

MINUTES – MARIN LOCAL AGENCY FORMATION COMMISSION

March 9, 2000: The regular meeting was held at the San Rafael Council Chambers, 1400 Fifth Avenue, San Rafael.

Commissioners Present: Jeffrey Blanchfield
Judy Chapman
Barbara Heller (in at 7:45)
Terry Hennessy
Cynthia Murray
John Kress
David J. Ware

Alternate Commissioners
Present (Not Seated): Pat Eklund
George C. Quesada
Richard Rubin

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

Chairperson Blanchfield called the meeting to order at 7:35 p.m.

ROLL CALL

1. Public Comment

Pali Cooper, *[address removed by request of speaker]*, spoke in protest of the Commission action of February 10, 2000, affecting that property. She stated notice was not co-addressed to her and was not received in time for her or co-owner Jeanne Rizzo to attend the February meeting. She responded to Commission questions regarding her reasons against the annexation to the Town of Tiburon: they own other property nearby which would remain in the County area and they do not regularly use Tiburon services. Ms. Cooper stated she had been advised by the Executive Officer Peter Banning that there is a \$600 fee associated with requesting a reconsideration and that she and Ms. Rizzo object to the fee.

Executive Officer Peter Banning stated the Commission action referenced by Ms. Cooper was Paradise Drive Reorganization #10 [LAFCO File #1161] heard last month. He stated the recourse of the affected property owners was to request reconsideration of the decision. This could be accomplished by notifying LAFCO in writing which part of the resolution they wanted reconsidered and there is a \$600 fee for reconsideration. Although this criteria is not included in the fee waiver/reduction policy, waiver is at the discretion of the Commission once the request for reconsideration has been made.

The Commission asked the Executive Officer about legal noticing requirements for multiple ownership and determined the proposal had been properly noticed. Also, the Executive Officer had met with Ms. Rizzo in December. Staff had mailed an agenda and a "Staff Report and Recommendation" on February 4, 2000.

The Executive Officer responded to a Commission question that he had discussed the requirements of the island issue with Ms. Rizzo and Ms. Cooper. Commissioner Ware pointed out that pending legislation could soon mandate the annexation the property owners were protesting.

CONSENT CALENDAR ITEM(S)

2. ***Special Meeting Minutes – Program Planning Workshop, January 31, 2000**
3. ***Regular Meeting Minutes, February 10, 2000**
4. ***Financial Report**

Commissioner Chapman noted a correction in the minutes.

M/S Murray – Ware to approve the consent calendar with corrections.

Commissioner Hennessy abstained on the January 31, 2000 minutes.

Approved unanimously.

PUBLIC HEARINGS

5. **Reconsideration of Trumbull Avenue Annexation 1999-2 to Novato Sanitary District (File #1166)**

The Executive Officer summarized the staff report. At the January meeting, the Commission approved the annexation of the property to the Novato Sanitary District with the condition that the property owners apply for annexation to the City of Novato prior to the completion of the district annexation. The steps that they would need to complete to fulfill this condition would be to apply to the City of Novato for rezoning (a prerequisite for application to LAFCO for city annexation) and application to LAFCO for annexation to the City of Novato. The condition is met when the applications are complete and cannot be withdrawn.

The reconsideration request submitted by the applicants was to remove the condition requiring city annexation. The request was based on the burdensome nature of city requirements for amendment to the urban growth. The applicants also alleged that the City staff refused to accept their application for rezoning.

LAFCO staff was concerned with potential cost and delay of the rezoning process for the purpose of examining feasibility of a septic system given the urgent need to resolve the existing sanitary problems on the site. City staff advised that they have been and are ready to accept an application for rezoning and that the applicants now have all information necessary to submit an application for UGB amendment.

Staff recommended that the Commission move to disapprove the request for reconsideration and specify by motion that the existing policy which allows applicants to withdraw a proposal at any time prior to Commission action will not apply to the forthcoming city annexation process for this project. Also, the applicants have requested that the fee for reconsideration be waived on the basis of not receiving the attachment to the January staff report. Staff supported the request for waiver of the fee.

