

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

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Action Minutes San Mateo Local Agency Formation Commission Meeting May 17, 2023

Chair Draper called the Wednesday, May 17, 2023, meeting of the Local Agency Formation Commission (LAFCo) to order at 2:30 pm in the Board of Supervisors Chambers, 400 County Center, Redwood City, California. Members of the public were able to also participate in the meeting remotely via the Zoom.

1. Roll Call

Members Present: Commissioners Tygarjas Bigstycck, Kati Martin, Ray Mueller, Warren Slocum, Harvey Rarback, Chris Mickelsen, Ann Draper

Members Absent: None

Alternate Members Present: Jim O'Neill

Staff Present: Rob Bartoli, Executive Officer
Sofia Recalde, Management Analyst
Timothy Fox, Legal Counsel
Angela Montes Cardenas, Clerk

2. Public Comment for Items Not on the Agenda

None

3. Consent Agenda

a. Approval of Action Minutes: March 15, 2023

b. Consideration of LAFCo File No. 23-03: Proposed Annexation of 2 Wyndham Drive, Portola Valley (APN 076-251-240)

Commission Action: Commissioner Rarback moved to approve the consent agenda, and Commissioner Martin seconded the motion which passed unanimously by roll call vote.

COMMISSIONERS: ANN DRAPER, CHAIR, PUBLIC ▪ KATI MARTIN, SPECIAL DISTRICT, VICE CHAIR ▪ HARVEY RARBACK, CITY ▪ TYGARJAS BIGSTYCK, CITY ▪ WARREN SLOCUM, COUNTY ▪ RAY MUELLER, COUNTY ▪ VIRGINIA CHANG-KIRALY, SPECIAL DISTRICT

ALTERNATES: CHRIS MICKELSEN, SPECIAL DISTRICT ▪ ANN SCHNEIDER, CITY ▪ JAMES O'NEILL, PUBLIC ▪ NOELIA CORZO, COUNTY

STAFF: ROB BARTOLI, EXECUTIVE OFFICER ▪ SOFIA RECALDE, MANAGEMENT ANALYST ▪ TIM FOX, LEGAL COUNSEL ▪ ANGELA MONTES, CLERK

(Ayes: Commissioners Bigstyk, Martin, Mueller, Rarback, Slocum, Chair Draper. Abstention: Commissioner Mickelsen.)

4. Consideration of Adoption of Final Work Program and Final LAFCo Budget for Fiscal Year 2023-2024

Management Analyst Sofia Recalde presented the staff report dated May 10th. She noted that the final FY23-24 budget is \$846, 026. Based on input from the Budget Committee, the proposed Peninsula Health Care District Study and LAFCo Countywide Fire Study were removed from the Work Plan. There will be an update from the Peninsula Health Care District to LAFCO regarding the District's on-going projects later in the year. The Budget Committee requested that the Harbor District MSR Update be prioritized; however, the MSRs for Burlingame, Hillsborough, San Bruno, Millbrae, and Foster City are first-round and should remain priority for staff. She said the Commission may decide to hire a consultant for the Harbor District Special Study. She updated the Commission on applications for boundary changes and other projects.

Chair Draper opened and closed public comment, no comments were received.

Conversation ensued regarding the Countywide Fire Study with Commissioner Bigstyk, Executive Officer Bartoli, and Chair Draper. The Commission expressed interest in considering a Fire Study in a future fiscal year.

Commission Action: Commissioner Bigstyk moved to direct the Executive Officer to distribute the budget to the County, cities, and independent special districts and forward it to the County Controller to invoice funding agencies. Commissioner Martin seconded the motion which passed unanimously by roll call vote. (Ayes: Commissioners Bigstyk, Martin, Mueller, Rarback, Slocum, Mickelsen, Chair Draper.)

5. Adoption of Revised LAFCo Processing Fees

Management Analyst Recalde presented the staff report dated May 10, 2023. She noted that the Cortese-Knox-Hertzberg Act allows LAFCOs to establish a schedule of fees for processing applications. She summarized the proposed updates to the LAFCo processing fee schedule.

