

## MINUTES – MARIN LOCAL AGENCY FORMATION COMMISSION

On March 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 7:32 p.m.

### ROLL CALL

Commissioners Present: Mogens Bach  
Jeffry Blanchfield  
Judy Chapman  
Barbara Heller  
Cynthia Murray  
George Quesada

Absent: John Kress

Alternate Commissioners  
Present but not seated: Richard Rubin  
Pat Eklund

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

### ROLL CALL

1. **Public Comment** – None
2. **New City Member**

On behalf of the Commission, Chairman Blanchfield welcomed Mogens Bach as the new City Member Representative to LAFCO recently appointed by the Marin County Council of Mayors.

### **NOTICE OF APPLICATION (Information Only)**

3. Application(s) have been received for district annexation for the following proposals:  
  
Reorganization of Lands of Dominican Sisters to the City of San Rafael and San Rafael Sanitation District (File #1196)  
Annexation of the Lands of Shaw to Sanitary District #5 (Tiburon) (File #1197)  
Annexation of the Lands of Arendell to Novato Sanitary District (File #1198)

**CONSENT CALENDAR ITEM(S)**

4. **Regular Meeting Minutes, February 8, 2001**
5. **Financial Report**
6. **Annexation of the Lands of Cohn to San Rafael Sanitation District (File #1193)**

Commissioner Bach abstained from voting on the minutes.

M/S Murray – Quesada to approve the consent calendar items.

Approved unanimously.

**CONTINUED PUBLIC HEARING(S)**

7. **Novato Area Boundary Policy Study Progress Report**

Commissioner Chapman presented the Policy Subcommittee report on the study. It was the recommendation of the subcommittee that the draft policy alternatives be circulated to the cities and towns for their comments.

Commissioner Murray stated she felt the Commission should make their choice of the alternatives and distribute that information for comments to the cities, districts and public. She felt it was premature to send the alternatives and repeat the process after the Commission made a decision.

Chairman Blanchfield stated it was the position of the subcommittee that the agencies and public should have the full range of information for making public comment to the Commission. The public comment would be considered when the Commission made a determination.

Chairman Blanchfield opened the item for public comment. The following comments were received:

- Pat Eklund, Alternate City Member of LAFCO and Novato City Council Member

Ms. Eklund commented that, although she is on the Policy Subcommittee, she disagreed with the Subcommittee's recommendation, stating LAFCO procedures and draft policies should be reviewed and approved before distribution for comment to other cities. She stated she felt it was standard practice for staff to recommend a policy and the Commission to adopt it as a draft before distribution.

Ms. Eklund referred to a previous distribution of the Dual Annexation Policy when the cities and towns upheld the policy without change or modification. Novato's passage of the Urban Growth Boundary (UGB) created a need to review the Dual Annexation Policy.

She stated that there was a misconception – LAFCO staff is not recommending the Dual Annexation Policy, but instead that “the policy is offered for purposes of discussion and illustration only and is not a staff recommendation” (on Page 9 of the study).

She commented on the study:

- 1) The Dual Annexation Policy protects open space. The City of Novato has recommended only minor modifications to the policy. Change or elimination of the policy would weaken the UGB ordinance.
- 2) LAFCO's approach to processing proposals in the Novato area is hindering the City's efforts on the UGB as well as landowners in the unincorporated area by sending mixed messages. LAFCO staff is telling landowners not to come to the City for waiver of the Dual Annexation Policy. She gave an example of an unincorporated parcel that could have 18 units with sewer, but septic systems would limit to 6 units. The developer is willing to sign a deed restriction for a limit of 6 units, but would not be required to do so by LAFCO staff, therefore future owners could subdivide.

Last, she stated multiple distributions for comments were an additional cost that would affect LAFCO's funding which is now divided among the cities and special districts as well as the County.

➤ Jennifer Barrett, City of Novato Planner

Ms. Barrett stated that the Dual Annexation Policy is a countywide policy and should not be amended on the basis of situations which occur predominantly with Novato's UGB. She stated the City attributes most of the success of the UGB to the support of the Dual Annexation Policy and limiting the extension of sewer mains. She recommended a cautious approach to a change in the policy with more research on the impact to all areas. She felt studies made for Novato were not reviewed by the remainder of the cities since it did not pertain to their area.