Applicants Cathy Locke and James Hodge thanked the Commission for the reconsideration. Ms. Locke stated they had not been able to properly support their position since they did not receive a complete staff report; had received recommendations from both the executive officer and the City of Novato to apply only for single annexation to the sanitary district; and had not heard until the January meeting that there would be a requirement by the City of Novato to determine if the property could support a septic system. Ms. Locke stated that the sanitary engineer hired to evaluate the possibility of a septic system found that runoff from the City of Novato had destroyed their leachfield so sewage would have to be pumped uphill to another area. She stated a recent survey shows that the sewer pipe runs across their property and they do not understand why they would not be able to hook up. Ms. Locke and Mr. Hodge stated they did not trust the City of Novato's intent concerning future building permits or a petition for rezoning. Ms. Locke stated that they have now been cited by the Marin County Environmental Health Department with requirements to correct their sewage situation.

Previous property owner Stuart Porter stated that the applicants had done a great deal of "leg work" prior to purchasing the property and that discussions with the City of Novato and LAFCO staffs prior to the purchase had been favorable to single annexation.

City of Novato Planner Jennifer Barrett gave the City's position on the annexation. She stated that, with regard to waivers, the City has the same policy as LAFCO's dual annexation policy which is based on contiguity. The City does not oppose improvement or development of the property but, with the passage of the UGB Ordinance, the City must look at each individual property and evaluate how it is affected. With a failing septic, an applicant can qualify for UGB amendment and be annexed to the City and the District. She stated this did not become an issue on this proposal until the question arose on whether the property owners could build two units or three units. If they annex to the City, the City's zoning will only allow two units (the current development on the property). County zoning by the County would allow three units, but a septic system would be

expensive and could only support two units. Only by keeping County zoning and hooking up to the sewer could the applicants develop the property with an additional unit. She stated the applicants could annex to the District as soon as the following day after submitting applications for UGB amendment and annexation to the City, and thus solve their problem with the County Environmental department, but would be limited to the two units until they applied to the City for rezoning after annexation to the City.

Commissioner Kress noted that either way – in the County with a septic system or with the City of Novato zoning – the applicants would have two units.

Commissioner Murray asked Ms. Barrett to clarify the need for amendment of the UGB in order to obtain building permits. Ms. Barrett stated that, without UGB amendment, the City could not issue a building permit. Once the applicants have rezoned and annexed to the City, they will be allowed to remodel the two units they currently have or tear down and rebuild up to two units, as long as they observe land use allowances. She described land uses allowed for the property and stated that a document would be given to the applicants outlining this. Ms. Barrett added that two other prospective buyers of the property and the prior owner (Mr. Porter) had been to her office and had the UGB Ordinance explained. The other buyers had chosen not to purchase because they had wanted to develop more extensively.

M/S Kress – Ware that the previous decision be upheld, to include waiver of the fee for reconsideration, and including the stipulation that no withdrawal of the city annexation application will be allowed after submittal.

Approved unanimously.

6. **Annexation of the Lands of Armusewicz to Novato Sanitary District (File #1170)**

The Executive Officer summarized the staff report. The property is located off McClay Road outside the city boundary and is not contiguous to the City of Novato. The property cannot be annexed to the City and has no additional development potential. The applicant is remodeling and the County Community Development Agency (CDA) will not issue permits without sewer hookup. A letter from the County CDA states that septic tank systems are regarded as a temporary approach and sewers are preferable. Existing sewer is immediately available and sewer infrastructure would not be extended to new areas. The proposal is consistent with the District's sphere of influence and exempt from CEQA requirements. City of Novato staff is opposed as mandated by the provisions of the UGB Ordinance. LAFCO staff recommended approval.

Property owner Rick Armusewicz gave a brief history of the sewer connections leading up to the property. He explained how the project met the criteria for LAFCO approval.

City of Novato Planner Jennifer Barrett explained City staff position on how the UGB Ordinance would be interpreted in this situation. She stated the proposal does not meet the health and safety criteria for waiver. The UGB Ordinance does not provide for developed areas that do not challenge the intent of the UGB. Therefore, the City cannot support the annexation even if not directly opposed.

M/S Chapman – Ware to approve the annexation of the Lands of Armusewicz to the Novato Sanitary District.

Approved unanimously.

