

SUMMARY ACTION MINUTES
ALAMEDA LOCAL AGENCY FORMATION COMMISSION
REGULAR MEETING

November 14, 2013

1. Call to Order and Pledge of Allegiance

Chair Sblendorio called the meeting to order at 4:30 p.m. The Pledge of Allegiance was recited.

2. Roll Call.

Roll was called. A quorum was present of the following commissioners:

City Members: Tim Sbranti, John Marchand and alternate Jerry Thorne

County Members: Nate Miley and Scott Haggerty (arrived 4:35 during item 5)

Special District Members: Ayn Wieskamp, Ralph Johnson and alternate Georgean Vonheeder-Leopold

Public Members: Sblend Sblendorio and alternate Tom Pico

Not Present: Wilma Chan, alternate County Member

Staff present: Mona Palacios, Executive Officer; Andrew Massey, Legal Counsel; Ineda Adesanya, LAFCo Planner; and Sandy Hou, Clerk

3. Public Comment

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.

Mimi Steel addressed the Commission regarding three observations/requests that she had made at the September 12th meeting that she felt had not been adequately addressed: (1) more widely noticing property owners; (2) a map more clearly delineating the areas in the County being considered for priority conservation areas and what properties are affected; (3) an answer to her question directed to East Bay Regional Park District of how much open space is enough. She further asked what percentage of the total land mass in the County is reserved for open space and suggested that a conversation should be had regarding the implications of open space preservation on the availability of affordable housing.

4. Approval/Correction of Minutes

Upon motion by Commissioner Wieskamp and second by Commissioner Sbranti, the minutes of the regular meeting on September 12, 2013 were approved.

5. Union Sanitary District St. Joseph's Property Annexation, U-291

Staff provided a summary of the written report. Upon motion by Commissioner Miley and second by Commissioner Wieskamp the Commission unanimously approved the annexation in accord with Option 1 of the staff report.

6. **Sphere of Influence (SOI) Update/Municipal Service Review (MSR)** – Fairview Fire Protection District (FFPD) and Eden Township Healthcare District (ETHD)

The Commission agreed with Chair Sblendorio's recommendation to consider this item in two parts, beginning with Fairview Fire Protection District. Staff provided introductory remarks regarding this item, including a brief explanation of the consultant selection process used by LAFCo for the SOI/MSR project.

FAIRVIEW FIRE PROTECTION DISTRICT

Staff provided a summary of the written report, noting that in addition to the zero SOI & dissolution of the District being recommended by the consultant, staff had identified a conditional coterminous SOI option for the Commission to consider and explained the conditions were being suggested to encourage the District to be more transparent and accountable to its constituents by providing evidence to the Commission that the District is actively reviewing its goals and objectives, evaluating its performance, and communicating this information to its constituents. This should be a public process that includes identifying and addressing any constituent concerns. If the District does not have written goals and objectives, the condition would be that the District would provide a timetable and work plan to identify goals and objectives through a public process by June 30, 2014. If the District does not meet the conditions imposed by LAFCo then the commission could revisit the SOI designation and consider assigning a zero SOI.

Commissioner Miley expressed appreciation to staff for her attendance at various community meetings to answer questions and address residents' concerns regarding the draft report and recommendations regarding the District. In response to his question regarding what it would look like if the District became a subsidiary District to the City of Hayward, staff explained that it would be similar to a department within the City, with the city council serving as the governing board. Staff pointed out that two additional comments had been received on the draft MSR report after the writing of the staff report, and that copies of those comments had been passed out to the Commissioners at this meeting.

Public Comment

Chair Sblendorio invited members of the public to offer comments on this item. The following people addressed the Commission:

- Dale Silva, President of the Hayward Hills Homeowners Association, inquired if the date of June 30, 2014 in item 2.a. of the draft resolution was a typo and should, in fact, be June 30, 2015. Staff clarified why June 30, 2014 was correct. Mr. Silva urged the Commission to adopt Staff's recommendation of a conditional coterminous SOI. He thanked staff for attending the homeowner meetings and listening to their concerns and for responding to emails and phone calls directly. He expressed that the District provides important services and noted that it should do a better job of communicating about the good things it is doing.
- Dennis Gould spoke in support of Staff's recommendation. He thanked Staff for listening to the residents' concerns. He provided historical background from when he served on the District board and the efforts then to develop an effective hillside fire prevention plan and the need for the District to return to the task of increasing fire safety awareness. He also addressed the issue of

the ownership of Fire Station No. 8, insisting that if the District had adhered to the County's requirements for obtaining the deed to the firehouse, it would have gone bankrupt.

