

MINUTES – MARIN LOCAL AGENCY FORMATION COMMISSION

On February 8, 2001, the regular meeting was held at the San Rafael Council Chambers, 1400 Fifth Avenue, San Rafael. Chairperson Blanchfield called the meeting to order at 7:36 p.m.

ROLL CALL

Commissioners Present: Jeffrey Blanchfield
Judy Chapman
Pat Eklund
Barbara Heller
John Kress
Cynthia Murray
George Quesada

Alternate Commissioners

Present but not seated: Richard Rubin

Staff present: Peter Banning, Executive Officer
Dory Adams, Clerk to the Commission

Chairperson Blanchfield announced a reordering of the agenda to bring the Executive Officer's Oral Report to the beginning of the meeting to be followed by Commissioner's Reports.

EXECUTIVE OFFICER'S ORAL REPORT

The Executive Officer spoke on these items:

- a) The office has received calls regarding the Special District election process. Mr. Banning explained the process and guidelines. He stated some districts are having difficulty getting the ballot on their agenda to meet the 30-day response deadline. He recommended extending the deadline for an additional 30 days.

The Commission directed the Executive Officer to extend the deadline for 30 days and gave him discretion for further extension if necessary. The Commission requested that the Executive Officer report back at the next meeting on whether the extension met the needs of the Special Districts to participate in the election.

- b) The Executive Officer stated that there had been conversation at the local chapter of the Special Districts Association about a request that may be made for the County to continue to pay the full cost of LAFCO.

COMMISSIONERS' REPORTS

Commissioner Quesada stated that a member of the Special Districts Association, Howard Council, was proposing that the County continue to fully fund LAFCO. He stated it would be convenient, but that he did not feel that the recommendation was consistent with the intent of AB2838 which is for LAFCOs to be funded by those who are represented on the Commission. He checked with legal counsel and found that this alternative is contained in the AB2838 and can be implemented with support of three County Supervisors, the majority by population of the cities, and the majority by population of the special districts.

Chairperson Blanchfield stated he was a guest on the television program "Business in Marin" hosted by Vivian Bronshvag. The program airs on Tuesday nights and this program will appear in April.

Commissioner Rubin reported on items addressed at the CALAFCO Executive Board meeting on January 26th:

- a) Legislation SB-X123 (Soto).
 - b) Clean up of AB2838.
 - c) March 28th Workshop on AB2838.
 - d) Government Code §56430 (requiring service reviews and outlining factors to be considered).
1. **Public Comment** – None
 2. **Notice of Application**

Executive Officer Banning explained the AB2838 requirement to present any submitted applications to the Commission for information only. The following applications were noticed:

Annexation of the Lands of Adams to Novato Sanitary District (File #1194)

Annexation of the Lands of Daniels to Novato Sanitary District (File #1192)

Annexation of the Lands of Burns to the San Rafael Sanitation District (File #1195)

CONSENT CALENDAR ITEM(S)

Commissioner Quesada asked that item 4 be moved from the consent calendar.

3. **Regular Meeting Minutes, December 14, 2000**
5. **Annexation of the Lands of Dickson to San Rafael Sanitation District (File #1185)**
6. **Annexation of the Lands of Lee to San Rafael Sanitation District (File #1186)**

M/S Eklund – Murray to approve the consent calendar.

Approved unanimously.

4. **Financial Report**

Commissioner Quesada questioned the ability to redirection funds to cover budget items which have had unanticipated expenses. Executive Officer Banning explained how the Commission will address these needs within the current budget.

M/S Eklund – Quesada to approve the financial report.

Approved unanimously.

BUSINESS ITEM(S)

7. **Recognition of Service**

Chairperson Blanchfield presented past-Chair David Ware with a Resolution of Commendation for his service to the Commission.

Mr. Ware stated he enjoyed working with the Commissioners. He gave the history of special district representation on the Commission. He credited the Commission for standing firm on policy, maintaining independence, and making objective decisions.

Chairperson Blanchfield also recognized the service of Terry Hennessy with a Resolution of Commendation that will be delivered since she was unable to attend.

8. **Review and Consideration of the Strategic Plan**

Executive Officer Banning referenced the Strategic Plan created at the Commission's workshop held January 31, 2001. He noted that the objectives, assignments of responsibilities and due dates of the plan and stated the bulk of the work for Staff and Commission members are in the months of March and April.

The following subcommittees were established at the workshop:

Sphere of Influence Subcommittee: Barbara Heller (Chair), Cynthia Murray and Richard Rubin

Policy Subcommittee: Judy Chapman (Chair), Jeff Blanchfield and Pat Eklund

Budget Subcommittee: John Kress (Chair), George Quesada and Barbara Heller

Public Information Subcommittee: Pat Eklund (Chair), Cynthia Murray, Richard Rubin, and Jeff Blanchfield

Commissioner Chapman related the mission statement developed at the workshop: *The Marin Local Agency Formation Commission (LAFCO) promotes and coordinates the efficient delivery of local government services and encourages the preservation of open space and agricultural lands.*

Chairperson Blanchfield noted that the Work Plan for FY2000-01 could be impacted by the workload created by the Strategic Plan. He stated that coordination of the tasks from these two plans would be required.