➤ Susan Stompe, Marin Conservation League (MCL)

Ms. Stompe congratulated the Commission on their study. The public workshops were conducted well and had good attendance. She stated MCL has been following the study closely and concurs with LAFCO staff recommendation for Alternative 5. After passage of the UGB ordinance, policy conflicts complicated the extension of sewer service which has been a problem for landowners and for LAFCO. MCL stated the jurisdictions

should form an agreement to provide service to affected areas while addressing growth concerns to build confidence and consistency with the process. The major conflict between Alternative 5 and City of Novato's request is in the Gness field area. MCL recommends changing land use designations for that area. Ms. Stompe stated that the County has agreed to uphold the UGB for Novato areas therefore reducing the Novato SOI would be an effective alternative.

➤ Bob Abeling, Indian Valley Associates

Mr. Abeling supported the suggestion that a separate policy be adopted for the Novato area.

➤ Dietrich Stroeh, CSW/Stuber-Stroeh Engineering

Mr. Stroeh asked that Commission commence with their decision in the most expedient way since many landowners are already impacted by prolonging the process.

M/S Chapman – Heller for the draft Dual Annexation Policy as presented in the Novato Area Boundary Policy Study with the alternatives be sent to cities, towns and special districts for review.

AYES: Commissioners Bach, Blanchfield, Chapman, Heller, and Quesada

NOES: Commissioner Murray

ABSTAIN: None

Motion passed 5/1. The draft will be distributed with a request for response within 30 days.

This item is continued for the April 12, 2001 meeting.

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

8. **Reorganization of Novato Heights including Annexation to the City of Novato and Novato Sanitary District (File #1191)**

Executive Officer Peter Banning summarized the staff report and recommendation. The application is for reorganization of approximately 135 acres consisting of 86 developed parcels in the Novato Heights area. The proposal includes annexation of eight of the parcels to the City of Novato and all of the parcels to the Novato Sanitary District. The District has adopted a resolution of application and has acted as lead agency approving a negative declaration of environmental impact for the project. The District has acted at the request of an organization of affected property owners who have pursued the project for over two

years. The City has amended its general plan and zoning ordinance to accommodate the portion of the project area to be annexed to the City of Novato.

The District's resolution of application requests that the Commission approve the proposal and attach a condition that the reorganization not be completed prior to the successful formation of an assessment district or procurement of other means of financing to pay for the project improvements. The formation of an assessment district would be undertaken by the applicant, Novato Sanitary District. The District has obtained bond counsel to guide the proceedings. The total cost of the project is approximately \$1,700,000 (about \$20,000 per parcel) not including individual sewer laterals.

Staff recommended that the Commission approve the proposal subject to the requirement of a successful formation of the assessment district or other means of financing improvements and that the applicant provide a revised map and legal description that meet with the standards of the State Board of Equalization.

Chairperson Blanchfield opened the item for public comment.

➤ John Chioto, Property Owner of 458 Ridge Road – Asked for approval by the Commission. He stated that the property owners in the area are not interested in growth but in access to adequate disposal of sewage.

➤ Dietrich Stroeh, CSW/Stuber-Stroeh – As the engineer for the project, he pointed out the health and safety issues in the area. He stated that the homeowners group was working with the State to obtain grant money for the project.

Chairperson Blanchfield questioned Mr. Stroeh's mention of failing septics whereas the report of the County Environmental Health Division's report is that there is no record of failing systems. Mr. Stroeh stated that the majority of the parcels are already in the City, therefore would not be under the jurisdiction of County departments. Also, the City has no record of failing septics; however an assessment of the systems was performed and found most were aging and in various stages of failure.

➤ Joy Fillman, Representative of the Novato Heights Homeowners Group – She stated this is an anti-growth area and avoided sewer hookup previously because it could be growth-inducing. The homeowners are in crisis or they would have not allowed research that could have led the City to come in and red tag their homes.

M/S Murray – Blanchfield to close public comment.

Approved unanimously.

M/S Murray – Quesada to approve the staff recommendation.

Approved unanimously.

9. **Proposed Policy: Policy and Procedure for Protest Hearings**

A component in AB2838/Hertzberg is the shift of responsibility for conducting protest hearings to the LAFCO (ref. Gov. Code §57000). Anytime LAFCO approves a proposal with less than 100% written consent of the property owners, a protest hearing is required. Previously these hearings were held by an affected city, district or occasionally the County Board of Supervisors. The protest hearing is conducted primarily to receive submittal of protest petition by landowners or registered voters residing in the affected area. It is a ministerial procedure only. The Commission may either hold these hearings as a part of the regularly scheduled meeting or delegate the responsibility to LAFCO staff. In Marin County, this type of hearing only occurs a few times per year. Staff recommended that the Commission delegate the protest hearing procedures to LAFCO staff, to be held at the LAFCO offices and that resolutions to adopt results of the hearings be placed on the agenda for the Commission's next regular meeting.

M/S Quesada – Murray to accept staff recommendation.