- Charles Snipes, President of FFPD, stated the District was strongly opposed to the consultant's recommendation, but supported the recommendation of LAFCo Staff. He expressed agreement with Mr. Gould's statements regarding the deed to the firehouse.
- Chris Higgins, Fairview resident, spoke in support of the good work the District is doing. He expressed disagreement with and even offense at the suggestion in the consultant's report that money could be saved by not having elections. He praised LAFCo Staff for her responsiveness and attendance at community meetings.
- Bob Zapatosky, Fairview resident, spoke in support of Staff's recommendation. He expressed disagreement with many of the Consultant's comments about savings to be gained if the District were dissolved, and noted that there is a presumption that outsourcing services makes the District ineffective or inefficient, which is not the case with FFPD. He added that there are many examples of government outsourcing successfully. He thanked Staff for her thorough work and for coming up with a very good recommendation.
- Hal Bancroft, Fairview resident, reading from a letter that he had written, spoke in support of the District, which he praised as being locally controlled and well managed. In response to his inquiry into why his letter had not been included with the staff report on this agenda item, Staff explained that LAFCo had never received his letter. He provided Staff with a copy of the letter following his remarks. He also thanked Staff for attending the community meetings.
- Jack Wan, newer Fairview resident, stated his support for Staff's recommendation to continue the District. He expressed concern that annexation of the District into the City of Hayward (identified as an option by the Consultant) might possibly lead to annexation of the Fairview area itself into Hayward, which he would definitely not agree with.
- James Jardine, Fairview resident, noted that he had served as a volunteer fireman for the District in the past and spoke in support of the District, which he praised as being well run and a very important asset to the Fairview community.
- Audie Bock, Board member of FFPD, thanked LAFCo Staff for the detailed report and noted that, as the newest board member, the report was helpful to her to focus attention on what the Board presently needs to be doing for its constituents. She indicated her intent to help the District work more closely and effectively with the Hayward Fire Department in order to meet the goals identified by LAFCo.

Chair Sblendorio closed the public hearing.

Commissioner Miley noted that staff from the City of Hayward was present and asked if she might like to offer some comments.

Chair Sblendorio reopened the public hearing.

- Kelly McAdoo, Assistant City Manager of the City of Hayward, stated that the Hayward City Council had not taken an official position on the MSR/SOI for the District, and that per the

current contract with the District, the Hayward Fire Department would continue to provide fire protection services to the District as it has been doing for many years now.

Chair Sblendorio again closed the public hearing.

Commission Discussion

Following is a summary of comments from the Commission:

Commissioner Miley stated that he appreciated acknowledgements of LAFCo Staff's efforts by many of the speakers. He made note that although he represents residents of Fairview as a County Supervisor, as a LAFCo Commissioner he must consider the opinions of all residents throughout the County, and therefore have an unbiased viewpoint. He noted that these reviews of special districts (as well as of cities) were being done in accordance with State law – that the Commission was *required* to do them. He explained that through the process of conducting many meetings with the community and with the County and City of Hayward fire department staff and through his discussion with LAFCo Staff, he came to see that improvements needed to be made in the governance of the District, in its interactions with the community. He also noted that there was not unanimity of support for the District from all residents served by the District and that he had even heard criticism describing the District as being dysfunctional. He commented on the matter of contracting out for services, noting that in this case, the contract goes not to a private company, but to another government agency. Regarding the issue of ownership of Fire Station No. 8, he indicated that what was important to the County was more if the “spirit” of the conditions had been met and that he understood that an official document about the matter would be forthcoming from the District to the County and to LAFCo.

Commissioner Wieskamp commented how refreshing it was to see a group of people being so positive about what is happening in their neighborhood. She thanked the Fairview residents for their attendance at the meeting, for their comments, and wished them well in accomplishing the goals. She also expressed appreciation to LAFCo Staff and to Commissioner Miley for his involvement, as well as to the FFPD Board members in attendance.

