

MINUTES - MARIN LOCAL AGENCY FORMATION COMMISSION

On May 10, 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 7:35 p.m.

ROLL CALL

Commissioners Present: Mogens Bach
Jeffry Blanchfield
Barbara Heller
John Kress
Cynthia Murray
George Quesada

Absent: Judy Chapman

Alternate Commissioners
Present but not seated: Richard Rubin

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

1. **Public Comment** - None

CONSENT CALENDAR ITEM(S)

2. **Regular Meeting Minutes, April 12, 2001**
3. **Financial Report**
4. **Reorganization of the Lands of Dominican Sisters Including Annexation to the City of San Rafael and San Rafael Sanitation District (File #1196)**

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

Approved unanimously.

PUBLIC HEARING(S)

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

The Executive Officer summarized the Staff Report and Recommendations. The proposal by petition is to annex four residential parcels totaling 11 acres to the Novato Sanitary District. The area is located south of Atherton Avenue near Bugeia Lane. Each of the properties is experiencing some problem with their septic system. The service is

available from the District through its main in Atherton Avenue. The main issue is application of the Commission's dual annexation policy. The property is contiguous to the City of Novato. Rather than the immediate annexation of the property to the City, the property owners may sign an agreement not to oppose future annexation when initiated by the City as has been done with similar parcels. Staff recommendation was approval conditioned on execution of such an agreement by property owners.

The following speakers provided public comment:

- John Adams, Applicant – 723 Atherton, Novato: Mr. Adams stated the City did not support use of agreements, therefore it did not seem appropriate for the applicants of this proposal to be required to do so. In response to a Commission question on why he did not want to annex to the City, Mr. Adams stated that annexation would not even be considered for 17 years and he felt he could not anticipate circumstances so far in the future. Also, he thought the agricultural use of the property would be challenged. He mentioned a recent annexation nearby (Lands of Smiley) did not require an agreement with the City and questioned the need for one in his case.

The Executive Officer responded that, with recent annexations of parcels to the east and west of Lands of Adams, the City surrounds a good portion of their parcels. Also, the Smiley annexation is in the Black Point/Green Point community plan, unlike Lands of Adams.

- Dr. Larry Berman, Atherton Neighborhood Association: Dr. Berman stated that their association normally includes areas that are technically called Black Point, therefore the "community" does not view the Lands of Adams differently from Smiley. He commented that the community is being subjected to high-density development due to the Novato sphere of influence and disputed the validity of including their area in it.
- Valerie Neuhaus, Applicant – 711 Atherton, Novato: Ms. Neuhaus stated she is anxious to get sewer hookup, but does not want to sign an agreement providing for future annexation because she did not want to waive her right to protest annexation.
- Kim Bertotti, Applicant – 717 Atherton, Novato: As owner of horses and other animals, Ms. Bertotti stated she was concerned about losing the rural atmosphere of their area. She suggested that the City create a new zoning classification to allow the agricultural uses that currently exist in their area and then she would more willingly accept the possibility of future annexation to the City.

M/S Murray – Kress to approve the staff recommendation except with the deletion of Section 3A [condition for an agreement signed by the property owner not to oppose future annexation] in the proposed resolution.

AYES: Commissioners Bach, Kress and Murray.

NOES: Commissioners Blanchfield, Heller and Quesada.

The motion did not pass (3/3).

After discussion by the Commission, Commissioner Murray called for reconsideration.

M/S Murray – Bach to reconsider the proposal.

Approved unanimously.

M/S Murray – Kress to repeat the previous motion.

AYES: Commissioners Bach, Heller, Kress and Murray.

NOES: Commissioners Blanchfield and Quesada.

The motion passed (4/2).

6. **Annexation of the Lands of Arendell to Novato Sanitary District (File #1198)**

The Executive Officer summarized the staff report. The property has a failing septic system. Sewer services are available from the sanitary district through the main in Atherton Avenue. It is not possible for the parcel to annex to the City of Novato as it is not contiguous. The issue of the Commission's dual annexation policy applies with this parcel as it did with the previous proposal, Land of Adams. Staff recommends approval with similar conditions requiring a property owner agreement.

