SUMMARY ACTION MINUTES
ALAMEDA LOCAL AGENCY FORMATION COMMISSION
REGULAR MEETING

Dublin San Ramon Services District Board Room, 7051 Dublin Blvd, Dublin, CA

March 12, 2015

1. **Call to Order and Pledge of Allegiance**
   Chair Sblendorio called the meeting to order at 4:33 p.m. The Pledge of Allegiance was recited.

2. **Roll Call.**
   Roll was called. A quorum was present of the following commissioners:
   - **County Members:** Nate Miley and Scott Haggerty
   - **City Members:** John Marchand and alternate David Haubert
   - **Special District Members:** Ayn Wieskamp, Ralph Johnson and alternate Georgean Vonheeder-Leopold
   - **Public Members:** Sblend Sblendorio and alternate Tom Pico
   - **Not Present:** Jerry Thorne, City Member and Wilma Chan, alternate County Member
   - **Staff present:** Mona Palacios, Executive Officer; Andrew Massey, Legal Counsel; and Sandy Hou, Clerk

3. **Welcome Commissioner David Haubert as Alternate City Member**
   Chair Sblendorio welcomed Commissioner Haubert as the newly appointed alternate City Member.

4. **Public Comment**
   Commission Chair Sblendorio invited members in the audience to address the Commission on any matter not listed on the agenda and within the jurisdiction of the Commission. There were no comments.

5. **Approval/Correction of Minutes – January 15, 2015**
   Upon motion by Commissioner Wieskamp and second by Commissioner Miley, the minutes of the January 15, 2015 regular meeting were approved.
   - **AYES:** 7 (Haggerty, Haubert, Johnson, Marchand, Miley, Sblendorio, Wieskamp)
   - **NOES:** 0
   - **ABSENT:** 1 (Thorne)
   - **ABSTAIN:** 0

*Note: Due to the number of public members wishing to comment on agenda item 8, Chair Sblendorio revised the order of the agenda as noted in the remaining items.*

6. **(Agenda Item #8) Annexation of Castro Valley Canyonlands to the Castro Valley Sanitary District**
   Staff provided summary remarks of the written report regarding this application filed by Alameda County to annex approximately 650 properties (15,641 acres of territory) known as the Castro Valley Canyonlands to the Castro Valley Sanitary District (CVSan) for the purpose of providing solid waste and recycling services.

   **Commission Questions/Remarks:**
   At Commissioner Miley’s request, LAFCo Counsel clarified that LAFCo Commissioners, while attending a LAFCo meeting, represent residents of the County as a whole, and not just their particular agency. Therefore, no conflict of interest exists that would preclude Commissioner Miley (County representative) or Commissioner Johnson (CVSan) from participating in the discussion and voting on this item, as had been requested by a member of the public. Both Commissioners indicated they would not recuse themselves.
At Commissioner Miley’s request, Staff explained the next step in the process if the Commission approved the annexation at today’s meeting would be to hold a publicly noticed protest hearing for the purpose of receiving written protests from affected property owners and registered voters. If protests were received from less than 25% of the registered voters or less than 25% of property owners owning 25% of the land value, the annexation would be ordered without an election, if 25-50% were received then an election would be held. If 50% or more valid protests opposing the annexation were received then LAFCo would terminate the annexation.

Commissioner Miley explained that the County was putting this application forward because it made more sense for a sanitary district to handle solid waste removal and recycling services and he emphasized that CVSan was agreeing to offer the same rates to the newly annexed area as to their current customers through the duration of the current contract which would expire in 2019 and that the District does not have the intention to create two rate tiers after that either.

Roland Williams, General Manager of Castro Valley Sanitary District indicated that was correct. He responded to Commissioner Haggerty’s inquiry regarding the possibility of someone opting out of the services, by stating that the current policy of the District does not allow opting out, but that it does have an exemption policy – but only for garbage, not recycling. He noted the current rate for recycling was less than $10/month.

PUBLIC COMMENTS

The public hearing was opened by Chair Sbendorio, who requested that speakers limit their remarks to two minutes.