Commissioner Pico also expressed appreciation for Staff's comprehensive report and suggested since, in his opinion, the District is well run, that LAFCo not require the District to come back in six months. Commissioner Miley disagreed with that, stating that he believed Staff's recommendation could serve as an incentive for the District to improve in its communication with the residents.

Commissioner Sbranti agreed with Commissioner Miley. Also, he observed that an independent Consultant's job is to provide an unbiased, independent analysis...that is how it is supposed to work. Because of the process, issues have surfaced that need addressing. He said he supported Staff's recommendation.

Commissioner Miley noted that both the Five Canyons Homeowners Association and Castro Valley Municipal Advisory Council, whose residents are served by the FFPD, voted to support the consultant's recommendation of assigning a zero SOI.

Commissioner Haggerty recounted that at his first LAFCo meeting 16 years ago, there was discussion about consolidating the Fairview Fire Protection District, and that it has continued to come up over the years. He hoped it could stop coming up. He said that he personally has never heard complaints about the District. He commented that he believed that Staff's recommendation is heading in the right direction, and that it was great to see the community fully engaged.

Commissioner Marchand also expressed support for Staff's recommendation and commended the community for its engagement. He noted that the conditional SOI would encourage the District to be more attentive and responsive to the Community.

Commissioner Johnson said he also supports Staff's recommendation. He wondered if Commissioner Miley's reference to a "strategic plan" for the District was the same as "goals and objectives" stated in the Staff report. Staff responded that they were the same.

Chair Sblendorio gave concluding remarks, indicating his support also for Staff's recommendation. He observed that the Commission was doing what LAFCo is supposed to do...promote good government. The conditional SOI will require the FFPD to develop a plan that will lead to better government. He also thanked the public for attending and offering comments.

MOTION

Upon motion by Commissioner Miley and second by Commissioner Haggerty, the commission unanimously approved adoption of the Fairview Fire Protection District MSR and SOI determinations and the provisional coterminous SOI option with conditions as recommended by Staff in the report.

EDEN TOWNSHIP HEALTHCARE DISTRICT

Staff provided a summary of points from the written report, noting significant changes for the District since the last MSR in 2004, namely:

- The District no longer has a role in the governance of the Eden Medical Center and no longer owns the San Leandro Hospital. It still engages in grant making activities that fund health care services that benefit District residents, such as funding for school based health centers, school nurses, and mental health services.
- The District now owns and leases medical office buildings in Castro Valley, San Leandro and Dublin, which is the primary source of the District's income (the District does not receive any property tax income).
- The District has been in litigation since 2009 related to the status of San Leandro Hospital. In June 2013 an arbitrator awarded Sutter Health \$17 million in damages from the District over the San Leandro Hospital dispute. The District is developing a payment plan.

Staff noted that the only comments received on this MSR were from the District staff. She pointed out that the project consultant and LAFCo staff had different recommendations for the sphere of influence (SOI) update for the District. The consultant was recommending that the District's SOI be expanded to include the city of Dublin because the District now owns medical office buildings there that it leases to doctors and medical clinics that provide benefit to residents of Dublin. LAFCo staff believes that it is premature to consider expanding the District's SOI because, according to the District's recently adopted strategic plan, they are continuing to monitor whether to retain the Dublin property or not. LAFCo staff, therefore, recommends that the commission consider adopting a provisional coterminous SOI with a condition requiring the District to report back to LAFCo by June 30, 2014 on progress made implementing the District's strategic plan.

Commission Comments/Questions

In response to Commissioner Sbranti's question as to which of the four SOI options identified by the consultant she would recommend, Staff explained that she was recommending approval of a

provisional SOI with conditions rather than any of the consultant's recommended options to allow the Commission to revisit the matter once the conditions have been met.

Commissioner Miley asked about the various governance structure options that were listed in the MSR. He wondered why not just dissolve the District since it was not providing direct medical services and asked why consolidation with Washington Township Healthcare District (WTHD) was identified as an option. Staff responded that although the ETHD does not provide direct health care it still serves district residents by funding direct healthcare service providers within the district boundaries. The option to consolidate with WTHD was suggested because the two districts are geographically located next to each other.

