

## MINUTES - MARIN LOCAL AGENCY FORMATION COMMISSION

On June 8, 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 7:05 p.m.

### ROLL CALL

Commissioners Present: Susan Adams  
Einar Asbo  
Christopher Burdick  
Barbara Heller  
Dennis J. Rodoni  
Jeff Slavitz

Alternate Commissioners  
Present: Carla Condon

Commissioners Absent: Jeffry Blanchfield  
Charles McGlashan

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

1. **Public Comment** - None

### NOTICE OF APPLICATION

2. New applications were received for the following proposals:
  - Annexation of the Lands of Ten Eyck & Keegan to Novato Sanitary District (File #1275)

Commissioner Rodoni requested that an address or parcel number be included as a reference for the notice of application.

### CONSENT CALENDAR ITEM(S)

3. **Regular Meeting Minutes - April 13, 2006 and May 11, 2006**
4. **Financial Report - May 2006**
5. **Annexation of the Hamilton Commissary Triangle to the Novato Sanitary District (File #1273):**

M/S Slavitz - Asbo to approve the Consent Calendar.

Commissioner Slavitz abstained from the April 13, 2006 meeting Minutes.

Approved unanimously.

### **CONTINUED PUBLIC HEARING(S)**

Vice Chair Heller recommended moving agenda item #6 "Merit Increase" and agenda item #7 "Project MERIT" to follow agenda item #8.

M/S Burdick - Rodoni to move the Business Items after agenda item #8.

Approved unanimously.

### **8. San Rafael Area Service Review and Sphere of Influence Update**

Vice Chair Heller called on the public for further testimony.

- Nadia Costa, Bingham & McCutchen, Representing St. Vincent's School for Boys - Ms. Costa stated she appreciated staff's hard work on the study, however strongly disagreed with the recommendation on removing the St. Vincent's/Silveira area from the City of San Rafael sphere of influence. Ms. Costa stated that LAFCO should not ignore CEQA requirements by characterizing the Service Review as a planning study. Ms. Costa stated that LAFCO allowed the City of San Rafael to influence the boundary making process. Ms. Costa summarized by stating that St. Vincent's School for Boys strongly urged LAFCO to perform further review under CEQA before taking action on the sphere of influence for the City of San Rafael.
- Jim Stark, Consulting Planner, St. Vincent's School for Boys - Mr. Stark made a presentation regarding the history as well as issues on the infrastructure and services for the St. Vincent's property and surrounding area. During the presentation Mr. Stark reported that St. Vincent's School for Boys had been a beneficiary of public investment for years starting with the improvement of Highway 101. After that, the Las Gallinas Valley Sanitary District acquired approximately 30% of the St. Vincent's land holdings to establish a wastewater treatment plant that served the areas of N. San Rafael, Terra Linda and Lucas Valley. Mr. Stark reported after Las Gallinas Valley Sanitary District, the Marin Municipal Water District acquired a portion of land for two storage tanks and then

numerous other public investments followed. Mr. Stark went on to report that in addition to the public investments, St. Vincent's had continued investments on its own institutional facilities. The St. Vincent's property included a group home, a school, auditorium and offices; all youth oriented.

Mr. Stark continued that the St. Vincent's property should not be hindered with the desegregation of municipal services and believed the San Rafael municipal solution would be the best solution.

Mr. Stark stated St. Vincent's engaged a fiscal consultant, Economic and Planning Systems (EPS). EPS, despite an incomplete study, reported that the revenue stream and cost demand for services to proposed development at St. Vincent's were expected to be positive for the City.

Mr. Stark disagreed with the written statements characterizing the land as an agriculture resource. He stated that the Williamson Act contracts for St. Vincent's had been terminated decades ago. Mr. Stark stated that the land had been devoted for years to institutional uses, not agriculture.

Mr. Stark addressed the statements regarding the property having the State designation of Farmland of Local Importance. Mr. Stark read the definition for being designated and then noted that the property did not qualify under those terms.