Conversation ensued regarding the 7.5% proposed annexation fee increase with Commissioner Martin, Ms. Recalde, and Mr. Bartoli. As requested by Commissioner Bigstyk staff summarized how LAFCO recoups cost.

Chair Draper opened and closed public comment, no comments were received.

Commission Action: Commissioner Mueller moved to approve by resolution the proposed LAFCo processing fee schedule for FY23-23. Commissioner Rarback seconded the motion which passed unanimously by roll call vote. (Ayes: Commissioners Bigstyck, Martin, Mueller, Rarback, Slocum, Mickelsen, Chair Draper.)

6. Consideration of Resolution Authorizing an Agreement with the County of San Mateo for Staffing Legal Counsel, Office Space and Supplies for Fiscal Year 2023-24

Management Analyst Recalde presented the staff report dated May 10, 2023.

Chair Draper opened and closed public comment, no comments were received.

Commission Action: Commissioner Mueller moved to authorize, by resolution, the Chair to execute the agreement with the County of San Mateo for staffing and support services. Commissioner Rarback seconded the motion which passed unanimously by roll call vote. (Ayes: Commissioners Bigstyck, Martin, Rarback, Slocum, Mickelsen, Chair Draper.)

7. Broadmoor Police Protection District Update – Information Only

Executive Officer Bartoli presented the staff report dated May 10, 2023. He summarized the direction given to staff by the Commission at the March 17, 2023 meeting. He noted that the written request for information was emailed to the Broadmoor Police Protection District (BPPD) on March 16. Staff received a response from BPPD on May 10, 2023 that focused on several issues, including calls for service data, the District's finances, financial reporting, and long-range planning. However, BPPD did not provide a comprehensive response to all of the key issues and recommendations from the Special Study or information about when responsive actions will be implemented by the District.

One of the key concerns expressed by the District was the calls for service data in the Special Study is incorrect. Mr. Bartoli explained that LAFCo had given BPPD multiple opportunities to comment on the Special Study. LAFCo staff shared an administrative draft with interim Chief Melville in October 2022 and presented to the BPPD Commission and to the Broadmoor Property Owners Association in January 2023. LAFCo staff did not receive any questions or comments regarding the content of the Special Study. Mr. Bartoli stated that he is amenable to updating the Study with correct calls for service data when the District provides that information.

Mr. Bartoli summarized the remainder of the District's response, including awareness of its budget shortfalls and intention to take steps to reduce overall costs and increase transparency. He concluded the presentation by describing staff's next steps to provide updates to the Commission at the July, September, and March 2024 meetings.

The public comment letters received were acknowledged and posted.

Conversation ensued with Commissioner Slocum regarding what the future requested updates from BPPD will represent. Staff explained that it will provide updates on the District's budget, finances, audits, and actions the District has taken to address the findings in the Special Study.

Conversation ensued between staff and the Commission regarding the calls for service data and Commissioner Martin regarding how to obtain the calls for service data.

Chair Draper opened public comment.

BPPD Chief Michael Connolly addressed the Commission for 20 minutes. He shared his extensive background in law enforcement and his involvement with presenting data to San Francisco Police Department and Board of Supervisors, noting that a study with invalid data loses credibility. He shared the timeline of when he assumed office and became aware of the incorrect data. Chief Connolly questioned the source of data and said that the study painted a catastrophic picture of BPPD by indicating that residents were paying \$3,500 per service call. He said he knows Broadmoor has financial problems similar to what other municipalities have. He affirmed the Commission that BPPD can keep up with its level of service. The comparison with Daly City and Colma is factually incorrect. He said Broadmoor has the lowest cost per service call to residents compared to Daly City and Colma. He said that BPPD supports Daly City and Colma police departments when needed. He continued to talk about staffing shortfalls for local agencies, including the Sheriff's Office and Daly City. In terms of the budget, he said that unbalanced budgets are due to insurance and litigation costs. He said that CalPERS is investigating the administrative and criminal actions of previous administrations. He said BPPD is working with CalPERS to remedy the problem. He asked the Commission to retract the report because it was unfair and untrue. He said it is improper to move forward with a dissolution because the report is flawed. He said he is willing to create his own report and share it with his elected Board and refute the LAFCo report.