Commissioner Miley further wondered how the commission could be confident that the District would continue to fund grants, given the District's current long term financial obligations due to the lawsuit and he noted that there were no grants awarded in 2011. Staff responded that a current statewide trend among healthcare districts which no longer operate hospitals is to provide services through grant funding or operating health clinics. The District has a process – a competitive grant application process and the grantees are required to give status reports. There was a hiatus in grant giving in 2011 because the District was embroiled in litigation that year and did not feel comfortable giving grants during that time.

Commissioner Haggerty inquired if Staff had spoken to Washington Township Healthcare District (regarding the option of consolidation). Staff responded that she had not.

Commissioner Marchand pointed out a discrepancy in the amount given in the report for the District's long-term debt, listed on page 10 as \$44.9 million (also figure 1-3 page 11) and \$35 million on page 20 (4th bullet point from bottom of the page). Staff explained that \$44.9 million was correct - that the \$35 million number had not been updated, but would be on the final report.

To a question from Commissioner Sbranti, Staff confirmed that if the City of Dublin was annexed into the District, then, yes, residents of Dublin would be allowed to vote for the Board members of the District.

Public Comment

Chair Sblendorio opened the public hearing. The following people addressed the Commission.

- Ronald Hull, Board of Directors, Eden Township Healthcare District, provided some historical background of the District that illustrated that the District, since its founding in 1948, has had a long history of providing services besides acute care hospital services. He pointed out that 40% of healthcare districts in California do not currently operate an acute care hospital. He explained that in 2011 when the District did not fund grants, they were not simply ignoring the health-related needs of the District's residents, but were busy making sure that San Leandro Hospital would remain open. He observed that healthcare delivery is in a state of flux today and that the District is making efforts to educate the public about changes in healthcare law, most recently through conducting a community forum in addition to providing written material and information on their website. He stated that the District supports maintaining the current SOI and that he would be happy to come back in the middle of next year to provide a status update on the District's strategic plan.

In response to an inquiry from Commissioner Miley, Mr. Hull indicated that, although it depends on how the settlement of the lawsuit turns out, the District will help out with, to the best of its ability, stabilizing San Leandro Hospital and St. Rose Hospital, a small independent hospital in Hayward.

Commissioner Johnson asked about the seismic safety condition of each hospital. Mr. Hull responded that San Leandro hospital, constructed in the early 1980s should be ok until 2030 and that St. Rose, constructed in 1960, meets requirements for the foreseeable future.

- Chris Higgins, Fairview resident, referred to the District as ineffective, ineptly managed and bankrupt. He recommended dissolution of the District, suggesting that the County's health care system could take over the District's assets and provide better services.
- Dev Mahadevan, General Manager of ETHD, spoke on the current financial status of the District. He noted that the District's budget is posted on its website and asserted that the District is not bankrupt – it is not insolvent, it pays its bills. He expressed doubts that another agency could take over the District and run it more efficiently. He clarified for Commissioner Miley that the District has \$44 million in debts and \$100 million in assets. Referring to protection given under Chapter 9 bankruptcy law, he noted that the District cannot be forced to immediately sell its assets to pay the \$17 million awarded to Sutter Health. The District has developed a plan to pay off the award over 12 years. He emphasized that the recipients of the District's grants must provide status reports to the District and that he does site visits. The District is considering getting involved in mental health services. The District has \$10 million in reserve. They currently have offers for purchase on the Dublin Gateway building. He concluded his remarks by indicating that the District supports LAFCo Staff's recommendation that the Commission adopt a provisional coterminous SOI for the District with the condition that the District report back to LAFCo by June 30, 2014 on progress made on the District's strategic plan priorities and related action plan as adopted by the District Board of Directors on May 15, 2013.

Mr. Mahadevan responded to Commissioner Miley's questions that the District has three employees and \$100 million in assets. He responded to Commissioner Miley's concern regarding the District's ability to continue to fund health-related services due to the litigation. He noted that one identified option was to sell the Dublin Gateway Center, which currently they have an offer of \$60 million for. In response to Commissioner Miley's concern that San Leandro and St Rose Hospitals are teetering, Mr. Mahadevan noted the financial support the District has provided and will continue to provide to those hospitals

Chair Sblendorio closed the public hearing.

Commission Discussion

In response to an inquiry from Commissioner Sbranti, Staff clarified that, although Staff's recommendation was six months, the Commission could request that the District report back sooner or later than that.