Approved unanimously.

10. **Proposed Policy: Disclosure of Contributions and Lobbying Activity**

Government Code §56300(c), as amended by AB2838/Hertzberg, requires that the Commission hold a hearing by March 31, 2001 to consider the need for development of policy for disclosure of contributions and lobbying activity. Executive Officer Peter Banning gave examples of the benefit of such a policy in other counties. He stated Marin County is not subject to conditions which would justify development of this policy.

Chairperson Blanchfield opened public hearing. No comments were received.

M/S Bach – Murray to close the public hearing.

Approved unanimously.

Commissioner Chapman noted current legislation already requires that the Commission disclose any contributions over \$250, thus there is already a mechanism in place to address the need for disclosure.

The Commission determined that a policy for disclosure of contributions and lobbying activity would not be required at this time.

**OTHER BUSINESS ITEM(S)****11. Orientation Program for New Commissioners**

As directed by the Commission at the 2001 Strategic Planning Workshop, the Executive Officer presented a plan for orientation of new Commissioners. The Commission reviewed the materials and made suggestions for additions to the list of topics.

**12. FY 2001-2 Work Plan**

The Executive Officer presented a draft Work Plan for FY 2001-2 including goals and objectives identified at the 2001 Strategic Planning Workshop. Staff recommended that the subcommittees provide further input and direction into the development of the work plan in meeting the Strategic Work Plan goals and objectives, and for budgeting for the coming year.

**13. Status of Progress on the Strategic Plan**

The Commission reviewed and commented on the monitoring charts for the Strategic Work Plan. The Executive Officer noted goals reached and subcommittee meetings scheduled.

**14. Contract for Services**

The Executive Officer presented a scope of services to be included in a contract for \$10,000 with Terrell Watt to provide consulting services for the Novato Area Sphere of Influence Study. The time of service will be through July 1, 2001. Staff recommendation was that the Commission authorize staff to execute a contract with Ms. Watt.

M/S Quesada – Chapman to approve staff recommendation.

Approved unanimously.

**CORRESPONDENCE****15. CALAFCO Workshop: Reinventing LAFCO**

Registration materials were distributed for a workshop on implementation of AB2838 to be held March 28, 2001 in Sacramento. A count was made of those who wished to attend and arrangements made for group transportation.

Commission Rubin gave preliminary details of the workshop agenda.

## **COMMISSIONERS' REPORTS**

Commissioner Rubin reported on legislative items addressed at the CALAFCO Executive Board meeting. He stated there would be cleanup legislation proposed for AB2838.

## **EXECUTIVE OFFICER'S ORAL REPORT**

The Executive Officer spoke on these items:

- a) The Commission Clerk Dory Adams was the program chair of the CALAFCO Clerks Conference held in San Francisco during February.
- b) The special district mail-ballot election for the seat vacated by David Ware is still open to receive ballots until the end of this month. Another election needs to be held as Commissioner Chapman's term ends in May. An alternative to the mail ballot process is by a selection committee similar to the process used to select city members. Mr. Banning suggested that the selection committee method could be held in conjunction with the forum on LAFCO budget to be held in late April. He stated an additional 90 days to complete a mail ballot for the second election would not be as effective and would be confusing.

Commissioner Chapman stated that she saw an advantage to a meeting of the selection commission as a tool for open discussion.

Commissioner Murray recommended that a procedure be set and used consistently. Mr. Banning stated he thought it should be a documented procedure in the Commission's Adopted Rules and Regulations.

Dennis Rodoni of North Marin Water District, as a candidate in the special district member election, spoke to the Commission with concern for fairness using a selection committee and requested a requirement for attendance of a majority of the districts. Mr. Banning stated a quorum consisting of a majority is required by law.

Mr. Banning outlined the process to be used at a selection committee election for the Commission's consideration. The Commission is not required to attend. LAFCO staff conducts the meeting as impartial conveners. The Commission directed LAFCO staff to proceed with election by selection committee.

Chairperson Blanchfield asked Mr. Rodoni if the process described would be acceptable to the special districts. Mr. Rodoni stated on behalf of the Special Districts Association that the selection committee process would be acceptable.

- c) The alternate public member term also ends in May. LAFCO staff has initiated the procedure for appointing or re-appointing that seat.

**ADJOURNMENT**

M/S Quesada – Bach to adjourn the meeting.

Approved unanimously.

The meeting was adjourned at 9:28 p.m. The next regular LAFCO meeting is scheduled for Thursday, April 12, 2001.

Respectfully submitted,

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PETER V. BANNING, Executive Officer

ATTEST:

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JEFFRY BLANCHFIELD, Chairperson