Chair Draper clarified that the Commission has not made a recommendation for dissolution. She said it was inaccurate to state that the Commission has made a decision regarding dissolution. Chief Connolly expressed concern with the Commission's approval of an untrue report. He said they have been in conversation with Supervisor Canepa's staff on how to remedy the financial situation. He said he is working to fix budget problems but has no idea about where the litigation is going.

In response to Commissioner Bigstyk, Chief Connolly said he did not submit a written matrix.

Christine Taliva'a-Aguerre, President of Broadmoor Property Owners Association, said that her Board and other members of the community are working with Chief Connolly to get all questions answered. She said she supports the District and so do many other people. Broadmoor police is always there for the community. The BPPD always show up to community events. She asked the Commission not to get rid of the District.

Geoff Balton, Chief of Colma Fire Protection District, stated that Colma Fire shares public safety responsibilities with BPPD in their community and Town of Colma. He said that if BPPD was to be dissolved, there would potentially be impacts to other districts, such as Colma Fire. Chief Balton stated that he will continue follow this topic.

Andrea Hall, Broadmoor resident, said that the Chief has done nothing to improve her confidence in the District's commitment to improve transparency and financial solvency. She noted the District has had 6 months to respond to the draft report. She finds it alarming that they cannot locate prior correspondence with Mr. Bartoli. She asked the Commission to hold the BPPD accountable.

Will Eaton, Broadmoor resident, noted that the police is always a visible part of the neighborhood and is concerned how changes to the organization could impact resource allocations.

Anna Marie, Broadmoor resident, was concerned that the Commission passed a report with untrue data. Chief Connolly is doing his best to provide correct data. Her family has lived in Broadmoor since 1964 because they feel safe and protected.

Mike Abuyaghi, Broadmoor resident, said it would be a huge loss to lose BPPD. It takes longer to get an officer response in larger cities. BPPD makes our community safe and responds fast.

David Smith, Board member of the Broadmoor Property Owners Association, has received a lot of support from BPPD. The community is aware of parcel tax, and it needs to be used to support the police department.

Alba Tebo, Broadmoor resident, said her family chose to live in Broadmoor for its safety thanks to the police department. It would be a shame to lose the police department.

Marie Ann, Broadmoor resident, said the BPPD gives her a sense of well-being and asked Commission to keep the department.

Sandie Arnott, Treasury & Tax Collector & Broadmoor resident, was concerned about the inaccurate report and asked that Chief Connolly be allowed to provide the accurate information. She supports BPPD.

Lee Whitsitt, Broadmoor resident, said it would be a shame to dissolve the District over another administration. Broadmoor is a great community, and numbers should be corrected.

Chair Draper closed public comment.

Chair Draper thanked everyone involved. She noted that the main issues noted in the Special study were regarding finances, operations, and governance. The major financial issues have been on-going and need to be corrected, or the District could go bankrupt. Broadmoor leadership must focus on a strong financial recovery plan. The response from BPPD diverted from the financial problem. The District must pass a balanced budget for the upcoming fiscal year.

Commissioner Mueller found it striking that the matrix was not filled out. He questioned why BPPD is supporting other cities when they are not financially stable. He summarized county policy from the Treasurer-Tax Collector that if a special district's balance falls under \$250,000, they will be pulled from the County Pool. His understanding is that this will be strictly applied and suggested that LAFCo submit a letter to the Controllers in support of the Policy to remove special districts that fall under the \$250,000 threshold in order to reduce risk to other districts. The Commission is attempting to inform the Broadmoor community how severe the BPPD financial issues are, and Commissioner Mueller requested again that the matrix be filled out by BPPD.

Commissioner Mickelsen supported comments stated by Commissioners and understands the value of community policing but understands that times also change. The biggest issue is the financial issue. Commissioner Mickelsen requested that the Districted fill out the matrix.

