

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MINUTES OF MEETING

January 8, 2014

February 12, 2014
Agenda Item 5

Board of Supervisors Chambers
Martinez, CA

1. Chair Federal Glover called the meeting to order at 1:30 p.m.
2. The Pledge of Allegiance was recited.
3. Roll was called. A quorum was present of the following Commissioners:
City Members Rob Schroder and Don Tatzin, and Alternate Tom Butt.
County Members Federal Glover and Mary Piepho, and Alternate Candace Andersen.
Special District Members Michael McGill and Dwight Meadows, and Alternate George Schmidt.
Public Members Don Blubaugh and Alternate Sharon Burke.
Present were Executive Officer Lou Ann Texeira, Legal Counsel Sharon Anderson, LAFCO Planner Nat Taylor, and Clerk Kate Sibley.
4. Approval of the Agenda
Upon motion of Tatzin, second by Piepho, Commissioners unanimously adopted the agenda.
AYES: Blubaugh, Glover, McGill, Meadows, Piepho, Schroder, Tatzin
NOES: none
ABSENT: none
ABSTAIN: none
5. Selection of Chair and Vice Chair
Upon motion of Blubaugh, second by McGill, Commissioners unanimously appointed Commissioner Dwight Meadows as Chair for 2014.
AYES: Blubaugh, Glover, McGill, Meadows, Piepho, Schroder, Tatzin
NOES: none
ABSENT: none
ABSTAIN: none
Upon motion of Piepho, second by Tatzin, Commissioners unanimously appointed Commissioner Rob Schroder as Vice Chair for 2014.
AYES: Blubaugh, Glover, McGill, Meadows, Piepho, Schroder, Tatzin
NOES: none
ABSENT: none
ABSTAIN: none
Commissioner Meadows took his seat as Chair and presented a resolution of appreciation to Commissioner Glover.
6. Public Comments
There were no public comments.

DRAFT

7. Approval of December 11, 2013 Meeting Minutes

Upon motion of Piepho, second by Tatzin, the minutes for the meeting of December 11, 2013 were approved unanimously.

8. LAFCO 13-07 – Annexation 184 to Central Contra Costa Sanitary District (CCCSD)

The Executive Officer reported that, as directed by the Commission, a protest hearing was held on December 18, 2013 to receive written protests from affected landowners regarding the proposal and determine whether a requisite protest exists. No written protests were filed against this annexation; consequently, it is ordered.

Upon motion of Blubaugh, second by McGill, Commissioners unanimously adopted the determination and ordered the reorganization.

AYES: Blubaugh, Glover, McGill, Meadows, Piepho, Schroder, Tatzin

NOES: none

ABSENT: none

ABSTAIN: none

9. LAFCO 13-03 – Rodeo Marina Annexation to Rodeo Sanitary District (RSD)

The Executive Officer provided an overview of a proposal filed by RSD to annex three parcels in unincorporated Rodeo to facilitate the extension of sewer services to the marina area, which houses one residential property and several businesses including a marine engine repair shop, boat storage and a restaurant/bar; a public recreational/trail area (Lone Tree Park) owned by EBRPD; and a narrow strip of land south of the railroad tracks which serves as a parking and staging area for the park. The district does not require connection upon annexation.

The public hearing was opened and, with no public comments, closed.

Upon motion of Glover, second by Piepho, the Commission unanimously certified that it reviewed and considered the information contained in the EIR and CEQA documentation; approved the proposal to be known as Rodeo Marina Annexation to RSD, with specified conditions; determined that the territory being annexed is liable for the continuation of taxes, assessments and charges; found that the subject territory is uninhabited, has less than 100% consent of the affected landowners, is subject to a protest hearing; and authorized staff to conduct the protest proceedings.

AYES: Blubaugh, Glover, McGill, Meadows, Piepho, Schroder, Tatzin

NOES: none

ABSENT: none

ABSTAIN: none

10. LAFCO 07-17 – PG&E Reorganization: Annexations to the City of Antioch and Delta Diablo Sanitation District (DDSD) and Detachments from County Service Areas (CSAs) L-100 and P-6

The Executive Officer provided an overview of a proposal filed by the City of Antioch to annex 481± acres to both the City and DDSD, to provide municipal services to a largely industrial waterfront unincorporated area. This area would be simultaneously detached from CSAs L-100 and P-6. This area is part of the City's Eastern Waterfront Employment Focus Area, is presently over 50% developed, and a portion of the area was previously approved by LAFCO to receive out of agency service predicated on subsequent annexation.

Mayor Wade Harper of the City of Antioch spoke in support of the proposal, stating that it is a great day for the City and thanking all who have been involved in making it happen.