Executive Officer Banning stated that this is the case with the SOI studies. The studies have been delayed to await completion of the Novato Boundary Policy Study. He stated that when the Work Plan was developed for FY2000-01 the Commission was aware that two occurrences could affect it: if AB-2838 passed and if an application for incorporation was filed. AB-2838 has and will affect the Work Plan. He will be getting with the committee members to schedule meetings consistent with the Strategic Plan. He suggested that each committee meets sooner than originally recommended so that their input can be incorporated in developing the next budget.

M/S Quesada – Eklund to adopt the strategic plan and write a letter to Snider & Associates to commend their facilitation of the workshop.

Approved unanimously.

PUBLIC HEARING(S)

9. Report on the Novato Area Boundary Policy Study

Executive Officer Banning introduced the study consultant Terry Watt for her presentation:

The purpose of the study was to examine the dual annexation policy and its relationship to the City of Novato SOI, Novato UGB policy and other policies which govern the provision of municipal services.

In the course of the study, there was recognition that, where there is a sense of failing septic systems in several areas, and where there is a sense that provision of sewer would be a good solution, a great deal more information is needed before making a determination. Ms. Watt stated that no decision would be made at this hearing, more information would be considered, and alternatives will be added. Ms. Watt summarized the contents of the Novato Area Boundary Policy Review published December 1, 2000 and its recommended alternative (Alternative #5).

The study team recommends that the Commission pursue the various actions described under Alternative #5:

- 1) Direct staff to proceed with the review of the spheres of influence in the Novato area.
- 2) Amend the format and content of the Dual Annexation Policy.
- 3) Support a City and County Planning Agreement.

Executive Officer Banning presented the Staff Report on the Novato Area Boundary Policy study. The office has received some limited correspondence in response to the study. The Commission has reviewed applications for the past year on a case-by-case basis in this area as established by the Commission last January. There have been no significant delays in the processing of these applications.

There are two possible ways to consider action on the Dual Annexation Policy: changing of the wording of the policy or changing the graphic area in which the policy is applied. The report addresses both of these issues. Staff makes three recommendations:

- 1) Open the public hearing for 60 days to give the public an opportunity to respond to the report and offer testimony to the Commission. It will also give staff the time needed to respond thoroughly to the City of Novato's extensive comments/suggestions on the report and work with the City to refine and clarify staff's recommendations.
- 2) Direct staff to proceed with the review of spheres of influence for the local agencies in the Novato area. Under the Strategic Plan, the first step is a meeting of the Policy Subcommittee to define a process and a tentative schedule for how the sphere-of-influence studies will be conducted.
- 3) Revise the text of the Dual Annexation Policy. Four problems with the way the policy is currently written:
 - There has not been a clear statement of purpose for the policy.
 - The policy is set up to address conditions of rapid growth twenty years ago. Those conditions have changed.

- The policy and the criteria for exception are an overly rigid system that place unnecessary burdens on applicants.
- By including in the waiver criteria the formal action of a city council, the policy effectively transfers a portion of its authority over boundary matters to an external political body.

Staff recommends that the draft revised policy be referred back to the Policy Subcommittee.

Chairperson Blanchfield opened for public comment:

➤ Jennifer Barrett, Principal Planner for the City of Novato Community Development Agency – The City agrees with Staff about the objectives of the study and that the agencies need to work together to develop a more streamlined solution which will allow solution to health and safety issues but will support the UGB. The City sees difficulty and delay for a solution so have developed a set of recommendations that they feel will uphold the UGB, address the health and safety issues, and will streamline the process of reviewing the sphere and adopting changes.

Their issues of concern about the proposed changes are:

- The changes to the Dual Annexation Policy are inconsistent with Novato's General Plan and the County's General Plan. Reducing the sphere of the Novato Sanitary District down to the UGB insinuates those outside the UGB do not need sewer.
- A change to the Dual Annexation Policy will affect the entire County of Marin. A year and one-half ago a LAFCO request for comments received responses from the majority of agencies in the County who supported the Dual Annexation Policy.
- Changes to the Novato sphere would hamper their ability to address health and safety issues particularly in Indian Valley and Black Point.
- The proposed amendment to the Dual Annexation Policy shifts land use authority.
- The process used by LAFCO for referral bypasses their agency's policy determination which is necessary to their cost recovery system.
- This process also shifts the burden the environmental review, policy analysis, etc. to LAFCO and since LAFCO's fees are not cost recovery, it would increase Novato's apportionment of funding LAFCO. Their suggestion is have the applicant apply to the City of Novato to let their agency make the land use determination which would then be brought to LAFCO with a recommendation.

Ms. Barrett stated they met with the Novato Sanitary District, the County, North Marin Water District, and representatives of Novato to prepare their recommendations. Their recommendation is that the City's sphere of influence should remain as adopted, along with recognition of the communities of Indian Valley and Black Point in their general plan as not intended for annexation to the City and suitable for dual annexation waiver. They recommend that Novato Sanitary District's sphere not be amended. They feel it would cause delay. They do not want an agreement with the County. They consider their process as already effective in coordinating with the County. An agreement with property owners not to oppose future annexation does not seem necessary since they would not plan to force annexation later.

