

## MINUTES - MARIN LOCAL AGENCY FORMATION COMMISSION

On June 13, 2002, the regular meeting of the Marin Local Agency Formation Commission was held at the San Rafael Council Chambers, 1400 Fifth Avenue, San Rafael. Commissioner Heller, as Acting Chairperson, called the meeting to order at 7:08 p.m.

### ROLL CALL

Commissioners Present: Judy Chapman  
Barbara Heller  
John Kress  
Cynthia Murray  
Dennis J. Rodoni  
Jeffrey Slavitz

Absent: Jeffry Blanchfield

Alternate Commissioners  
Present but not seated: Pat Eklund

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

1. **Public Comment** - None

### NOTICE OF APPLICATION (Information Only)

2. New application(s) were received for the following proposals:

Annexation of the Lands of Poole to Tiburon Sanitary District (File #1210)  
Annexation of the Lands of Drath to San Rafael Sanitation District (File #1215)  
Reorganization of the Lands of 411 Margarita LP Including Annexations to  
the City of San Rafael and San Rafael Sanitation District (File #1230)

### CONSENT CALENDAR ITEM(S)

3. **Regular Meeting Minutes, May 9, 2002**
4. **Financial Report**
5. **Annexation of the Lands of Berman et al. to Novato Sanitary District (File #1221)**
6. **Annexation of the Lands of West Family Trust to Novato Sanitary District (File #1222)**

M/S Murray - Kress to approve the consent calendar. Commissioner Chapman abstained from voting on the minutes.

Approved unanimously.

**CONTINUED PUBLIC HEARING(S)****7. Novato Sphere-of-Influence Study and Service Review**

M/S Rodoni – Murray to reopen the public hearing.

Approved unanimously.

The Executive Officer stated the Commission had closed the public hearing on the spheres of influence for public agencies in the Novato area at the last meeting and instructed staff to prepare revised alternative resolutions for the spheres of influence of the City of Novato and the Novato Sanitary District. Staff had prepared the alternative sphere of influence resolutions with the difference in each case to be inclusion or deletion of the Gness Field area. In addition, resolutions had been brought back for determinations on the service review portion of the study and spheres of influence for the Novato Fire Protection District, the Novato service area of the North Marin Water District, the Bel Marin Keys Community Services District and County Service Areas #1 and #20.

The following speakers provided comment:

- Rick Fraites of 50 Forrest Road, Novato – Mr. Fraites remarked he could not envision the County conducting a study of Gness Field area without serious discussions with the City, therefore it would not be necessary to retain Gness Field in the Novato sphere of influence for study purposes. He stated the lack of a sewer line to the airport area was not a health or safety issue since there were many ways to dispose of the sewage. Mr. Fraites opined that the intent of pursuing sewer for Gness Field, in conjunction with the possible construction of a highway interchange at Highway 101 and Airport Road, was to allow large-scale development.
- Bob Abeling of 1625 Indian Valley Road, Novato – Mr. Abeling asked for support in removing the Indian Valley area from the City of Novato sphere of influence.
- Jennifer Barrett of the City of Novato Community Development Agency – Ms. Barrett described progress during the course of recent studies toward agreement between the County, City, communities and LAFCO about the City of Novato sphere of influence. She stated removing the Gness Field area from the City sphere of influence would make it more difficult to address airport development issues and recommended leaving the area in the City sphere of influence to allow the City to resolve the issues through the planning process. She expressed concern with the change to the sphere of influence without giving Gness Field property owners notice and that removing Gness Field from the City sphere of influence could require a CEQA determination.

- Susan Stompe of the Marin Conservation League – Ms. Stompe stated four major environmental groups in the County did a general plan presentation of land uses for the communities of Marin and all of the groups agreed that Gness Field was not appropriate for intense development. She stated leaving the Gness Field area in the City and District spheres of influence would increase the probability of intense development. She stated that, if removing Black Point and Indian Valley from the sphere of influence did not require a CEQA evaluation, removal of the Gness Field area should not require such review either.
- Jennifer Barrett [additional comments] – Ms. Barrett added that a fundamental element of the Urban Growth Boundary Initiative was a continuation of the existing 1982 sphere of influence of the City of Novato. She stated changing the City sphere of influence would, in effect, make Urban Growth Boundary policies defunct. She replied to Ms. Stompe’s comment by stating removal of Black Point and Indian Valley from the City sphere of influence did not require a CEQA evaluation since the County already had community plans for those areas.

Commissioner Murray asked Ms. Barrett to confirm that the Urban Growth Boundary ballot also urged the County and the City to perform a joint planning process for the Gness Field area. Ms. Barrett stated this was correct.