Victor Carniglia confirmed that City staff have reviewed the staff report and agree with all conditions therein. He also confirmed, in response to a question from the Chair, that the Forestar issue has been resolved.

The Chair opened the public hearing.

Scott Jenny, attorney for residents John C. Mitosinka and Carey Mitosinka, spoke in objection to both this proposal and LAFCO 12-07 (NE Antioch Reorganization Area 2B). His clients want a protest procedure and vote on the matter, and Mr. Jenny urged Commissioners to rethink this matter.

Ken Wentworth, resident of unincorporated Antioch, objected to this proposal as well as LAFCO 12-07.

Carey Mitosinka, resident of unincorporated Antioch, objected based on changes he believes will be imposed on his and his neighbors' properties, many of which are agricultural.

Commissioner Piepho pointed out that a letter from the City of Antioch, made available at the meeting, outlines the action the City has taken in conjunction with the reorganization and commits the City to allow all existing agricultural uses to remain in place.

The public hearing was closed.

Upon motion of Glover, second by McGill, Commissioners unanimously certified that it reviewed and considered the information contained in the CEQA documentation; approved the proposal to be known as PG&E Reorganization (Area 1): Annexations to the City of Antioch and DDS and Detachments from CSAs L-100 and P-6, with specified conditions, including that this annexation shall be conditioned on the annexation of Area 2B; determined that the territory being annexed is liable for the continuation of taxes, assessments and charges; found that the subject territory is uninhabited, has less than 100% consent of the affected landowners, is subject to a protest hearing; and authorized staff to conduct the protest proceedings.

AYES: Blubaugh, Glover, McGill, Meadows, Piepho, Schroder, Tatzin

NOES: none

ABSENT: none

ABSTAIN: none

11. LAFCO 12-07 – Northeast Antioch Reorganization (Area 2B): Annexations to the City of Antioch and DDS and Detachments from CSAs L-100 and P-6

The Executive Officer provided an overview of a proposal filed by the City of Antioch to annex 103± acres to both the City and DDS, to provide municipal services to an area that is primarily residential with limited commercial, industrial, and agricultural uses. The City has rezoned Area 2B as a study district, which will grandfather in the existing uses and allow the City to develop a land use category that best fits the area. This area would be simultaneously detached from CSAs L-100 and P-6. Area 2B is characterized as an older residential area, with nearly all of the dwelling units relying on onsite well and septic systems. The County EH Dept reports that few if any of these onsite systems meet minimum separation requirements and other environmental standards. There is a need for municipal sewer and water service to the area.

The City and County have entered into a Joint Powers Agreement for funding future water, sewer, and storm drain infrastructure improvements in Area 2B to enhance the infrastructure in the area and address public health and safety issues. The JPA addresses funding, plan review and building inspection services, and provides details regarding infrastructure improvements.

Staff provided background on the criteria for designating an area an island subject to LAFCO law encouraging annexation of small islands to cities with a streamlined process. This LAFCO's policy concludes that Area 2B meets the criteria set forth in LAFCO law regarding islands, as it is less than 150 acres in size and 93% surrounded by the City of Antioch. Further, that although Area 2B is narrowly connected to Area 1, it meets the criteria contained in the local LAFCO policy in that the land uses, topography, geography, and infrastructure are significantly different in the two areas, and that Area 2B is not an integral or essential part of Area 1.

Commissioner Piepho asked Victor Carniglia, representing the City of Antioch, to explain the City's municipal code in relation to current land uses in Area 2B. Mr. Carniglia replied that the municipal code must be changed to accommodate current uses. Such changes have been formally approved by the City in its rezoning ordinance, which has created a "Study District" specific to this area, allowing it to develop appropriate zoning designation(s) to apply to Area 2B.

In response to another question, Mr. Carniglia reported that Area 2B provides the City with a good opportunity for securing grants supporting infrastructure development, but if grants are not forthcoming, the City will triage and look at a staged plan for sewer and water infrastructure.

The Chair opened the public hearing.

Scott Jenny, attorney for residents John C. Mitosinka and Carey Mitosinka, asked that his former comments be incorporated in this protest. He spoke in objection to both this proposal and LAFCO 07-17 (PG&E Reorganization [Area 1]). His clients want a protest procedure and vote on the matter, and Mr. Jenny urged Commissioners to rethink this matter. He believes this area is not a small island and therefore is subject to protest proceedings.

Commissioner McGill asked Mr. Jenny why he believes this is not an island; Mr. Jenny replied that it is connected to Area 1 and therefore not a small island.

Ken Wentworth spoke in objection to this item. He commented that the City has tried to annex this area before, and LAFCO has always insisted that it be brought to a vote but now it is being treated differently.