Commissioner Rarback stated he understood the concerns of District residents and noted that this is not a new financial issue and has been ongoing for almost a decade. He shared his concern that the District will become bankrupt. He would like the District to complete the matrix.

Commissioner Bigstycck does not doubt that service levels of BPPD may need to be updated, but he shared the same concerns as other Commissioners and would like to see the matrix.

Commissioner Martin Stated that the mission of this Commission is not to dissolve special districts. LAFCo helped put the Mosquito District back together and she is hopeful it can also help BPPD. She encouraged the District to be transparent in order for LAFCo to be able to help. S

Commissioner Slocum recommended that the Chief and Staff come back on July 19 with precise responses to matrix, discrepancies, information regarding efforts with Supervisor Canepa and more information about the County Pool threshold. The Chief should work with Executive Office to resolve discrepancies.

Chair Draper summarized next steps.

Chief Connolly noted that he is in full agreement with working with LAFCo staff and requested that the Commission take no further action while the District is working with LAFCo. Mr. Bartoli added that he is happy to work with the Chief on this matter. Mr. Bartoli summarized next steps in detail.

8. LAFCo Initiated Dissolution Process – Information Only

Mr. Bartoli gave a verbal update to the Commission regarding LAFCo initiated dissolutions and referred to staff report dated May 10, 2023. He summarized the definition and process of a LAFCo initiated dissolution and how protest proceedings are different depending on the entity that initiates a dissolution. He continued to summarize SB 938 dissolution process and items for the Commission to contemplate when considering a LAFCo initiated dissolution.

Conversation ensued with Commissioner Rarback, Mr. Bartoli and Legal Counsel Tim Fox regarding plan for service and successor agency. Chair Draper requested a flow chart of the process for each type of dissolution.

Mr. Bartoli shared the timeline for the different types of dissolutions. He provided the Commission with examples and next steps.

Conversation ensued with Commissioner Bigstyk and Mr. Bartoli regarding a situation when an agency is falling behind financially if there is a process for an urgent dissolution.

Chair Draper opened public comment.

Elizabeth Jackson, East Palo Alto resident, asked who would pay for an election if one were to be held, whether it would be the district, city, or ratepayers, in reference to a proposal that the City of East Palo Alto submitted regarding the East Palo Alto Sanitary District. Mr.

Bartoli noted that it depends on who submits the application process and he provided the different scenarios.

Chair Draper closed public comment.

9. CALAFCO

a. CALAFCO Nominations for 2023-2024 Board Members

Mr. Bartoli informed the Commission about the nominations to CALAFCO board 2023-2024.

b. 2023 CALAFCO Achievement Award Nominations

Mr. Bartoli notified the Commission of the annual 2023 CALAFCO achievement award nominations.

Chair Draper opened and closed public comment, no comments were received.

10. Legislative and Policy Committee

a. Letter of Support for AB 1753, Local Government: Reorganization Omnibus Bill

Ms. Recalde gave a verbal update to the Commission and referred to letter of support for AB 1753. She summarized the omnibus bill that made minor technical changes to the Act to correct small inconsistencies and clarify language so the Act is as unambiguous as possible.

b. Legislative Report – Information Only

Ms. Recalde highlighted AB 1930, SB 360, and AB 918 and noted that CALAFCO is tracking 19 bills.

Chair Draper opened and closed public comment, no comments were received.

11. Commissioner/Staff Reports – Information Only

a. Staff Update on East Palo Alto Sanitary District Subsidiary Proposal

Mr. Bartoli provided a brief update to the Commission on LAFCo File No. 22-09 and noted that staff is still reviewing the application, which is currently deemed incomplete. He noted that staff will update the website to include the timeline and reports to the Commission. He also noted that this item will be heard in East Palo Alto once it's on the LAFCo agenda.

Gail Wilkerson, East Palo Alto resident, spoke on consultant led MSR for the City of East Palo

Alto, West Bay Sanitary District and East Bay Sanitary District and said the developers are suffocating the residents. She said residents have been overcharged and have received minimum services. She accused the developers of racketeering and that they are going after the District.

12. Adjournment

Chair Draper adjourned the meeting at 5:03 p.m.