Commissioner Kress asked Ms. Barrett to elaborate on how the reduction of the City sphere of influence would make the Urban Growth Boundary ‘defunct’. Ms. Barrett responded that the Urban Growth Boundary policies only applied to the area between the City boundary and the sphere of influence. In eliminating that area, the policy would become non-applicable. Commissioner Murray clarified that the entire Urban Growth Boundary would be not be defunct, only the portion of the Urban Growth Boundary affecting the Gness Field area.

- Bob Abeling [additional comments] – Mr. Abeling read to the Commission the four factors to be considered in establishing a sphere of influence from the Cortese-Knox Act. He stated that the inclusion of the Indian Valley area in the City’s sphere of influence did not meet any of the four factors.

Acting Chairperson Heller asked for comments from the Commission.

Commissioner Murray stated she also did not want to see intense development in the Gness Field area and had understood that a part of the Urban Growth Boundary Initiative was performance of a specific plan study. She stated that she felt the Commission should adopt the resolution that includes the Gness Field area, complete the anticipated studies and revisit these issues in the periodic review of spheres of influence in five years.

Commissioner Slavitz recommended adding language to the resolution to clarify the Commission's intent to remove Gness Field from the City sphere of influence upon completion of the study unless the study indicated.

Commissioner Rodoni stated that he understood that, under certain circumstances under the UGB and for certain uses, the City could annex Gness Field within the next five years. The Executive Officer pointed out that this was technically true, however language in the resolution specifying the Commission's intent to provide only time for study would be considered by the Commission in making determinations.

Commissioner Rodoni asked the Executive Officer to confirm that findings about capacities in the Novato Service Review and Sphere of Influence Study and in the sphere of influence resolutions were based on the Executive Officer's review of documents provided by the agencies. The Executive Officer stated that Staff had researched beyond collection of documents for the purpose of preparing the report and recommendations. Staff would be available for any Commission questions.

Commissioner Chapman stated that, based on the definitions of the terms 'sphere of influence' and 'urban growth boundary', the City sphere of influence should be reduced to the Urban Growth Boundary. She agreed with speaker Rick Fraites that it was not likely that the City of Novato would be left out of any planning studies in the Gness Field area.

Commissioner Murray pointed out that no other counties had city sphere-of-influence boundaries coterminous with an urban growth boundary because an urban growth boundary's function required an outer boundary to signify the area intended for controlled growth. She stated she would like the City to have more cause for interest and to contribute more to the cost of conducting studies in the unincorporated areas such as Gness Field. That interest would be diminished if such areas were taken out of the City sphere of influence.

M/S Murray - Slavitz for adoption of Resolution 02-04A (which included the Gness Field area in the City's sphere of influence) as amended to include additional language in Section 2: "If the planning studies are not conducted by the next sphere-of-influence review, or if the study shows that Gness Field area would not require the services of the City of Novato, it should be removed from the sphere of influence."

AYES: Commissioners Heller, Murray and Slavitz

NOES: Commissioners Chapman, Kress and Rodoni

The motion did not pass (3/3).

The Executive Officer stated he had discussed the possibility of a tie vote with legal counsel and had been advised that normally a tie vote would end action. However, since the law required the Commission to act on the spheres of influence, there should be a motion to continue the hearing to allow the Commission to entertain a resolution at a later time.

Commissioner Kress stated he did not think there was any way that LAFCO could 'invalidate' the urban growth boundary and the Commission should find a solution for acting on what would be the most consistent with the urban growth boundary. He requested that legal counsel be available in the future for to address such questions. He stated that the urban growth boundary indicated desire to preclude municipal development beyond a limit that had been established for a period of 20 years and extending the sphere beyond that limit would indicate a contrary message. He stated that the proposed planning studies in the Gness Field area should determine whether that area should be annexed once the Urban Growth Boundary is no longer in effect.

M/S Kress - Rodoni to adopt Resolution 02-04B excluding the Gness Field area from the City of Novato Sphere of Influence.

AYES: Commissioners Chapman, Kress and Rodoni

NOES: Commissioners Heller, Murray and Slavitz

The motion did not pass (3/3).

M/S Murray - Slavitz to adopt resolution 02-06A which includes the Gness Field area in the Novato Sanitary District as amended to include additional language in Section 2: "If the planning studies are not conducted by the next sphere-of-influence review, or if the study shows that Gness Field area would not require the services of the Novato Sanitary District, it should be removed from the sphere of influence."