- The following people, all Canyonland residents, addressed the Commission:

  - **Bob Feinbaum** spoke in opposition to the annexation proposal, pointing out that he had previously provided a memo to the Commissioners listing eight reasons why they should not support annexation. He added two more reasons in his verbal comments. pointing out that customers are billed for 3 months at a time so rather than paying a $36 monthly bill, they actually pay $110 for a 3-month period (compared to Pleasanton residents paying $86 for a 3-month period) and that because it is much more expensive for the hauler to provide services in the rural areas, it just seems likely that they will want to recoup their costs if they are awarded the contract in 2019 by increasing their charges. He recommended that the Commission continue the item until its May meeting to allow more time to gather further information.
  
  - **Kathy Gil** stated that, although she was not necessarily opposed to annexation, she wished to be able to opt out of the services should the annexation be approved, noting that she had concerns about cost increases after the current hauler’s contract with CVSan ends, and that she, like other residents, has had unsatisfactory experience with Waste Management.
  
  - **Oleg Dubney** spoke in opposition to annexation, noting his dislike of Waste Management and inquired about the Franchise rate for the District (how much of the total does the District receive). Commissioner Johnson clarified it was 10% of $92,000.
  
  - **Darryl Ray** spoke in support of the annexation proposal, but hoped that costs would not go up.
  
  - **Kevin Donahue** spoke in opposition to annexation. Too much government.
  
  - **Dan Davini** spoke in opposition to annexation. He expressed dissatisfaction with Waste Management and indicated there were other possible local haulers willing to provide services in the area. He also believed the Environmental studies were outdated and/or inadequate. He took issue with the recycling component that would have such large trucks traveling on the rural roads. *At the conclusion of Mr. Davini’s comments, Commissioner Miley commented on his remarks concerning other haulers providing services to the residents in the area, noting that if the annexation does not occur, then residents could sign their own agreements with haulers, but that, in his opinion, it would probably prove difficult to find a hauler since providing services on a piecemeal basis would most likely not be financially viable.*
  
  - **Gilbert Peixoto, Katherine Apodaca** and **Susan Christensen**, opposed to annexation, requested that **Bob Feinbaum** speak on their behalf. Mr. Feinbaum again spoke in opposition to the annexation proposal.
• **Chuck Moore** spoke in opposition to annexation, noting the service from the current provider had gone downhill over the past three years and said he would be ok with annexation if it had an opt out clause. He also expressed a concern about traffic on Crow Canyon Road.

• **Donna Day**, a resident on Sunny Slope spoke in support of the annexation for residents living on that street. She noted that she was happy with the services provided until the cost tripled.

• **Bence Gerber** said he was in favor of the annexation, but that Waste Management seemed not to be the ideal organization to provide the services.

• **Carlos Flores** spoke against the annexation, stating that he wants the right to dispose of garbage and do recycling in a manner of his choosing.

• **Katherine Montgomery**, a new resident in Castro Valley, stated that she and her husband are in favor of the annexation. She expressed concern that without the provision of services, illegal dumping would occur.

Chair Sblendorio closed the Public Hearing.

**COMMISSION COMMENTS/DISCUSSION:**

In response to Commissioner Miley’s inquiry about possible consequences should the Commission approve annexation with an “opt out” condition, i.e., an opportunity for residents in the annexed Canyonlands area to choose not to have the services of solid waste &/or recycling pick up, Counsel noted that the hauler (Waste Management) might argue that such a condition would impair its franchise agreement with CVSan and might invite a lawsuit against the County and/or the District. Commissioner Miley expressed his opinion that the County would be in a better position perhaps than the District to settle any lawsuit and that he believed the Commission should go the route of annexation approval with an opt out or exempt condition.

Commissioner Johnson said he believed the CVSan Board would be willing to consider an opt out condition.

Commissioner Wieskamp asked Counsel to address the CEQA concerns expressed by one of the speakers. Counsel explained that as a responsible agency, LAFCo relies on the Negative Declaration prepared by the District in 2009. Under CEQA guidelines, a new study would only be necessary if substantial changes requiring major revisions or new evidence exists that was not known at the time of the original study, and that such a situation does not exist in this circumstance.