Mr. Stark showed several planning studies that had been completed over the past 40 years citing St. Vincent's as a part of the City of San Rafael's planning efforts.

Mr. Stark concluded that the St. Vincent's School for Boys property should remain in the sphere of influence for the City of San Rafael.

Commissioner Burdick asked the Executive Officer if there had been any input from the Silveira property owners on the issue. Staff replied that there had not been any direct contact.

Commissioner Asbo asked Mr. Stark what would happen in the next five years if the St. Vincent's School for Boys were to be granted their request to remain in the City's sphere. Mr. Stark replied that after the issues regarding the City of San Rafael's General Plan were resolved, then St. Vincent's could go ahead with their plans for future development.

Commissioner Adams inquired about the status of St. Vincent's development proposal with the County of Marin. Mr. Stark replied that St. Vincent's did have a pre-

application proposal in process at the County of Marin. Mr. Stark noted that the pre-application had since been withdrawn.

- Bob Brown, Community Development Director, City of San Rafael – Mr. Brown stated that the City of San Rafael agreed with the staff's recommendation regarding the removal of the St. Vincent's/Silveira property from the City of San Rafael sphere of influence.

Vice Chair Heller after hearing no additional requests for comment or questions from the Commissioners, called on the Executive Officer for his report.

The Executive Officer reported as part of the Cortese Knox Hertzberg Act of 2000 the LAFCO staff released the San Rafael Area Service Review and Sphere of Influence Update report and recommendation on January 31, 2006. The Commission then opened its public hearing at the April meeting and continued it to the June meeting.

As outlined in the report, staff recommended that the areas of Lucas Valley, Marinwood and St. Vincent/Silveira be removed from the City of San Rafael sphere of influence. Staff recommended that the sphere of influence for the Marinwood Community Service District be expanded to include the St. Vincent/Silveira property. The staff report also recommended removal of the San Rafael Ridge Open Space Preserve area from the Las Gallinas Valley Sanitary District sphere of influence and to add the upper Sun Valley area to the sphere of influence for San Rafael Sanitation District. Staff also recommended reaffirming the spheres of influence of all county service areas in the study without change, with the exception of County Service Area #18. Staff recommended the removal of all incorporated territory of the City of San Rafael from the sphere of influence of County Service Area #18.

Staff reported receiving comments from the Las Gallinas Valley Sanitary District requesting that the San Rafael Ridge not be removed from the District's sphere of influence so that the District would be able to supply recycled wastewater to that area in the future. Staff explained that Government Code 56133 stated that a district is exempt from the LAFCO process when providing recycled wastewater outside its boundaries. Therefore removing that area from the sphere of influence of the Las Gallinas Valley Sanitary District would not prevent the District from providing recycled wastewater in the future.

Staff discussed comments received from the City of San Rafael and representatives from St. Vincent's School for Boys. The City's correspondence provided detailed suggestions and corrections on individual facts or statements in the report, but primarily supported staff's recommendation. Staff responded to the City's letter in the tabular format presented in Attachment D of the staff report prepared for the June 8, 2006 meeting.

The correspondence received from St. Vincent's representatives opposed staff's recommendation. The representatives for St. Vincent's argued that LAFCO should be independent and that the City of San Rafael's General Plan should not determine LAFCO's boundary decisions. The letter also stated that LAFCO must comply with CEQA requirements in approving its service reviews and sphere of influence updates. The correspondences stated further that development of the St. Vincent/Silveira area was an infill project that would prevent urban sprawl. St. Vincent's representatives also noted that the City of San Rafael could adequately provide services to the area.

In response, the Executive Officer stated that he agreed that LAFCO must make its decisions independently. The City's general plan had been only one of four factors that LAFCO was required by state law to consider under Government Code Section 56425. The City's housing element and its alleged inadequacies presented in correspondence from St. Vincent's representatives were not among the factors considered by staff. Staff agreed that in many respects, development of the St. Vincent's/Silveira area west of the Northwest Pacific rail line represented infill development.