Commissioner Kress stated the District sphere of influence should be similar to the City sphere of influence with respect to Gness Field. Commissioner Slavitz stated the Commission should decide about the City sphere of influence before voting on the District sphere of influence with respect to Gness Field. The Executive Officer urged the Commission to be consistent with the spheres of influence. Commissioner Murray did not agree that the spheres of influence should coincide and noted they would not coincide in Black Point or Indian Valley, however she withdrew her motion because of the confusion.

M/S Rodoni – Kress to adopt Resolution 02-06B (which did not include the Gross Field area in the Novato Sanitary District sphere of influence).

AYES: Commissioners Chapman, Kress and Rodoni

NOES: Commissioners Heller, Murray and Slavitz

The motion did not pass (3/3).

M/S Murray – Slavitz to adopt resolutions:

02-05, Adoption of Determinations for the Novato Area Service Review

02-07, Amending the Sphere of Influence of the North Marin Water District (Novato Service Area)

02-08, Amending the Sphere of Influence of the Novato Fire Protection District

02-09, Amending the Sphere of Influence of the Bel Marin Keys Community Services District

02-10, Amending the Sphere of Influence of County Service Area #1

02-11, Amending the Sphere of Influence of County Service Area #20

Approved unanimously.

M/S Rodoni – Chapman that adoption of resolutions for the City of Novato and Novato Sanitary District Spheres of Influence be continued to the next meeting.

Approved unanimously.

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

Approved unanimously.

**PUBLIC HEARING(S)**

8. **Proposed Fee Schedule Amendment**

Acting Chairperson Heller opened the public hearing for the proposed fee schedule amendment. There was no public comment.

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

Approved unanimously.

M/S Murray – Kress to adopt the proposed fee schedule.

Approved unanimously.

9. **Annexation of the Lands of Mazzoleni to Novato Sanitary District (File #1211)**

Acting Chairperson Heller opened the public hearing. There was no public comment.

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

Approved unanimously.

Commissioner Rodoni asked if there had been verification of failure of the septic system. He stated in CSW/Stuber-Stroeh's report, there was a description of the septic system that would have to be installed. Approval of the proposal would be inconsistent with the Commission's policy of only connecting to sewer if a septic system was not feasible.

Dietrich Stroeh of CSW/Stuber-Stroeh responded that the system described in the report would only be installed if the soil would percolate, which was tested and found not to percolate.

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

AYES: Commissioners Chapman, Heller, Kress, Murray and Slavitz

NOES: Commissioner Rodoni

The motion passed (5/1).

Commissioner Rodoni stated he would vote against similar proposals until a clearer policy was in place.

**BUSINESS ITEM(S)**

10. **Appointment of Legal Counsel**

Commissioner Kress stated the rate of \$95/hr for legal counsel was very reasonable.

M/S Kress – Chapman to approve the draft agreement for legal counsel.

Approved unanimously.

**11. Response to Survey on AB2838**

Commissioner Heller stated the Marin LAFCO responses to the survey indicated the Commission was on schedule or ahead of schedule for implementation of AB2838 directives. Commissioner Chapman commended staff for diligence in this effort.

M/S Slavitz - Chapman to approve the draft response to the survey.

Approved unanimously.

**12. Legislative Committee Report**

The Commission briefly discussed two CALAFCO letters to members of the legislature regarding AB2370 (Thomson) and SB1515 (Machado).

**COMMISSIONER REPORTS**

Commissioner Murray alerted the Special District Members that there was discussion in legislative conference on new ERAF contribution requirements for special districts. She stated that the quality of life in Marin County would be affected by this action and recommended for all levels of government to contact their legislators and apprise them of the ramifications. Commissioner Rodoni stated that the original proposal was to take \$45 million from special districts which were multi-county districts. Districts located in only one county would not be affected.

Commissioner Rodoni stated he had attended the California Special Districts round table. At that meeting, he spoke with other special district members from around the state and noted the variety of budget practices for LAFCOs. He requested that the Executive Officer review these methods to compare with Marin LAFCO procedures. The Executive Officer referenced the 2001 CALAFCO Executive Officer Survey as a source for LAFCO administrative information throughout the state.

Commissioner Heller requested an addition to the July agenda of correspondence and information about campaign contributions to LAFCO members.

**EXECUTIVE OFFICER'S REPORT****13. Progress Report**

The Executive Officer introduced new LAFCO staff member Joel Hagedorn and stated he had nothing to add to the written report distributed in the agenda packets.

**ADJOURNMENT**

M/S Chapman - Kress to adjourn.

Approved unanimously.

The meeting was adjourned at 8:25 p.m. The next regular LAFCO meeting was scheduled for Thursday, July 11, 2002.

Respectfully submitted,

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PETER V. BANNING, Executive Officer

ATTEST:

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JEFFRY BLANCHFIELD, Chairperson