BUSINESS ITEM(S)

7. Executive Officer Employment Agreement

Chairperson Blanchfield stated that, at the last meeting, the Commission approved modifying the Executive Officer's position from 3/5-time to full-time at the same rate of compensation. It directed the Executive Officer and the Chair to confer with the Marin County Department of Human Resources to identify the annual salary and benefits to be paid the Executive Officer in the full-time position. The Commission also authorized the Chair to sign the amended employment agreement on behalf of the Commission.

The Chair stated that they had contacted the Human Services Department, had previously identified a rate and position that was comparable to existing County civil service positions, and were in agreement with the salary and benefits proposed. He stated he felt it best to confer with the Commission prior to signing the proposed amended agreement in that there were questions at the last meeting as to exactly what the figures would be.

Bob Abeling of 1625 Indian Valley Road, Novato, spoke to the Commission regarding an interpretation of a CALAFCO Executive Officer survey and recommended a lower salary based on Executive Officer compensation in Butte County.

Commissioner Hennessy stated that, with the cost of living in the County of Marin, salaries could not be compared with other counties based on population. Mr. Abeling responded the Executive Officer could supplement his income from LAFCO with other work. Commissioner Hennessy rejoined that the Commission had determined Marin LAFCO requires a full-time Executive Officer at this time.

M/S Kress – Hennessy to authorize the Chairperson to execute the contract.

AYES: Commissioners Blanchfield, Chapman, Hennessy, Kress, Murray and Ware

NOES: Commissioner Heller

Motion passed (6/1).

Commissioner Heller stated that she felt Executive Officer Peter Banning did very good work, but did not think the Commission needed a full-time Executive Officer at this time.

8. **Fee Schedule**

The Executive Officer stated that the Work Program for this year included a review of the adopted Fee Schedule. Staff evaluated the present schedule, compared fees charged by other LAFCOs, and developed a proposed revision. The effort was to simplify the schedule, eliminate inconsistencies, and bring the charges levied for larger acreage proposals more into line with the other LAFCOs.

Staff recommended that the Commission review the proposed Fee Schedule and direct staff to bring back revisions for consideration at a noticed public hearing. Mr. Banning also stated there may be a change in format in the proposed revisions.

CORRESPONDENCE

9. **Novato Area Homeowners Groups**

Agenda materials included letters received from the Black Point Improvement Club and Indian Valley Associates requesting sphere of influence amendments. Also included was a letter sent to Novato area homeowners groups to attend a meeting on March 15, 2000 with the Executive Officer and the Consultants conducting the Novato Area Boundary Policy Study.

COMMISSIONERS' REPORTS

Chairperson Blanchfield informed the Commission that he and the Executive Officer had a meeting with the Civil Grand Jury scheduled for Thursday, March 30, 2000. They planned to brief the Grand Jury on LAFCOs role and responsibilities under the Cortese-Knox Act, the results of the Program Planning Workshop, and the progress made in administrative reorganization. He welcomed attendance of any of the Commissioners who would be available.

[Commissioner Murray left the meeting at 9:20 p.m.]

Chairperson Blanchfield stated staff will be bringing the proposed budget for the next fiscal year to the April meeting. He asked that members contact either the Executive Officer or himself to be on the Budget Subcommittee.

Chairperson Blanchfield also noted that on the May agenda will include selection of the Chairperson and Chairperson Pro Tem for the following year.

Commissioner Ware related upcoming legislation and the issues addressed. He will continue to keep the Commission up to date on these matters.

EXECUTIVE OFFICER'S ORAL REPORT

The Executive Officer reported on these items:

- 1) A lunch meeting has been scheduled for Bay Area LAFCO Executive Officers for March 31st to discuss LAFCO spheres of influence and their interaction with urban growth boundaries.
- 2) A new computer consultant has been retained and the computer problems have been corrected. Computer training for AutoCad has commenced and County staff has been extremely helpful with this.
- 3) The Executive Officer has had discussion with a committee of incorporation proponents in the Strawberry area.

ADJOURNMENT

The next regular LAFCO meeting is scheduled for Thursday, April 13, 2000.

M/S Chapman – Kress to adjourn.

Approved unanimously.

The meeting was adjourned at 9:30 p.m.

Respectfully submitted,

PETER V. BANNING, Executive Officer

ATTEST:

JEFFRY BLANCHFIELD, Chairperson