



Lou Ann Teixeira
 Executive Officer

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January 9, 2019 (Agenda)

Contra Costa Local Agency Formation Commission
 651 Pine Street, Sixth Floor
 Martinez, CA 94553

**Results of Protest Hearing
 Dissolution of Los Medanos Community Healthcare District**

Dear Commissioners:

This report provides the results of the protest hearing held on November 30, 2018.

At a noticed public hearing on September 12, 2018, the Commission approved dissolution of the Los Medanos Community Healthcare District (LMCHD). The District serves the Pittsburg/Bay Point area. The proposal to dissolve the LMCHD was submitted by Contra Costa County.

At a subsequent hearing on November 14, 2018, the Commission considered a request for reconsideration submitted by the LMCHD and disapproved the request for reconsideration. At both the September and November LAFCO hearings, LAFCO received opposition to the dissolution from the District and members of the public, at least some of whom were presumably landowners and/or registered voters within the affected area. Consequently, a protest hearing was required under the law. At the November 14 hearing, the Commission directed LAFCO staff to proceed with the protest hearing.

In accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, LAFCO is the agency that conducts the protest hearing, the purpose of which is to receive written protests from affected landowners and/or registered voters regarding the proposal and determine whether a majority protest exists. With regard to this dissolution, which is inhabited (i.e., contains 12 or more registered voters), the Commission shall take one of the following actions:

- **Order the dissolution** if written protests have been filed by less than 25% of registered voters or landowners owning less than 25% of the assessed value of land within the subject area; or
- **Order the dissolution subject to an election** if at least 25% but less than 50% of voters, or at least 25% of landowners owning 25% or more of the assessed value of land protest; or
- **Terminate the proceedings** if written protests have been filed by a majority of voters in the subject area.

The protest hearing was properly noticed and was held on Friday, November 30, 2018, at 11:00 a.m. at 651 Pine Street, 1st Floor (Board of Supervisors Chambers) in Martinez, CA. The hearing was conducted by the LAFCO Executive Officer, who is delegated the authority to conduct the protest hearing on behalf of the Commission pursuant to the CKH [section 57000(c)] and local LAFCO policy (1.4 Rules and Procedures, subsection G). Approximately 12 people attended the hearing.

Pursuant to Government Code section 57051, any landowner or registered voter within the District may at any time prior to the conclusion of the protest hearing file a written protest against the dissolution. Each protest must state if it is being filed by a registered voter or landowner, be signed by the person submitting the protest, be dated as within the protest period, and indicate the person's place of residence (for voters) or the location of the land (for landowners). Gov't Code §§ 57051, 56704. Gov't Code §56704 requires that all information provided on the protest be affixed by the registered voter or landowner. Signatures without a date or with a date outside of the protest period shall be disregarded for purposes of determining the value of written protests received. Gov't Code § 57051.

Government Code section 57052 provides that upon conclusion of the protest hearing, the Commission determines the value of written protests filed and not withdrawn. Section 56707 provides that if a petition is signed by registered voters (as here, as opposed to landowners), the executive officer shall cause the names of the signers on the petition to be compared with the County Registrar of Voters' files. The process of verifying signatures on protest forms has been deemed ministerial (rather than discretionary). *Friends of Bay Meadows v. City of San Mateo*, 157 Cal. App. 4th 1175, 1187 (2007).

Following the conclusion of the hearing, LAFCO staff submitted to the Contra Costa County Elections Department all written protests LAFCO received for verification by the Elections Department. Pursuant to Section 56707, the County Elections Office's task was to determine the number of registered voters in the affected territory and the number of qualified signers submitting protests. The LAFCO Executive Officer is permitted to delegate the task of signature verification to County elections staff. *Citizens for Responsible Open Space v. San Mateo County Local Agency Formation Commission*, 159 Cal. App. 4th 717, 729 (2008).

Pursuant to applicable case law, the County Elections Office first determined the number of registered voters as of the date of the protest hearing, November 30, 2018. As the *Citizens for Responsible Open Space* court explained in determining the issue of which date to use, "[i]t requires only simple logic to conclude that the denominator and numerator of the fraction should be measured at the same time." *Id.* at 731. In other words, the same date is used for both the number of protests submitted and the number of registered voters, in this case November 30, 2018. The court stated that residents who register to vote during the protest period should be included in the final count of registered voters while, similarly, voters who move away during the protest period should be excluded from the final count. *Id.* The County Elections Office reports that on November

30, 2018, there were 44,049 registered voters within the LMCHD. Therefore, a minimum of 11,013 valid protests are needed to place the question of dissolution before the LMCHD voters.


On January 8, 2019, the County Elections Office provided a letter and protest results breakdown (Attachment 1) summarizing the results of its verification. The letter states that LMCHD submitted a total of 16,635 protests, but that 10,594 were valid protests, meaning that they complied with all applicable requirements. Thus, LAFCO did not receive valid written protests of at least 25% of the registered voters in the subject area. Therefore, an election has not been triggered as a result of the protest procedure, and the dissolution may be immediately ordered by the Commission. The letter also provides details regarding the results of the protest count and reasons for finding the protests invalid (i.e., invalid signature, not registered, out of district, signed more than once, etc.).