Commissioner Sblendorio noted that there was a great need for health services in the community and that the District was a great resource for those services; however it was unclear to him whether the District should function as a government entity or as a charitable or for-profit organization. He recommended the District report back in six months. Commissioner Wieskamp noted that tremendous changes were currently occurring in health care and agreed that the District should report back in six

months. Commissioner Sbranti voiced his concerns that a public (or quasi-public) agency was distributing grants that residents of Dublin do not get to benefit from. He likewise recommended the District report back to the Commission in six months.

MOTION

Upon motion by Commissioner Miley and second by Commissioner Haggerty, the Commission unanimously approved the adoption of the Eden Township Healthcare District MSR and SOI determinations and the provisional coterminous SOI option with the condition as recommended by Staff in the report of requiring the District to report back to LAFCo by June 30, 2014 on progress made on implementing the District's strategic plan priorities and related action plan as adopted by the District Board of Directors on May 15, 2013.

7. Overview of Plan Bay Area

Commissioners Haggerty, Thorne and Wieskamp excused themselves from the meeting prior to Staff's remarks.

Staff highlighted points from the written report, noting that Plan Bay area was adopted by the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) in July of this year as a result of SB 375, legislation that was passed in 2008 requiring metropolitan planning organizations to create Sustainable Communities Strategies geared towards reducing greenhouse gas emissions in California from cars and light trucks.

Staff noted that at its last meeting, the Commission had requested Staff to provide a brief overview of the Plan Bay Area and identify potential intersections with LAFCo's purposes and activities. Following a summary explanation of the main points of the Plan, Staff suggested that Municipal Service Reviews (MSRs) could be coordinated with Plan Bay Area to provide information regarding the region's availability and adequacy of municipal services needed to support the Plan Bay Area's proposed development pattern. There may be opportunities to more closely align the Plan Bay Area with LAFCo's MSRs, Sphere of Influence updates, and efforts to discourage urban sprawl and preserve agriculture and open space.

Staff noted that she and the other Bay Area LAFCo staff had been in conversation over the past few years about how LAFCo might participate more fully in the process.

Commission Discussion

Chair Sblendorio noted that someone from the public wished to speak on this item and invited her to address the Commission.

Mimi Steel, resident of Castro Valley, member of Citizen's Alliance for Property Rights, spoke in disfavor of the Plan, asserting that lots of people objected to the Plan. She indicated that she wanted to see a map showing the location of Priority Conservation Areas (PCAs) and what private properties are located around those areas, and for landowners to be notified of what's happening in their areas. She urged LAFCo to not just rely on MTC and ABAG for information regarding the Plan.

Commissioner Johnson made mention of the Plan's intent to have 5-year updates. Ms. Steel responded that the thought has been expressed that that will not happen in reality. She referred to an event (named the Great Debate) that occurred in Marin County that featured two speakers in support of the Plan and two in opposition. One of the transportation experts who spoke against the plan

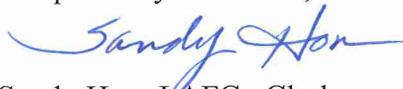
Next Steps:

Chair Sblendorio requested Staff to prepare a draft letter to ABAG and MTC containing the Commission's concerns with the Plan Bay Area (capturing the points mentioned by Commissioner Pico) to share with other Bay Area LAFCOs to see if they would be interested in participating in a regional LAFCo response.

Commissioner Sblendorio also requested LAFCo Counsel to review the four lawsuits against the Plan to see if they involve infrastructure issues and report back to the Commission.

8. **Matters Initiated by Members of the Commission** – There were none
9. **Informational Items** – Discussion, if any, or further info is noted after the item.
 - a. **Application update**
 - b. **Legislative update**
 - c. **Newspaper articles**
 - d. **Agriculture and Open Space Land Preservation Policy Review Status – oral update**
Staff will provide update at a future meeting.
11. **Adjournment of Regular Meeting**
The meeting was adjourned at 6:50 p.m.
12. **Next Meeting of the Commission**
Thursday, January 9, 2014 at 4:30 p.m.

Respectfully submitted,



Sandy Hou, LAFCo Clerk

These minutes were approved by the Commission on January 9, 2014.

Attest:



Mona Palacios, LAFCo Executive Officer