Their recommendations for amendment to the policy, which could be specific to Novato, would be:

- Eliminate the distinction in the policy for contiguous and non-contiguous land to allow waivers for properties that are not contiguous and for areas where the sewer has already been extended beyond the city boundary.
- To permit exception for substantially developed and exempt from CEQA would be eligible for waiver.

Ms. Barrett stated her agency is working on a blanket waiver of dual annexation for Indian Valley and Black Point for an interim solution for health and safety issues in that area. This will be taken to the City Council next month.

- Dietrich Stroeh, CSW/Stuber-Stroeh – He commended staff and consultants on their diligence on the study, but expressed concern for processing of applications with failing septic systems in the interim.
- Hank Barner, Black Point Improvement Club – Their group had a meeting on January 5th and unanimously recommended the report's Alternative #5. He commended the Commission for their efforts with the study. He referred to recent legislation (AB2838) requirement to review SOIs every five years, indicating that a five-year span is an appropriate period for review and amendment instead of the 17-year expense before the UGB allow amendment. He requested that Black Point and Indian Valley be removed from Novato's SOI.
- Bob Abeling, Indian Valley Associates – Mr. Abeling expressed frustration at the delays in completing the study.

➤ Susan Stompe, Marin Conservation League – Ms. Stompe commended the Commission for encouraging public information and public participation in this study. She stated her agency has a response on the study scheduled for their next agenda.

M/S Chapman – Quesada to continue the public hearing for 60 days and to refer the Dual Annexation Policy text to the Policy Subcommittee for additional review.

Approved unanimously.

Chairperson Blanchfield noted that Staff also recommended moving forward on the Novato SOI study. He recommended that CEQA be addressed early so the Commission can act quickly once the study is completed.

M/S Eklund – Murray to refer discussion for setting up the Novato SOI study to the SOI Subcommittee.

Approved unanimously.

The Commission discussed the need to designate funding for performing the SOI study.

M/S Murray – Eklund for Staff and the consultant prepare a scope of work for the Novato SOI study to be presented to the SOI Subcommittee at their next meeting.

Approved unanimously.

10. **Annexation of the Lands of Smiley to Novato Sanitary District (File #1187)**

Executive Officer Banning summarized the Staff Report and Recommendation. Application is for annexation to Novato Sanitary District of 8.92 acres located in unincorporated territory contiguous to the City boundary at Bugeia Lane and Atherton Avenue for the purpose of obtaining sewer for four existing single-family residences. All four parcels are having difficulty with septic systems. City of Novato staff advised that the terms of the City's UGB would support an exception to dual annexation with evidence of the septic problem. Staff recommends approval based on the need for service, immediate availability of service, and lack of benefit for conditioning for city annexation.

Chairperson Blanchfield opened the public hearing:

- Dietrich Stroeh – As representative of the proponents, Mr. Stroeh requested that approval be made without having to be referred through the City's planning department and that the Commission approve Staff's recommendation.

M/S Murray – Eklund to close the public hearing and approve Staff's recommendation.

Approved unanimously.

11. **Annexation of the Lands of Bloom to Novato Sanitary District (File #1189)**

Executive Officer Banning summarized the Staff Report and Recommendation. Application is for annexation to Novato Sanitary District of 1.64 acres located in unincorporated territory contiguous to the City boundary at McClay Road and Center Road for the purpose of extending service to one new single-family dwelling on the site of a previous residence. The County is requiring the owner to annex to the sewer because of proximity to a sewer line. Staff recommends approval since there is no increase in development potential that will occur as a result of extending the sewer; service is immediately available; and the property cannot be annexed to the City due to the conditions of the UGB.

Chairperson Blanchfield opened the public hearing.

Commissioner Murray asked Novato City Planner Jennifer Barrett if the application is consistent with the City's interim policy.

Ms. Barrett stated this is a difficult case in that this parcel is one of those where the sewer has extended outside of the city limit and does not meet any of the criteria for waiver in the UGB, but the UGB did not envision parcels where the sewer was already extended. This parcel would likely be rezoned as a replacement and rezoned for no growth.

M/S Murray – Eklund to close the public hearing and approve Staff's recommendation.

Approved unanimously.

CORRESPONDENCE

12. **CALAFCO Conference**

An announcement was received for a workshop to provide LAFCO commissioners with a comprehensive understanding of policy implications and procedural issues arising from the Cortese-Knox-Hertzberg Act (AB2838) which will be held Wednesday, March 28, 2001, in Sacramento.

ADJOURNMENT

M/S Chapman – Quesada to adjourn the meeting in honor of past-Chair David Ware.

Approved unanimously.

The meeting was adjourned at 10:00 p.m. The next regular LAFCO meeting is scheduled for Thursday, March 8, 2001.

Respectfully submitted,

PETER V. BANNING, Executive Officer

ATTEST:

JEFFRY BLANCHFIELD, Chairperson