County elections staff indicated that each rejected signature went through a three level review process prior to it being considered rejected. Additionally, County elections staff states that there is no statutory authority to challenge its individual determinations. LAFCO staff has not verified or researched this issue.

Pursuant to Government Code Section 57077.1(a), the Commission must order the dissolution of LMCHD without confirmation of the voters because the applicable threshold for holding an election has not been satisfied.

RECOMMENDATIONS – Receive the results of the protest hearing and adopt the attached resolution (Attachment 2) finding that valid protests were not filed by at least 25% of the registered voters in the subject area and ordering the dissolution.

Sincerely,



Lou Ann Teixeira
Executive Officer

c: Distribution List

Attachment 1 – Letter from Contra Costa County Elections with Results of Protest Count
Attachment 2 – LAFCO Resolution Ordering Dissolution of LMCHD

Registration Section
925.335.7800
925.335.7838 fax
voter.services@vote.cccounty.us

Contra Costa County
Clerk-Recorder-Elections Department
555 Escobar Street
Martinez, CA 94553



Joseph E. Canciamilla
County Clerk-Recorder
and Registrar of Voters

Scott O. Konopasek
Assistant County Registrar

Attachment 1

January 8, 2019

Lou Ann Texeira
Executive Officer
LAFCO
651 Pine St
Martinez, CA 94553

Re: Contra Costa LAFCO Dissolution of Los Medanos Community Healthcare District (LMCHD)

Dear Lou Ann,

On November 30, 2018 we received your letter requesting a full count of the petition named above. Upon the completion of the full count the number of valid signatures is 10,594. A detailed breakdown is attached.

The number of registered voters in Los Medanos Community Healthcare District was 44,049 as of November 30, 2018.

If you have any questions please contact Scott Konopasek, Assistant Registrar of Voters of Contra Costa County at Scott.Konopasek@vote.cccounty.us or call 925.335.7808.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Konopasek", written over a light green rectangular background.

Scott Konopasek
Assistant Registrar of Voters

Petition Result Breakdown**LAFCO - Dissolution of Los Medanos Community Healthcare District Protest**

Signatures Checked	16,635	
Signatures Valid	10,594	
Signatures Invalid	6,041	
Approved	10,594	63.7%
Not Registered	3,923	23.6%
Registered at a Different Address	814	4.9%
Out of District	589	3.5%
Signature Does Not Match	432	2.6%
Signed More Than Once (Duplicate)	210	1.3%
Registered Late	47	0.3%
No Signature	21	0.1%
Incomplete	5	0.0%

1/8/2019

Contra Costa County Elections

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

FINDING THERE ARE INSUFFICIENT WRITTEN PROTESTS TO TERMINATE THE PROCEEDINGS OR REQUIRE AN ELECTION RELATING TO DISSOLUTION OF THE LOS MEDANOS COMMUNITY HEALTHCARE DISTRICT (LAFCO 17-13)

WHEREAS, this action is taken pursuant to the Cortese Knox Hertzberg Local Government Reorganization Act (CHK - Government Code §56000 et seq.) and policies of the Contra Costa Local Agency Formation Commission (LAFCO) (hereafter Commission); and

WHEREAS, proceedings for *Dissolution of the Los Medanos Community Healthcare District (LMCHD)* were initiated by resolution of application by the County of Contra Costa and filed with the Executive Officer of the Contra Costa LAFCO on November 14, 2017, proposing dissolution of LMCHD. The LMCHD encompasses the City of Pittsburg, Bay Point and surrounding areas; and

WHEREAS, the County set forth several reasons for the dissolution, as follows: 1) LMCHD has not been a direct provider of healthcare services since declaring bankruptcy in 1994. LMCHD’s administrative costs have been higher than average. 2) The County is the primary provider of healthcare services to low-income persons in the County, including hospital and satellite clinics and a multitude of specialized healthcare services. 3) LMCHD owns the Pittsburg Health Center (PHC) which the County leases; the lease expired on July 31, 2018 and lease negotiations are pending. 4) Since 1998, the County has made capital improvements to the PHC in excess of \$24 million; and

WHEREAS, on September 12, 2018, the Commission adopted Resolution No. 17-13B, making determinations and approving the dissolution subject to certain conditions. A true copy of said resolution is attached hereto and incorporated by this reference, containing the terms and conditions of the Commission’s approval of this proposal; and

WHEREAS, acting on delegated authority from the Commission pursuant to the CKH and local LAFCO policy, the Executive Officer conducted on November 30, 2018, a properly noticed public hearing to receive protests filed against the dissolution and, following conclusion of the hearing, and verification by Contra Costa County Elections, found that there are insufficient protests to terminate the proceeding or to require an election on the matter.

NOW, THEREFORE, BE IT RESOLVED that the dissolution of the Los Medanos Community Healthcare District is hereby ordered subject to the terms and conditions contained within the Commission’s resolution of approval.

PASSED AND ADOPTED THIS 9th day of January 2019, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

CHAIR, CONTRA COSTA LAFCO

I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated.

Dated: January 9, 2019

Lou Ann Texeira, Executive Officer