

MINUTES - MARIN LOCAL AGENCY FORMATION COMMISSION

On April 13, 2006, the regular meeting of the Marin Local Agency Formation Commission was held at the San Rafael Council Chambers, 1400 Fifth Avenue in San Rafael. Vice-Chair Heller called the meeting to order at 7:04 p.m.

ROLL CALL

Commissioners Present: Susan Adams
Einar Asbo
Christopher Burdick
Carla Condon
Barbara Heller
Dennis J. Rodoni

Commissioners Absent: Jeffry Blanchfield
Charles McGlashan
Jeff Slavitz

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

1. **Public Comment** - None

CONSENT CALENDAR ITEM(S)

2. **Meeting Minutes - March 9, 2006**
3. **Financial Report - March 2006**

M/S Rodoni - Asbo to approve the consent calendar.

Approved unanimously.

PUBLIC HEARING(S)

4. **San Rafael Service Area Review and Sphere of Influence Update:**

Vice Chair Heller opened the public hearing and then called on the Executive Officer for his presentation.

The Executive Officer stated that as part of the Commission's program of updating spheres of influence for all Marin Cities and special districts, the draft report for the San Rafael Area Service Review and Sphere of Influence Update was published at the end of January. Staff noted that the present study area consisted of the City of San Rafael, the Las Gallinas Valley Sanitary District, Marinwood Community Services District, San Rafael Sanitation District and six county service areas governed by the County Board of Supervisors.

The Executive Officer stated that Government Code Section 56430 required LAFCO to perform service reviews prior to updating spheres of influence to better inform the Commission's sphere of influence decisions. The service review process included the adoption of findings in nine areas. Those nine areas include infrastructure needs or deficiencies; growth and population projections for the affected area; financing constraints and opportunities; cost avoidance opportunities; opportunities for rate restructuring; opportunities for shared facilities; government structure options, including advantages and disadvantages of consolidation or reorganization of service providers; evaluation of management efficiencies; and local accountability and governance.

The Executive Officer also noted that there were four factors that the Commission must consider when making sphere of influence determinations. Those factors were the present and planned land uses in the area, including agricultural and open-space lands; the present and probable need for public facilities and services in the area; the present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide; and the existence of any social or economic communities of interest in the area if the commission determines that they are relevant.

Staff pointed out that the report's sphere of influence recommendations were similar to previous recommendations for the cities of Novato, Mill Valley, Sausalito and Tiburon. Staff noted that the Commission had consistently acted to remove areas from city spheres of influence in cases where application of the four factors had led to the conclusion that the physical relationships, service capabilities, adopted general plans or other factors make the annexation of territory to a city so problematic that the definition of sphere of influence could no longer be logically applied.

The Executive Officer reported that in this study, staff had made recommendations for the amendment of the San Rafael sphere of influence that would retain seven different unincorporated areas and exclude three areas along the City's northern boundary. The conclusions to retain the seven different unincorporated areas were based on observations that these areas depended on City services already. These seven areas were partly or completely surrounded by the City's present boundaries; derived access partly or completely from City streets; shared common drainage or other land features with City areas; were isolated from other unincorporated territory and were difficult for the County to serve efficiently; could be logically and conveniently

served by the City; required or were likely to require urban services; and were planned to include or already included water and sewer facilities.

The Executive Officer reported that the three areas recommended to be excluded from the northern boundary of the City's sphere were the areas of Lucas Valley, Marinwood and St. Vincent's/Silveira. These areas did not reflect the probable physical boundary and service area of the City because they contain large tracts of open space that will not require City services; they were excluded from the City's general plan area (St. Vincent's/Silveira); alternative providers of urban services were available; had street access independent of City streets or were without access to City streets or; areas that were not surrounded or did not share common drainage or other landforms with incorporated areas of the City.

For the San Rafael Sanitation District, staff recommended that the District's sphere be amended to include the Sun Valley area, which is in the City's sphere and where the city and the county are currently considering appropriate jurisdiction for additional development. The site is currently connected to the District's sewer main. Staff recommended continued exclusion of the San Rafael Quarry as no plans for re-use of the site have been made and the availability of transportation facilities to support urban development on the site has not been established.

