

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

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July 10, 2024

To: LAFCo Commissioners

From: Rob Bartoli, Executive Officer

Subject: Certification of Protest Hearing Results for LAFCo File 22-09 - Proposal to Establish the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto

Background

On November 15, 2023 the LAFCo Commission voted unanimously, 6-0, to adopt Resolution No. 1312 approving the City of East Palo Alto's proposal to establish the East Palo Alto Sanitary District (EPASD) as a subsidiary district of the City subject to the terms and conditions included in the Resolution and the completion of the Conducting Authority Proceedings. The East Palo Alto Sanitary District objected to the proposal.

Protest Proceedings

As the proposal did not have 100% consent of the affected landowners and registered voters, the approval was subject to Protest Proceedings. The protest period stated on February 12, 2024 and was open for 100 days. A Protest Hearing was held on May 22, 2024 at the City of East Palo Alto Council Chambers and was publicly noticed pursuant to Government Code Section 57025, consisting of newspaper publication in the San Mateo County Times, Palo Alto Daily Post and The Almanac. Protest forms were collected by LAFCo staff via mail and in-person, until the close of the hearing at 2:59pm on May 22, 2024.

Pursuant to Government Code Sections 57077.5 and 57093, the proposal is subject to the following protest thresholds for proposals not initiated by the Commission and where a subject agency has objected by resolution to the proposal:

1. Terminate proceedings if 50% or more of the registered voters residing in the affected territory file a written protest; or
2. Order the change of organization subject to the confirmation of the registered voters residing in the affected territory if written protests have been filed by at least 25% but less

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

STAFF: ROB BARTOLI, EXECUTIVE OFFICER ▪ VACANT, MANAGEMENT ANALYST ▪ TIM FOX, LEGAL COUNSEL ▪

DIANE ESTIPONA, CLERK

than 50% of the registered voters residing in the territory, OR 25% of the number of landowners who also own at least 25% of the assessed land value of land in the affected territory; or

3. Order the change of organization without an election if written protests have been filed by less than 25% of the registered voters in the affected territory and less than 25% of the landowners who own at least 25% of the assessed land value in the affected territory.

The Executive Officer has caused the protest forms to be compared to the current Equalized Assessment Roll maintained by the County Assessor and the current Registrar of Voters maintained by the County Elections Official. All protest forms are evaluated pursuant to Government Code Sections 56704, 57051, and 57052. Landowner protest forms are reviewed under Government Code Section 56708 and 56709, which includes a requirement for how publicly owned parcels are assessed and how parcels that joint tenancy or tenancy in common are valued. Registered voter protests forms are reviewed pursuant to Government Code Section 56707.

Below is a summary of the total number of protest forms collected from both registered voters and landowners in the affected territory:

Results of Protest Received for LAFCo File 22-09					
Total Registered Voters in Affected Area	9,672 ¹ (100%)	Number of Facially Valid Registered Voter Protests Received	1,012 (10.46%)	Number of Facially Deficient Registered Voter Protests Received	57
Total Number of Landowners in Affected Area	6,567 (100%)	Number of Facially Valid Landowner Protests Received	936 (14.25%)	Number of Facially Deficient Landowner Protests Received	105
Total Assessed Land Value in Affected Area	\$2,264,295,264 (100%)	Total Assessed Land Value of Facially Valid Landowner Protests Received	\$180,654,895 (7.98%)	Total Assessed Land Value of Facially Deficient Landowner Protests Received	\$18,113,670

Protest forms were only identified as faciality deficient if there was no date affixed on the forms of when the protest form was completed, the date affixed was outside of the protest period, no signature was affixed to the form, or the person signing the form was either not a registered voter or a landowner in the affected area, depending on the type of protest form submitted.

¹ As of May 22, 2024 per the San Mateo County Registrar of Voters

For the purposes of calculating registered voter protests, the total number of registered voters in the affected area is as of May 22, 2024, the date of the protest hearing.

Regarding calculations of the amount and value of landowner protest received, Government Code 57093, states that it is the number of landowners submitting protests, not the number of parcels/APNs, that will be reviewed against the applicable protest thresholds. While there are 4,287 parcels within the boundaries of EPASD, there are 6,567 total landowners within the affected area. If a parcel is owned in joint tenancy or tenancy in common (2nd or 3rd owners in the Assessor's data), each person or entity is counted as a separate owner. If a person or entity owns multiple parcels, for each parcel they would be considered a separate owner. The assessed value of parcels owned in joint tenancy or tenancy in common shall be determined in proportion to the proportionate interest of the petitioner in that land as required by Government Code 56710(b).

As the number and value of protests met neither the 50% threshold for terminating the proceedings nor the 25% thresholds for requiring an election, the Commission is under a mandatory statutory duty to approve the change of organization.

After the conclusion of the certification of the protest hearing results, there are no additional actions required to be taken by the LAFCo Commission to establish the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto as approved by the LAFCo Commission on November 15, 2023 in Resolution 1312.

The City of East Palo Alto City Council will be voting on matters related to a contact with the West Bay Sanitary District and a framework for an advisory body to the EPASD governing body at their July 16 City Council. The tentative date of the governance change for EPASD is August 1, 2024 if all required conditions of approval are met.

Recommended Commission Action by Resolution

1. Open the public hearing and accept public comment.
2. Approve San Mateo LAFCo Resolution 1325 – Making Determinations and Ordering the Establishment of the East Palo Alto Sanitary District as a Subsidiary District of the City of East Palo Alto Without an Election Subject to the Terms and Conditions of LAFCo Resolution 1312

Attachments

- A. LAFCo Resolution 1325
- B. Meeting Summary of May 22, 2024 LAFCo Protest Hearing
- C. Public Comment from Lincoln Webster dated 6/25/2024 and response from LAFCo staff