LLC to the San Rafael Sanitation District.

Approved unanimously.

CONTINUED PUBLIC HEARING(S)

10. **Reorganization of the Lands of Von der Werth et al Including Annexation to City of Mill Valley and Detachment from Homestead Valley Sanitary and Southern Marin Fire Protection Districts (File #1287):**

The Executive Officer summarized the staff report and recommendation. This proposal was submitted by two property owners for the annexation of approximately 5 acres to the City of Mill Valley and the detachment of the same area from Southern Marin Fire Protection District, Homestead Valley and Almonte Sanitary districts. The area is located on Miller Avenue, immediately south of its intersection with Reed Street. Staff reported that the Commission had opened the public hearing on October 11th and continued the item, directing staff to further research the need for an easement to provide maintenance access for a sewer main under parcel 048-134-27 (Davis parcel) and the advantage of annexing a portion or all of the Davis parcel to the City of Mill Valley.

The supplemental staff report recommended that the Commission approve the proposal as submitted, which includes the lower portion of APN 048-134-27 and that the applicants should not be required to obtain a maintenance easement on behalf of Homestead Valley Sanitary District.

The Executive Officer noted that staff recently received two requests to continue the public hearing and one request for the Commission to take action at tonight's meeting. Staff stated that to further continue this public hearing would exceed the 70-day maximum for continuance of public hearings in the Cortese-Knox-Hertzberg Act and the Commission's adopted policies. The Executive Officer reported that staff had checked with Counsel and even though there was some uncertainty, the Commission had the authority to continue the hearing. Staff proposed that under the circumstances there were four alternatives that the Commission could consider; the Commission could deny the proposal without prejudice, approve the proposal as submitted, continue the public hearing to the next regular meeting or amend the boundaries of the proposal area to exclude Mr. Von der Werth's parcel.

As requested by the Commission, the Executive Officer went over the specific code sections of the Cortese-Knox-Hertzberg (CKH) Act regarding continuation of a public hearing. The Commission discussed the legal ramifications of further continuance of the public hearing. Some Commissioners reiterated the Commission's

policy and the CKH Act indicated that a continuation of the public hearing was not advisable.

The Commission discussed the alternative of approving the reorganization amending the proposal boundary to exclude Mr. Von der Werth's parcel. The Executive Officer explained the protest procedure for proposals that do not have 100% consent of the property owners.

Chair Blanchfield opened the hearing for public testimony.

- Mr. Joel Coopersmith, landowner and applicant – Mr. Coopersmith requested that the Commission not continue the item. He stated that this project had been in development for over 4 years and was finally ready for annexation to the City of Mill Valley. Mr. Coopersmith requested that if the Commission decided to amend the proposal he would like parcels 048-134-60, 048-134-06, 048-134-23 & 048-134-52 be annexed to the City of Mill Valley at this time.
- Mr. David Block, resident of Homestead Valley – Mr. Block stated that he felt the application should not proceed because of the six-month moratorium on the Miller Avenue Specific Plan. He stated that the Commission's own Policies, Procedures and Guidelines do not authorize the Commission to split the proposal and that the item should be continued for further review.

Commissioner Slavitz questioned the effect of the moratorium on the approval of this proposal. The Executive Officer stated that the moratorium had no bearing on approval of this application as it was pre-zoned under the existing ordinances of the City of Mill Valley. Staff also clarified that the Commission does have clear authority to amend the boundary of the submitted proposal. Commissioner McGlashan noted that the City of Mill Valley had already evaluated the proposal and indicated the ability to provide services to the area.

- Mr. Al Von der Werth, Applicant – Mr. Von der Werth requested the item be continued for 30 or 60 days to allow time for him to work out some developmental matters with the City of Mill Valley. Mr. Von der Werth stated that if the Commission decided to amend the submitted proposal boundary that he would request the Commission exclude only his parcels 048-071-39 and 048-071-39 so that he may re-apply at a later date.

M/S Adams/Rodoni to close the public hearing.

Approved unanimously.

Commissioner McGlashan asked if the City Planning Commission and City Council of Mill Valley controlled the land use decision given the County's policy to refer development proposals to cities where annexation is feasible. Commissioner McGlashan also questioned what option Mr. Von der Werth had if the proposal was approved as submitted. Staff affirmed that if an applicant in unincorporated territory applied for a development permit, that it was the County's policy to refer applicants to the logical adjacent city for annexation and development processing in that city. Staff then responded that if the proposal was approved as submitted. Mr. Von der Werth could protest his own proposal and attempt to remain in the County's jurisdiction. Staff stated that it requires protest by the owners of 50% of the assessed value of the land being annexed to terminate the application. Mr. Von der Werth owns 29% of the total assessed value of land and would need others to join his protest.