Commissioner Haggerty inquired of Commissioner Johnson if it would be possible to make opt out specific to the Canyonlands. Commissioner Johnson responded affirmatively. Commissioner Haggerty expressed agreement with an opt-out condition. Commissioner Johnson noted that CVSan currently has an opt out, or exemption opportunity for its current customers that must be reviewed and renewed annually. He added that the current contract was offered to Waste Management in a competitive process and that the District intends to send the contract out for bid at the time of renewal, so, it is not guaranteed to be renewed with Waste Management.

Chair Sblendorio wondered if the Commission might want to continue this item to a future meeting to give the District time to work out an opt out agreement with Waste Management.

**MOTION**

Commissioner Haubert made a motion, seconded by Commissioner Haggerty, to approve the annexation recommended by staff as Option 1 of the Staff report with an opportunity to opt out in the Canyonlands rural areas. Commissioner Sblendorio restated and clarified the motion to approve the annexation as recommended in Option 1 of the staff report with the condition that the Canyonlands could be excluded subject to opt out or exemption language that must be worked out between the district and the hauler. There was further discussion regarding the purpose of the condition. In response to Commissioner Haggerty’s inquiry about the purpose of the condition, Commissioner Miley noted that the condition would allow individual property owners to decide whether or not they want service and Commissioner Johnson clarified that it would be subject to review by the district. After the discussion, there was general agreement regarding the condition language. Motion passed.
AYES: 7 (Haggerty, Haubert, Johnson, Marchand, Miley, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 1 (Thorne)
ABSTAIN: 0

7. (Agenda Item #10) Proposed Fiscal Year 2015-2016 Budget and Work Plan

Staff presented a summary of the written report, noting that two options were being presented for the Commission to consider, with the difference relating only to staffing and consultant costs. Commissioner Pico, a member of the ad hoc policy committee that had met with and advised Staff about the budget, explained that the committee suggested having the Commission consider increasing staffing (option two) to help ensure the Commission would be able to accomplish its identified goals and objectives.

Upon motion by Commissioner Wieskamp, second by Commissioner Haggerty, the Commission unanimously approved option two of the proposed budget and work plan, directed staff to forward the budget to affected agencies, and directed staff to prepare the Final FY 2015-16 Budget for adoption at the May 14, 2015 meeting.

AYES: 7 (Haggerty, Haubert, Johnson, Marchand, Miley, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 1 (Thorne)
ABSTAIN: 0

Note: Commissioners Haggerty and Haubert left the meeting at the conclusion of the vote approving the budget.

8. (Agenda Item #6) Presentation on County-wide Transportation Services

After introductory remarks by Staff, Arthur L. Dao, Executive Director of the Alameda County Transportation Commission (ACTC), provided an overview of traffic and transportation issues in Alameda County, including how the system meets current and future transportation demands, transportation maintenance plans, the status of interchange improvements for Interstates 580 and 680, and short and long term opportunities and challenges.

Following his presentation, Mr. Dao responded to various comments/questions from the Commissioners regarding the basis of allocating funds, improvements for 580/680 interchange, how ACTC plans fit with Plan Bay Area, and allocating resources for technology.

Staff thanked Mr. Dao and noted that his PowerPoint presentation would be posted on the LAFCo website following today’s meeting.

Note: At Chair Sblendorio’s recommendation, the next two items – item 9 & 10 – were considered by the Commission absent summary remarks from Staff. No one from the public had comments to offer.

9. (Agenda Item #7) Union Sanitary District Patterson Ranch Annexation, U-292

A proposal by the property owner to annex approximately 105 acres to the Union Sanitary District to provide sanitary sewer services to approved development of 500 single family detached homes and commonly owned recreational areas in the City of Fremont.

Upon motion by Commissioner Marchand, second by Commissioner Johnson, the annexation was approved.

AYES: 5 (Johnson, Marchand, Miley, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 2 (Thorne, Haggerty)
ABSTAIN: 0
10. (Agenda Item #9) Union Sanitary District Creekside Landing Annexation, U-290

A request by the applicant for an extension of time to allow the applicant to provide the required map for recordation of the annexation approved by the Commission on March 13, 2014.

