

SAN MATEO



LOCAL AGENCY FORMATION COMMISSION

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Action Minutes

San Mateo Local Agency Formation Commission Meeting

December 19, 2018

In the Board of Supervisors' Chambers, 400 County Center, Redwood City, California, Chair O'Neill called the Wednesday, December 19, 2018 meeting of the Local Agency Formation Commission (LAFCo) to order at 2:30 pm.

1. Roll Call

Members Present: Commissioners Joshua Cosgrove, Ann Draper, Rich Garbarino, Don Horsley, and Chair Mike O'Neill

Members Absent: Commissioners Warren Slocum and Joe Sheridan

Staff Present: Martha Poyatos, Executive Officer
Rebecca Archer, Legal Counsel
Rob Bartoli, Management Analyst
Janneth Lujan, Commission Clerk

Chair O'Neill noted the Commission had a corrected agenda for agenda item 4's address as 752 Hillcrest Way in unincorporated San Mateo County.

2. Consent Agenda

- a. **Approval of Action Minutes: September 19, 2018**
- b. **LAFCo File 18-09 – Proposed Annexation of 40 Sioux Way, Portola Valley to West Bay Sanitary District**

Commission Action: Commissioner Horsley moved to approve the consent agenda consisting of the Action Minutes for September 19, 2018 and LAFCo File 18-09 – Proposed Annexation of 40 Sioux Way, Portola Valley to West Bay Sanitary District. Commissioner Garbarino seconded the motion, which passed unanimously. (Ayes: Commissioners Cosgrove, Draper, Garbarino, Horsley and Chair O'Neill. Abstentions: None; Noes: None.)

Chair O'Neill noted Alternate Public Member Jim O'Neill's presence in the audience.

3. Public Comment for Items Not on the Agenda

None

4. LAFCo File 18-06 – Proposed Water Extension by the City of Redwood City to Proposed Single-family Home at 752 Hillcrest Way (APN 068-071-470) (Unincorporated San Mateo County) Pursuant to Government Code Section 56133 (less than one acre)

Executive Officer Poyatos said this application was previously on the Commission's agenda in July when it approved an extension of water service by the City of Redwood City to 752 Hillcrest Way in unincorporated San Mateo County conditioned upon an executed and recorded agreement for annexation between the City of Redwood City and the applicant. She said the Redwood City City Attorney had drafted a proposed deed restriction with an agreement to future annexation to use. She said the City of Redwood City wanted to continue working on an annexation agreement template and in this instance were proposing recordation of a deed restriction for this property. She said that would substantially meet the intent of the Commission's prior approval. She said staff recommended the Commission authorize the Executive Officer to send a letter approving the water extension upon recordation of the deed restriction. She said this would be by exception only and any future water or sewer extensions by the City of Redwood City would need to be subject to the annexation agreement as referenced elsewhere.

Commission Action: Commissioner Horsley moved to approve LAFCo File 18-06 – Proposed Water Extension by the City of Redwood City to Proposed Single-family Home at 752 Hillcrest Way (APN 068-071-470) (Unincorporated San Mateo County) Pursuant to Government Code Section 56133 (less than one acre) and authorize the Executive Officer to send a letter to approve the water extension upon recordation of the deed restriction related to future annexation. Commissioner Garbarino seconded the motion, which passed unanimously. (Ayes: Commissioners Cosgrove, Draper, Garbarino, Horsley, and Chair O'Neill. Abstentions: None; Noes: None.)

**5. Applications Received and Not Certified as Complete and Ready for Hearing
INFORMATION ONLY**

Executive Officer Poyatos said these applications for annexation were not yet ready for hearing but as required by the Cortese Knox Hertzberg Act were placed on the LAFCo agenda for information only and to allow that West Bay Sanitary District, if desired, to adopt a resolution to oppose the applications.

- a. **LAFCo File 18-10 - Proposed Annexation of 28 Arastradero Road, Unincorporated Santa Clara County (APN 182-34-061) to West Bay Sanitary District (5.77 acres)**
- b. **LAFCo File 18-11 - Proposed Annexation of 35 Sioux Way, Portola Valley (APN 077310-110) to West Bay Sanitary District (1.48 acres)**
- c. **LAFCo File 18-12 - Proposed Annexation of 305 Golden Oaks Drive, Portola Valley (APN 079-102-030) to West Bay Sanitary District (1.29 acres)**

6. Draft Update to Policy for Extension of Service Outside Jurisdictional Policies

Executive Officer Poyatos referred to the staff report dated December 12, 2018 outlining the provisions of Government Code Section 56133 concerning the extension of water or sewer service outside jurisdictional boundaries. She said the section stated that a city or district may provide new or extended services by contractual agreement outside jurisdictional boundaries as long as it first requested and received written approval from LAFCo. She said LAFCo has discretion on approving, approving conditionally, or denying such applications. She said one restriction on LAFCo's consideration and approval was that LAFCo could only approve an extension outside jurisdictional boundaries and outside its sphere of influence if it would mitigate a public health threat such as a failing septic system or well.

Ms. Poyatos said the majority of the applications coming to the Commission involved water connections to unincorporated Emerald Lake Hills and Oak Knoll as the City of Redwood City was the retail water provider for those areas under the City's water supplier assurance agreement with San Francisco Public Utilities Commission. She said on occasion there were requests made for extension of sewer service from the City of Redwood City as well. She said areas that relied on sewer extension per 56133 included the unincorporated San Carlos areas of Devonshire and Palomar Park and unincorporated South San Francisco Country Club Park. She said water extension requests would not be made for unincorporated San Carlos and South San Francisco as these areas are served by California Water Service.