For the Las Gallinas Valley Sanitary District Staff recommended that the San Rafael Ridge/Sleepy Hollow-Terra Linda Divide open space area be removed from the District's sphere of influence based on the lack of demand for future sewer service.

For the Marinwood Community Services District, staff recommended that the District's sphere of influence be amended to include the portion of the St. Vincent's/Silveira area most likely to develop, the area to the west of the Northwest Pacific Rail line.

For County Service Areas (CSA) #6, #9, #13, #19 and #31, staff recommended that the Commission affirm without change the existing spheres of influence, those spheres of influence being coterminous with the present CSA boundaries. For CSA #18, staff recommended that the sphere of influence be amended to exclude incorporated territory of San Rafael, which does not rely on the facilities or maintenance services of CSA #18 and does not contribute tax revenue to CSA #18.

Staff reported that the proposed sphere of influence amendments were exempt from California Environmental Quality Act (CEQA), as the Commission found in the cases of Novato, Mill Valley, Tiburon and Sausalito where territory was removed from the sphere of influence of a city. Staff noted that there may be some disagreement on whether those proposed sphere of influence amendments were exempt from CEQA, but would consult with counsel and other interested parties involved in the current study.

Staff noted that since the publication of the report, the City of San Rafael passed Measure S sales tax; Marinwood Community Services District and the City of San Rafael continued to negotiate the extension of their agreement to exchange services in Marinwood and northern San Rafael; and the City of San Rafael and the County of Marin also continued negotiations on their nearly expired agreement for the facilities and operation of Fire Station #7.

The Executive Officer reported that LAFCO had received written correspondence from the attorneys for St. Vincent's School for Boys prior to the publication of the report and additional comments were received on April 12, 2006 requesting St. Vincent's/Silveira remain in the San Rafael Sphere of Influence. Written correspondence was also received from the Las Gallinas Valley Sanitary District in February and from the District's counsel on April 12, opposing the removal of land from its boundaries.

The Executive Officer concluded his report recommending that the Commission receive testimony, direct staff to respond to comments and continue the public hearing for 60 days.

Vice-Chair Heller then asked the Commission for questions before receiving testimony from the public.

Commissioner Adams requested clarification that the San Rafael Rock Quarry would remain in the San Rafael sphere of influence under the recommendations of the staff report. The Executive Officer confirmed the recommendation. Commissioner Adams clarified if the unincorporated area of Los Ranchitos would remain in County Service Area (CSA) #18. The Executive Officer responded that the unincorporated area of Los Ranchitos would remain in CSA #18. Commissioner Adams then asked if the area recommended for removal from the Las Gallinas Valley Sanitary District was part of the County Parks and Open Space. The Executive Officer confirmed that recommendation and stated that a Las Gallinas Valley Sanitary District representative would be addressing the Commission regarding this issue.

Commission Burdick inquired if staff had received any input from the Silvera family. Staff responded that LAFCO had not received any formal position from the Silvera family, however their representatives did attend meetings that LAFCO held with the St. Vincent's representatives.

Commissioner Rodoni inquired about the issue of retaining the San Rafael Ridge area in the sphere of influence for the Las Gallinas Valley Sanitary District to provide the recycled wastewater to that area. Staff responded that at the direction of the Commission, that issue can be re-evaluated in light of the District's ability to provide recycled wastewater to the San Rafael Ridge area in the future.

Having no additional comments or question from the Commission, Vice-Chair Heller called for public testimony.

- Mr. David Byers, Las Gallinas Valley Sanitary District – Mr. Byers requested that the San Rafael Ridge area not to be excluded from the sphere of influence for Las Gallinas Valley Sanitary District. Mr. Byers noted the possibility of providing recycled wastewater to the open space area in the future.

Commissioner Adams asked Mr. Byers if any open space was currently being treated with recycled wastewater. Mr. Byers responded that at this time there was not any open space currently being treated but the District was discussing the possibility of that option in the future.