Upon motion by Commissioner Johnson, second by Commissioner Marchand, the continuance was approved.

AYES: 5 (Johnson, Marchand, Miley, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 2 (Thorne, Haggerty)
ABSTAIN: 0

11. Adoption of Amended Conflict of Interest Code

Staff noted that LAFCo Counsel had prepared the updated Conflict of Interest Code (COI) that, upon approval by the Commission, would be sent to the County Board of Supervisors. In response to an inquiry from Chair Sblendorio, Counsel explained that the law requires that the County’s Board of Supervisors receive and keep on file updated COI Codes from all agencies operating within that county, including cities and special districts.

Upon motion by Wieskamp, second by Marchand, the Commission approved the updated Conflict of Interest Code and directed Staff to forward it to the County Board of Supervisors.

AYES: 5 (Johnson, Marchand, Miley, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 2 (Thorne, Haggerty)
ABSTAIN: 0

12. Policies and Procedures Update

Staff provided a summary of the written report that detailed the ad hoc committee’s recommended changes to the Commission’s Guidelines Policies and Procedures, including restructuring the guide, modifying the Commission by-laws, adopting additional operating policies, and modifying municipal service review policies.

Staff responded to Chair Sblendorio’s inquiry regarding 4.9 – the establishment of a contingency amount of $50,000 in the Commission’s annual operating budget. She explained the reasoning for establishing a specific numerical amount rather than the current policy of a percentage was arrived at through conversation with the ad hoc committee and the County Auditor. It seemed preferable to budget a specific contingency amount that would be the same each year rather than a percentage that would vary from year to year. Any unused funds would be returned to the funding agencies each year.

Upon motion by Commissioner Marchand and second by Commissioner Johnson, the proposed changes were approved.

AYES: 5 (Johnson, Marchand, Miley, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 2 (Thorne, Haggerty)
ABSTAIN: 0

13. Matters Initiated by Members of the Commission – There were none.

14. Informational Items – Discussion, if any, or further information is noted after the item.

Fairview Fire Protection District: Staff reported that the Commission’s Fairview Fire Protection District (FFPD) Ad Hoc Committee had its initial meeting today just prior to the Commission’s regular meeting to determine a plan for providing guidance to the District regarding the implementation of its Strategic Plan. The District’s new Board President along with another board member attended the committee meeting and
provided an update on the District’s efforts regarding the Strategic Plan. The District will provide the ad hoc committee with quarterly written status reports along with a longer report annually, which they expect to provide this July, possibly at the Commission’s July meeting. Commissione: Vonheeder-Leopold noted that she and Staff will attend the District’s board meeting on March 30th.

a. Application Update
b. Legislative Update
c. Form 700: Due April 1
d. Correspondence – City of Pleasanton, letter dated February 26, 2015 re: Happy Valley

Staff pointed out that a response to this letter had been sent to the City to clarify LAFCo’s condition of approval on the Hall out-of-area service agreement – requiring the city to conduct a comprehensive study concerning the provision of water and sewer services in the unincorporated Happy Valley area. Chair Sbendorio, noting that Commissioner Thorne (absent from today’s meeting) wanted to discuss this matter when he could be present, requested Staff to put the item on the Commission’s May meeting agenda and to invite a representative from the City of Pleasanton to attend and provide an update to the Commission on the status of its comprehensive study.

e. Commissioner with term ending May 2015 – Scott Haggerty

f. 2015 CALAFCO Annual Conference September 2 – 4, 2015 in Sacramento

Staff noted that she and Chair Sbendorio are on the planning committee for the conference, and that new ideas are being considered. She shared that a session was being planned regarding the new State law – Sustainable Groundwater Management Act – and invited Commissioners to share with her any ideas they might think of to include in the session.

18. Adjournment of Regular Meeting

The meeting was adjourned at 6:45 p.m.

18. Next Meeting of the Commission

Thursday, May 14, 2015 at 4:30 p.m.

Respectfully submitted,

Sandy Hou, Commission Clerk

These minutes were approved by the Commission on May 14, 2015.

Attest: Mona Palacios, LAFCo Executive Officer