Commissioner Slavitz questioned if Mr. Von der Werth was successful in terminating the proposal would there be a delay for re-applying. Staff responded that per the Commission's policy that anyone involved with this proposal would not be eligible to apply again for annexation for a year.

Commissioners discussed the alternatives of approving the original proposal boundary or amending the boundary excluding parcels 048-134-38 and 39.

M/S McGlashan - Adams to amend boundary of the proposed annexation to include parcels 048-134-01, 048-134-60, 048-134-06, 048-134-23 & 048-134-52.

Commissioner Rodoni commented that the motion was against LAFCO policy to create orderly boundaries and the application should be considered as submitted.

Vote was taken by roll call:

AYES: Commissioners Adams, McGlashan and Slavitz

NOES: Commissioners Asbo, Blanchfield, Heller and Rodoni

Motion failed (3/4).

M/S Heller - Rodoni to approve Resolution 07-30, Reorganization of the Lands of Von der Werth et al Including Annexation to the City of Mill Valley and Detachment from Homestead Valley Sanitary District, Almonte Sanitary District and County Service Area #14 (proposal boundary as submitted).

Commissioner McGlashan asked if Commissioner Heller, as maker of the motion, would consider revising the motion to include a continuation to February. Commissioner Heller responded that she would not revise the motion.

Vote was taken by roll call:

AYES: Commissioners Adams, Blanchfield, Heller, Rodoni, Slavitz

NOES: Commissioners Asbo, McGlashan

Motion passed (5/2)

11. **Muir Beach Area Service Review and Sphere of Influence Update:**

Staff summarized that the public hearing for this item has been continued from the October meeting and no comments had been received.

M/S - Adams - Slavitz to close the public hearing.

Approved unanimously.

M/S Adams - Asbo to approve Resolution 07-31, Adoption of Determinations for the Muir Beach Area Service Review and Resolution 07-32, Resolution Amending the Sphere of Influence of the Muir Beach Community Services District.

Approved unanimously.

12. **Periodic Review: Novato Area Spheres of Influence:**

Staff reported that at the October 11, 2007 meeting, the Commission opened the public hearing for an initial review of spheres of influence of the City of Novato, Novato Sanitary District, Novato Fire Protection District, the Novato service area of North Marin Water District and Bel Marin Keys Community Services Districts that were adopted in 2002. Staff recommended that the sphere of influence for the Bel Marin Keys Community Services District be restudied to examine need to amend the Sphere of Influence to include property purchased by Bel Marin Keys Community Services District and used for public services provided by the District. As no significant changes have occurred to the other agencies in the Novato study area, staff recommended re-affirming the spheres of influence for the City of Novato, Novato Sanitary District, Novato Fire Protection and North Marin Water District without change.

Chair Blanchfield opened the hearing for public testimony. Receiving no request for comments, called for a motion to close the public hearing.

M/S Adams - Asbo to close the public hearing.

Approved unanimously.

M/S McGlashan - Slavitz to approve Resolution 07-33, Resolution Reaffirming the Sphere of Influence for the City of Novato, Resolution 07-34, Resolution Reaffirming the Sphere of Influence for the Novato Sanitary District, Resolution 07-35, Resolution Reaffirming the Sphere of Influence for the North Marin Water District (Novato service area), Resolution 07-36 Resolution Reaffirming the Sphere of Influence of the Novato Fire Protection District.

Approved unanimously.

BUSINESS ITEM(S)

8. Legislative Committee Report:

Staff provided an update on the status of legislative proposals AB 745, SB 162, AB 1262 that are of significance to Marin LAFCO.

COMMISSIONERS' REPORTS

None.

EXECUTIVE OFFICER'S REPORT

13. Progress Reports:

Commissioner Rodoni inquired what the meeting on October 22, 2007 was regarding. The Executive Officer responded that the meeting with Gary Giacomini, Mary McEachron of Hanson Bridget LLC was regarding the Martha Company property on the Tiburon Peninsula.

ADJOURNMENT

M/S Heller - Slavitz to adjourn.

Approved unanimously.

The meeting was adjourned at 8:47 p.m. The next regular LAFCO meeting was scheduled for Thursday, January 10, 2008.

Respectfully submitted,

PETER V. BANNING, Executive Officer

ATTEST:

JEFFRY BLANCHFIELD, Chair