The Chairperson called for testimony from the owners of the property:

- Albert Arendell: He stated the property was inherited by his wife. It is a small parcel with a small septic system that is no longer functional. They must connect to sewer or abandon the property. He stated they had no preference regarding the recommended property owner agreement or future annexation to the City of Novato.

Chairperson Blanchfield opened public comment.

- Dr. Larry Berman, Atherton Neighborhood Association: Dr. Berman reiterated that the Association would encourage annexation of the property to the sanitary district, but that there is a strong feeling in the community that they do not want annexation to the City and would disapprove of any property owner being required to relinquish their right to protest future annexation.

M/S Quesada – Bach to close public comment.

Approved unanimously.

M/S Heller – Kress to approve the staff recommendation.

Approved unanimously.

CONTINUED PUBLIC HEARING(S)

7. Report of the Policy Subcommittee:

Policy and Procedure Updates

Chairperson Blanchfield stated that the Policy Subcommittee had met and developed a schedule for updating policies and procedures.

Commissioner Murray stated she was concerned about the schedule for review of SOIs and would not want the review of the Novato SOI delayed to January. The Executive stated that the SOI reviews already in progress such as Novato area and Mill Valley are being conducted based on current legislation and therefore would not be delayed.

Special District Member Selection

Chairperson Blanchfield asked that the Executive Officer describe the status of special district member selections and discuss the development of written policies and procedures for district member selection. Mr. Banning stated that the Special District Selection Committee meeting held on April 25, 2001 did not achieve a quorum, therefore an election could not be held. The Policy Subcommittee acknowledged that the lack of a quorum indicated the impracticality of this method. The Subcommittee also concluded that the Executive Officer should return to the mail-ballot method of selection for future elections after written selection guidelines have been developed and adopted to govern the process.

Mr. Banning indicated that the Marin Special Districts Association has appointed a three-member committee to look at the election procedures and make recommendations.

The Commission directed that a committee consisting of the LAFCO Chairperson, LAFCO Vice-Chairperson, the current special district members on LAFCO and the representatives of the Marin Special District Association be formed to develop guidelines and procedures. The recommendations of this committee would be presented to the Commission at the June meeting for adoption.

Amendment of the Dual Annexation Policy

Chairperson Blanchfield reported for the Policy Subcommittee that the services of the firm of Best, Best & Krieger had been retained to give their legal opinion on various aspects of the existing Dual Annexation Policy. He stated the Commission might wish to consider relaxing the restriction of attorney-client communications and release the opinion to the public.

Comments on the policy were received from the City of Novato, Marin County Board of Supervisors, Las Gallinas Valley Sanitary District, City of San Rafael and Town of Tiburon. The Subcommittee had scheduled two additional meetings to continue to develop recommendations on each of the policy choices presented to the cities and districts for comment. Staff would prepare additional analysis and recommendations on the policy issues for the Policy Subcommittee and for action by LAFCO on June 14, 2001. The Subcommittee recommended continuance of this item until the June 14th meeting.

M/S Quesada – Kress to release the Best, Best & Krieger legal opinion to the public.

Approved unanimously.

8. FY 2001-2 Budget and Fee Schedule

Staff explained that the Commission had adopted a proposed budget at the April meeting to begin the process for review of the LAFCO budget by the public and by contributing public agencies as required by the Cortese-Knox-Hertzberg Act. The Executive Officer reported that copies of the budget were mailed to all affected agencies on April 16, 2001 and, as directed by the Commission's strategic plan, a forum was held on April 25, 2001 for discussion of the budget.

Mr. Banning stated that the questions which arose at the April 25th forum were related to the distribution of costs of LAFCO rather than the content of the proposed budget. The LAFCO office has received no comments or questions in written form.

The Commission discussed written comments received from several special districts regarding alternate procedures for apportionment of the LAFCO budget. Commissioner Heller questioned the practicality of requests from special districts for LAFCO action as the Cortese-Knox-Hertzberg Act states the cities and counties would be required to endorse any alternative apportionments.