Johnny Ray, resident, submitted a letter of protest.

In response to Commissioner Piepho's question, Mayor Harper replied that the zoning terms have been discussed and formally and unanimously approved at the City's August 13 meeting.

Carey Mitosinka, resident, protested this item, and expressed concern that he would like to see in writing that the City will do all it is saying it will do. He was assured that the City's August 13 meeting was an official public record of the City's intent.

Tony Tiscareno, City of Antioch Council Member, stated that the City's meeting minutes are tantamount to their signatures. The Council has made its commitment.

Victor Carniglia reiterated that the points of the document made available at the LAFCO meeting are part of the rezoning ordinance approved August 13. He added that the City cannot and will not do anything to the private streets in Area 2B; they are private property.

Commissioner Piepho asked that the City Zoning Ordinance be made a part of LAFCO's public record for this proposal.

The public hearing was closed.

The Executive Officer pointed out that there are fiscal issues related to Areas 1 and 2B, which is the reason for their being linked. Further, that the City and County requested this condition.

Commissioner Piepho asked that the conditions of approval and the January 6 agreement between the City and the County be included in the record.

The Chair congratulated all parties on bringing this long-term issue forward.

Upon motion of Glover, second by McGill, the Commission unanimously certified that it reviewed and considered the information contained in the environmental documents; approved the proposal to be known as Northeast Antioch Reorganization (Area 2B): Annexations to the City of Antioch and DDS and Detachments from CSAs L-100 and P-6, with specified conditions, including that this annexation shall be conditioned on the annexation of Area 1; determined that the territory being annexed is liable for the continuation of taxes, assessments and charges; found that the subject territory meets the requirements of the small island annexation provisions (GC §56375.3), as it is less than 150 acres and is substantially surrounded by the City of Antioch, that pursuant to Contra Costa LAFCO policies Area 2B constitutes an entire unincorporated island and is not an integral or essential part of a large island; that protest proceedings are hereby waived, and directed staff to complete the proceeding.

AYES: Blubaugh, Glover, McGill, Meadows, Piepho, Schroder, Tatzin

NOES: none

ABSENT: none

ABSTAIN: none

12. LAFCO 09-05 – Annexation 168C to Central Contra Costa Sanitary District (CCCSD)

The Executive Officer provided background on LAFCO 09-05, which was approved in December 2013 as modified to include only four of the original eight parcels presented for annexation.

Based on current LAFCO law and local policies, staff concluded that the Commission's action on CCCSD Annexation 168C is complete. At its discretion, the District may submit a new application to request annexation of some or all of the remaining four parcels. There would be no waiting period because the Commission did not "wholly disapprove" the proposal. At the time it submits a new proposal for some or all of the remaining four parcels, CCCSD could ask the Commission to waive or reduce the LAFCO application fee.

Staff read a statement from CCCSD staff member Russell Leavitt wherein his reading of the position of CCCSD is to wait until the County planning process determines which parcels would need sewer connections.

Commissioner McGill confirmed that this was his assessment of the situation as well.

Upon motion of Piepho, second by Glover, Commissioners unanimously received the report.

AYES: Blubaugh, Glover, McGill, Meadows, Piepho, Schroder, Tatzin

NOES: none

ABSENT: none

ABSTAIN: none

13. Commissioner Comments and Announcements

Commissioner Schroder asked Legal Counsel if the changes in the Brown Act apply to LAFCO as well. Legal Counsel Anderson responded that they do, and that she has worked with staff on reporting requirements.

Commissioner Piepho referred to the letter from Marlynn Taylor Simms, written in response to news of the Northeast Antioch annexation proposals. She asked staff to respond and provide answers to the questions Ms. Simms poses in her letter.

Commissioner Piepho also reminded Commissioners of the upcoming town hall meeting on the Fitch study of Contra Costa County Fire Protection District, and referenced an article in Commissioners' packets about the Discovery Bay Community Services District new recreation center.

Commissioner McGill reported that he will attend the CALAFCO Legislative Committee meeting on January 24.

14. Staff Announcements and Pending Projects

The Executive Officer drew Commissioners' attention to the pending projects list and the CALAFCO updates.

At 2:52 p.m., Commissioners adjourned to Closed Session to discuss employee performance evaluations.

At 3:14 p.m., Commissioners reconvened and the Chair reported that the Commissioners will reconvene in closed session at the end of the February 12 meeting.

The meeting was adjourned at 3:15 p.m.

Final Minutes Approved by the Commission February 12, 2014.

AYES:

NOES:

ABSTAIN:

ABSENT:

By _____
Executive Officer