Staff also agreed that the City of San Rafael could provide services to the area given its ability to require new facilities and provision of additional operating revenue from the developing area. These methods, staff maintained, would not be particularly efficient. The weakness of the City's fire protection service and its dependence on the Marinwood CSD in the northern part of its existing jurisdiction and the lack of surface street connection from the City's existing incorporated area to St. Vincent's would mean that St. Vincent's would have to have its own fire station in a small and isolated service area. Street access from the rest of the City to St. Vincent's would be limited to the use of U.S. Highway 101 only.

Staff also agreed that LAFCO must comply with CEQA, but it was staff's opinion that the recommended actions were exempt from CEQA review under the State CEQA Guidelines. The Executive Officer stated that the recommended sphere of influence actions, if approved, would retain and preserve current conditions, especially the existing land use regulatory authority of the County of Marin over this unincorporated area. Because development of the area did not depend on LAFCO action, did not make changes to the uses to which the land could be put and did not change the geographical area in which local government services were available, staff believed that the Commission's action on the recommendation was exempt from CEQA under Section 15320 of the State CEQA Guidelines and that no further environmental analysis was required.

Staff pointed out several clarifications in the staff report. A second comment letter from the City of San Rafael listed as Attachment E, was from Gary Rhaggianti, the City Attorney, not the City's Planning Director Robert Brown. Staff did not have

adequate time to respond to the letter. Also, in the list of attachments, Attachments F & G were the same as attachments H and I, and were inadvertently duplicated in the list.

M/S Adams - Rodoni to Close the Public Hearing.

Approved unanimously.

M/S Adams - Rodoni to approve the Adoption of Determinations for the San Rafael Area Service Review, Resolution 06-05.

Approved unanimously.

M/S Rodoni - Adams to approve the Resolution Amending the Sphere of Influence for the City of San Rafael, Resolution 06-06.

Approved unanimously.

M /S Adams - Slavitz to approve Resolutions 06-07 through 06-15 on the Spheres of Influence related to Las Gallinas Valley Sanitary District, Marinwood Community Services District, County Service Areas #6, #9, #13, #18, #19, & #31.

Approved unanimously.

## **BUSINESS ITEM(S)**

### **6. Merit Salary Increase**

The Executive Officer reported that the Assistant Planner had received a favorable performance review and recommended a merit salary increase.

M/S Asbo - Slavitz to approve the merit increase for the Assistant Planner.

Approved unanimously.

### **7. Project MERIT**

The Executive Officer reported that the County of Marin would be implementing a new accounting system (SAP) and LAFCO would be required to enter into a contractual agreement prior to July 1, 2006 in order to maintain continued use of their system.

M/S Adams - Asbo to authorize LAFCO staff to enter into a contractual agreement with the County of Marin for the new accounting system.

Approved unanimously.

**COMMISSIONER'S REPORT**

Commissioner Asbo reported that sewer improvements to the Homestead Valley Sanitary District were ahead of schedule and exceeded the scope of the recommendations in the Southern Marin Sewer Service Alternatives Study.

Commissioner Adams reported that the Transportation Authority of Marin had decided against creating an inter-jurisdictional planning committee.

**EXECUTIVE OFFICER'S REPORT**

9. **Progress Report:**

The Executive Officer that the Commission consider canceling July's LAFCO meeting for lack of business.

**ADJOURNMENT**

M/S Adams - Slavtiz to adjourn.

Approved unanimously.

The meeting was adjourned at 7:50 p.m. The next regular LAFCO meeting was tentatively scheduled for Thursday, July 13, 2006 at 7:00pm at the San Rafael Council Chambers.

Respectfully submitted,

---

PETER V. BANNING, Executive Officer

ATTEST:

---

JEFFRY BLANCHFIELD, Chair