Staff recommended the following actions with respect to the budget:

- That the Commission adopt the proposed budget of April 12th with a few minor modifications: 1) social security item was increased by \$1,328 to correct an error in calculation for the increased staff hours for the clerical assistant; and 2) the unemployment insurance item was increased by \$153 to cover an increase in annual charges.
- That the Commission adopt the proposed fee schedule which includes minor amendments to provide time and materials charges for: 1) sphere-of-influence studies that are undertaken at the request of outside parties; and 2) environmental review when LAFCO is lead agency.
- That the Commission direct staff to include provision for independent audit of LAFCO's financial transactions in the proposed budget for fiscal year 2002-03 and biennially thereafter.

M/S Quesada – Bach to approve the actions recommended by staff.

Approved unanimously.

BUSINESS ITEM(S)

9. Selection of Chairperson

Commissioner Quesada stated that he would like Commissioner Blanchfield to continue as Chairperson. He stated he would also like to see the Vice-Chairperson continue in office for another term.

M/S Quesada – Heller to nominate Commissioner Blanchfield for another term as Commission Chairperson.

M/S Quesada – Murray to nominate Commissioner Heller for another term as Commission Vice-Chairperson.

M/S Quesada – Bach to close nominations.

Approved unanimously.

10. **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, changes in deadlines and subcommittee meetings scheduled.

The Executive Officer noted that the goals intended to be accomplished by a public study session planned for the June 14th meeting had largely been achieved by other means. Staff had initiated, publicized and held workshops on LAFCO and the Cortese-Knox-Hertzberg Act on January 23rd and again on April 25th. Mr. Banning had attended meetings of the Planning Directors group, the Marin Special Districts Association, the Marin County Council of Mayors and Councilmembers, and the Marin County Community Development staff meeting for the same purpose of informing about LAFCO and the changes in the law.

Chairperson Blanchfield also related other means in place which fulfill this objective. He stated it would be more effective for the Commission to direct more staff time to sphere-of-influence studies than to continue to work on this strategic planning goal. Commissioner Heller agreed and suggested that the Commission revisit this goal at the next annual strategic planning workshop.

CLOSED SESSION

Commissioner Murray requested that item 11, “Alternate Public Member,” be held in open session and that closed session for item 12, “Performance Review for Executive Officer,” be moved to the end of the meeting. The Chairperson concurred and there were no objections.

11. **Alternate Public Member**

M/S Murray – Quesada that the Commission reappoint Commissioner Rubin to the position of Alternate Public Member.

Approved unanimously.

12. [See note above under section heading for Closed Session.]

13. Correspondence

The Executive Officer summarized information pertaining to correspondence received by the Commission:

- From Gary Ragghianti regarding the SODA property.
- Jointly from Scott Hochstrasser and Gary Ragghianti regarding future annexations to the Town of Tiburon.
- From Planning Director Scott Anderson of the Town of Tiburon regarding the Sorokko property.
- To Fire Chief Kildow of Southern Marin FPD from Chairperson Ron Wooten of CALAFCO, written in response to Chief Kildow's letter regarding changes resulting from AB2838.
- Memorandum from Deputy Superintendent Susan Spain of the Marin County Office of Education to give notice of a registered voter's petition to form a Dixie-Terra Linda Unified School District.

EXECUTIVE OFFICER'S ORAL REPORT

The Executive Officer stated a bill was presented to the State Assembly by Assemblymember Dousher. The bill rearranged how property taxes would be reallocated when boundaries change. That bill has not progressed.

COMMISSIONERS' REPORTS - None**CLOSED SESSION**

[The Commission entered closed session at 9:12 p.m. and reopened at 9:20 p.m.]

12. Performance Review for Executive Officer

After closed session, the Commission reported that this item is continued to June 14, 2001 at 7:00 p.m.

ADJOURNMENT

M/S Kress – Bach to adjourn the meeting.

Approved unanimously.

The meeting was adjourned at 9:22 p.m. The next regular LAFCO meeting is scheduled for Thursday, June 14, 2001.

Respectfully submitted,

PETER V. BANNING, Executive Officer

ATTEST:

JEFFRY BLANCHFIELD, Chairperson