Ms. Poyatos said in recent months the meeting minutes indicated the Commission's concern with requests for extensions of service that did not seem to have a plan for annexation and that might not completely be complying with section 56133. She said staff had been working with the Policy Committee to draft clarifying language to the current policies to include a requirement for annexation agreements to meet the provisions of 56133. She requested the Commission look at the clarifying policy and provide input. She said any changes desired would be incorporated and then sent out to the cities and special districts for consideration prior to consideration of adoption at the LAFCo January meeting. She said for the long term annexation plan approval of an extension for water or sewer would require an executed recorded agreement for deferred annexation and the related city would have a plan on how it would implement annexation in the area. She said the recommendation was to allow for more time to work with the cities and districts that would be subject to this. She said in this regard the Policy Committee was clear it did not want the Commission to dictate what kind of annexation plan the cities/districts would adopt.

Commissioner Garbarino asked for clarification if a city might be forced to provide services. Ms. Poyatos said the one case in which they would see a city compelled to provide service was when County Environmental Health issued a letter finding no other alternative for service was possible.

Replying to Commissioner Horsley, Ms. Poyatos said the short-term clarifying of policy was Attachment A. She said Attachment B included a recordable document for deferred annexation and a city/district would have a plan in place as to how it would implement annexation.

Replying to comments from Commissioner Draper regarding the use of “shall” and “may,” Ms. Poyatos said language would be added to allow as stated by code that the Commission could continue a request for service extension for up to 70 days.

Replying to Chair O’Neill’s question about areas of fire hazard, Ms. Poyatos said in that case it would be annexation to a water district where it would mitigate fire hazards by providing water for fire suppression. She said LAFCo was not required to approve any discretionary annexation where for instance fire hazards were identified as not mitigatable.

Replying to Commissioner Cosgrove, Ms. Poyatos suggested she could contact the Cities of Redwood City, San Carlos and South San Francisco, the cities most subject to service extension requests and deferred annexation to see about getting their comments on the proposals in time for the January meeting.

Chair O’Neill said he understood Commissioner Cosgrove’s concern with getting responses in time for the January meeting. Ms. Poyatos confirmed that there was preference to extend the review to bring the two documents for LAFCo approval at its March meeting.

Commission Action: Commissioner Draper moved to 1) direct staff to circulate both draft policies to cities and special districts prior to Commission consideration of the Clarifying Policies at the March 20, 2019 meeting, and 2) direct staff to conduct outreach to cities and districts regarding the Draft Revised Service Extension (Attachment B) with the modification to include language to allow continuance up to 70 days and that would be considered by the Commission when cities and districts have had the opportunity to adopt annexation plans for areas in their spheres of influence. Commissioner Cosgrove seconded the motion, which passed unanimously. (Ayes: Commissioners Cosgrove, Draper, Garbarino, Horsley, and Chair O’Neill. Abstentions: None; Noes: None.)

7. Legislative Report

Executive Officer Poyatos referred to the staff report dated December 12, 2018. She said regarding SB 48 that the two inactive special districts in the San Mateo County were County Service Area (CSA) 10 and CSA 12. She said the State Controller would be writing the County Controller and LAFCo a letter that would trigger the process to dissolve the two districts.

8. California Association of Local Agency Formation Commissions (CALAFCO) Correspondence

Executive Officer Poyatos provided a brief report on the CALAFCO conference and noted that the quarterly CALAFCO newsletter from October was also included in the packet.

9. Appointment of Chair and Vice Chair for 2019

Commission Action: Commissioner Horsley moved to appoint Commissioner Draper, Public Member, as Chair for 2019. Commissioner Garbarino seconded the motion, which passed unanimously. (Ayes: Commissioners Cosgrove, Draper, Garbarino, Horsley, and Chair O'Neill. Abstentions: None; Noes: None.)

Commission Action: Commissioner Horsley moved to appoint Commissioner Cosgrove, Special District Member, as Vice Chair for 2019. Commissioner Draper seconded the motion, which passed unanimously. (Ayes: Commissioners Cosgrove, Draper, Garbarino, Horsley, and Chair O'Neill. Abstentions: None; Noes: None.)

10. Appointment of Budget Committee and Legislative/Policy Committee for 2019

Commissioner Draper volunteered to serve on the Legislative/Policy Committee in 2019. Chair O'Neill noted that Kati Martin, Special District Alternate Member, would continue on the Legislative/Policy Committee for 2019. He indicated Jim O'Neill would serve on the Legislative/Policy Committee in 2019. Commissioners Cosgrove, Horsley and Mike O'Neill volunteered to serve on the Budget Committee.

11. Resolution Honoring Joseph Sheridan for His Service as Special District Member

Chair O'Neill read the resolution honoring Joseph Sheridan for his service as Special District Member.

Commission Action: Commissioner Horsley moved to approve the resolution honoring Joseph Sheridan. Commissioner Garbarino seconded the motion, which passed unanimously. (Ayes: Commissioners Cosgrove, Draper, Garbarino, Horsley, and Chair O'Neill. Abstentions: None; Noes: None.)

12. Commissioner/Staff Reports

Executive Officer Poyatos said in the September meeting minutes that Commissioner Draper asked about the public comment the Commission received on the Peninsula Health Care District, and recalling that after the municipal service reviews the health care districts were to

report annually to LAFCo. Ms. Poyatos said she spoke with those agencies' general managers and the Commission should expect those reports for the January meeting. She said Peninsula Health Care District was continuing to work with the community to establish affordable rates for its housing proposal.

13. Adjournment

Chair O'Neill adjourned the meeting at 3:03 p.m.