

SAN MATEO



# LOCAL AGENCY FORMATION COMMISSION

455 COUNTY CENTER, 2ND FLOOR • REDWOOD CITY, CA 94063-1663 • PHONE (650) 363-4224 • FAX (650) 363-4849

## Action Minutes San Mateo Local Agency Formation Commission Meeting March 17, 2021

Chair Slocum called the Wednesday, March 17, 2021 meeting of the Local Agency Formation Commission (LAFCo) to order at 2:30 pm via Zoom in accordance with Executive Order N-29-20 and N-33-20 due to COVID 19.

He welcomed Alternate Commissioner Diana Reddy as the newly appointed alternate city member.

### 1. Roll Call

Members Present: Commissioners Joshua Cosgrove, Ann Draper, Don Horsley, Ric Lohman, Harvey Rarback, Vice Chair Mike O'Neill, Chair Warren Slocum.

Members Absent: None

Alternate Commissioners Jim O'Neill, Kati Martin and Diana Reddy were also present in the audience.

Staff Present: Rob Bartoli, Management Analyst  
Timothy Fox, Legal Counsel  
Angela Montes Cardenas, Commission Clerk  
Janneth Lujan, Planning Commission Secretary

### 2. Consent Agenda

- a. Approval of Action Minutes: January 20, 2021
- b. LAFCo File No. 21-01 – Proposed annexation of 20 Sioux Way, Portola Valley (APN 077-310-020) to West Bay Sanitary District and subsequent annexation to the On-site Wastewater Disposal Zone
- c. LAFCo File No. 21-02 – Proposed annexation of 155 Grove Drive, Portola Valley (APN 079-011-080) to West Bay Sanitary District and subsequent annexation to the On-site Wastewater Disposal Zone

**COMMISSIONERS:** WARREN SLOCUM, CHAIR, COUNTY ▪ MIKE O'NEILL, VICE CHAIR, CITY ▪ HARVEY RARBACK, CITY ▪ DON HORSLEY, COUNTY  
▪ JOSHUA COSGROVE, SPECIAL DISTRICT ▪ RIC LOHMAN, SPECIAL DISTRICT ▪ ANN DRAPER, PUBLIC

**ALTERNATES:** KATI MARTIN, SPECIAL DISTRICT ▪ DIANA REDDY, CITY ▪ JAMES O'NEILL, PUBLIC ▪ DAVE PINE, COUNTY

**STAFF:** MARTHA POYATOS, EXECUTIVE OFFICER ▪ TIMOTHY FOX, LEGAL COUNSEL ▪ ROB BARTOLI, MANAGEMENT ANALYST ▪ ANGELA MONTES, COMMISSION CLERK

Commission Action: Commissioner Horsley moved to approve the consent agenda and Commissioner O’Neill seconded the motion which passed unanimously by roll call vote. (Ayes: Commissioners Cosgrove, Draper, Horsley, Lohman, Rarback, Vice Chair O’Neill, Chair Slocum. Abstentions: None; Noes: None)

### **3. Presentation on Multijurisdictional Local Hazard Mitigation Plan Update by San Mateo County**

Dan Belville, San Mateo County Communications Director and Carolyn Bloede, Director of Office of Sustainability, along with Ann Ludwig presented to the Commission. Mr. Belville spoke about the number of emergency and disaster events that have impacted the County over the last year, including the COVID-19 pandemic and the CZU Wildfire.

Ms. Bloede spoke about the partnership between the Office of Sustainability and Office of Emergency Services. She said that wildfire and the pandemic have brought hazards to the forefront of their thinking. She noted that the Local Hazard Mitigation Plan (the Plan) is updated every 5 years and she shared how it will be created. She said that The Plan will focus on building resilience from all San Mateo County communities and equitable representation in plan.

Ms. Bloede discussed the various elements of the plan, including the concept of hazard mitigation. The Plan will report on progress towards mitigating the hazard and risks identified through the update process. She noted 20 cities 14 special districts, along with several stakeholders are participating in The Plan update. She also gave examples of potential mitigation strategies that could be included in The Plan.