There was brief discussion regarding the ability to export recycled wastewater outside of a district's service area. The Executive Officer was requested to research the legality of a sanitary district exporting recycled wastewater outside the service area and report the findings to the Commission.

- Ms. Nadia Costa, Attorney At Law, Bingham McCutchen, representing the St. Vincent's School for Boys – Ms. Costa stated that St. Vincent's strongly disagreed with staff's position on being exempt from CEQA and firmly requests the St. Vincent/Silveira area remain in the City of San Rafael sphere of influence. Ms. Costa also stated that the School disagreed with staff's report on the position that Marin LAFCO had no choice but to follow the lead of the City to remove St. Vincent's/Silveira area and was obligated to make a decision that facilitates logical growth.

Commissioner Burdick inquired if it was St. Vincent's hope to remain in the City's sphere of influence and in the future possibly annex to the City of San Rafael. Ms. Costa responded that was certainly one of the possibilities.

Commissioner Burdick then asked the Executive Officer about the direction of a hypothetical proposal to gain perspective on the St. Vincent/Silveira's reason to remain in the City of San Rafael sphere of influence. The Executive Officer explained how an unwilling city could deter annexation of territory through the pre-zoning and property tax exchange processes.

- Mr. Mike Marovich, Former Executive Director and current Consultant for St. Vincent's School for Boys - Mr. Marovich stated that since 1855, St. Vincent's had served the need for at-risk and orphaned boys and was the oldest charitable organization in Marin County. The Trustees for the School realized that the land was not

serving the institution as it had in the past, therefore part of the land had to be put to another use. Mr. Marovich reported that the institution had within the last several years participated in Land Use planning with both the City and County of Marin. Mr. Marovich went on to report that the School had formed the St. Vincent's/Silveira Advisory Task Force. The School then used the recommendations from the Task Force to bring forward a land use development proposal. Mr. Marovich reported that at that time, the City of San Rafael was the lead agency and so it was their understanding that the St. Vincent's/Silveira area would remain in the City's sphere of influence.

- Mr. Bob Brown, Community Development Director, City of San Rafael – Mr. Brown stated that in January of 2003 the San Rafael City Council determined it was not practical to annex the St. Vincent's/Silveira property and denied the annexation request. At the time the City Council denied the proposal, the City's Citizens Advisory Task Group was in process of developing a new general plan and had already concluded that the City could not rely on the St. Vincent/Silveira property to meet state-mandated housing requirements by June of 2006. Mr. Brown summed up his comments by stating that the City of San Rafael was in agreement with the staff's recommendation to remove St. Vincent's/Silveira from its sphere of influence.

Commissioner Burdick asked if the City of San Rafael had other objections to the St. Vincent's/Silveira property remaining in the City's sphere of influence other than the housing element. Mr. Brown responded that there were several other infrastructure related issues.

Commissioner Adams commented that to add additional infrastructure to the City was an area of concern. Commissioner Adams also commented that the decision to remove St. Vincent's/Silveira from the sphere of influence of San Rafael did not halt the planning process and could be revisited in 5 years.

Vice Chair Heller inquired if there were any additional comments on the San Rafael Sphere of Influence update and hearing none, continued the hearing to the June 8, 2006 Commission meeting.

COMMISSIONER'S REPORT

Commissioner Adams reported that the Marin Telecommunications Agency was very close to having a cable franchise agreement with Comcast. Commissioner Adams continued that agricultural interests in the central valley had created a platform in the

Agriculture and Natural Resources section of CSAC policies that would allow private interests to buy national parks and forests. Commissioner Adams also reported that the Marin County Board of Supervisors opposed Senate Bill 1800 that would create new housing mandates.

EXECUTIVE OFFICER'S REPORT

5. **Progress Report:**

The Executive Officer had nothing to add to his written report.

ADJOURNMENT

M/S Adams - Burdick to adjourn.

Approved unanimously.

The meeting was adjourned at 8:00 p.m. The next regular LAFCO meeting was scheduled for Thursday, May 11, 2006 at 7:00pm at the San Rafael Council Chambers.

Respectfully submitted,

PETER V. BANNING, Executive Officer

ATTEST:

BARBARA HELLER, Vice-Chair