Ms. Bloede stated that benefits of The Plan include eligibility for grant funds, improve understanding of risks and vulnerabilities, reduce negative impacts on natural hazards, encourage sustainable actions, foster collaboration between local jurisdictions and residents among other benefits. She emphasized that they prioritize and encourage equitable representation. She said they have 50% community-based organizations in Steering Community helping drive the process. She said they address disparities intentionally and she noted what they are doing to ensure that equitable representation.

Ms. Bloede introduced Ann Ludwig, the project manager for The Plan update. Project Manager contact, [c\\_aludwig@smcgov.org](mailto:c_aludwig@smcgov.org).

Mr. Belville, Ms. Bloede and Ms. Ludwig answered and addressed questions and comments from Commissioners Rarback, Horsley, Lohman, and Draper.

#### **4. Public Comment for Items Not on the Agenda**

Chair Slocum opened public comment.

Carlyle Ann Young asked if Caltrans is a partner to the Local Hazard Mitigation Plan update. She had previously spoke to the County about the need for emergency evacuation routes in the mid-coast area that were not part of the Coastside transportation plan. She also stated that the County needs to update their tree ordinance to better address fire hazards.

Chair Slocum closed public comment.

#### **5. Consideration of Adoption of Proposed Work Program and LAFCo Budget for Fiscal Year 2021-22**

Mr. Bartoli gave an oral presentation to the Commission. He began by stating that Government code section 56381 requires that LAFCo hold a public hearing and adopt a proposed net operating budget by May 1 and a final budget by June 15. He said the proposed operating budget for the upcoming year is \$769,299, equating to a one-third apportionment of \$210,298, which is an increase of \$28,819 from the FY 2020-21 budget. He noted that included in the proposed budget are County salary and benefit increases, \$5,000 in one-time funding for the purchase two new laptops to replace two existing computers needed for working remotely, \$10,170 for California Association of Local Agency Formation Commissions (CALAFCO) Conference and Staff Workshop attendance, and a \$10,000 increase in County Counsel.

Mr. Bartoli stated that that CALAFCO, along with California State Association of Counties, League of Cities and California Special Districts Association (CSDA), are planning to hold an in-person annual conference and staff workshop. He noted that the Meetings and Conference appropriation is estimated at \$10,170 based on four Commissioners' attendance and two staff members to attend the annual CALAFCO conference in Orange County and budgeting for staff to attend the staff conference in 2022, also in Orange County.

Mr. Bartoli also noted the total budget appropriation for County Counsel is \$40,000, a \$10,000 increase over FY20-21. This increase is in anticipation of several proposals and studies that will come before the Commission this upcoming fiscal year that will require added County Counsel review and support (including WBSD divestiture of solid waste, CSA-11 annexation, and several MSRs).

These charges from outside agencies include Memberships in the CALAFCO and (CSDA) and liability insurance purchased from the California Special District Risk Management Authority (SDRMA). He stated that membership with CALAFCO allows staff and the Commission access to LAFCo focused training, conferences and legislative updates. Along with access to

SDRMA, membership with CSDA keeps staff apprised of issues of interest to special districts and LAFCo.

The current estimated LAFCo fund balance is \$100,008, where \$61,131 is proposed to be allocated to the reserve fund (the same amount that was allocated to the reserve in the adopted FY2020-21 Budget) allowing for \$38,877 to reduce costs to member agencies. He said the reserve amount is approximately 9% of the overall LAFCo budget.

He also stated that consulting costs are left at zero currently. However, the process for selecting a consultant for the MSR for EPA, EPASD, and WBSD is moving forward and study is being paid for by developers and will not be charged to member agencies. He said that once the contract is executed the developers will deposit the corresponding funds to LAFCo for the consultant charges, which will balance out. He said that they will be added in the FY 21-22 budget actuals but there is no net effect on the LAFCo budget.

Mr. Bartoli continued to explain previous budget adoption timeline. He noted that in previous budget cycles, the Commission adopted a draft proposed budget before May 1 and a final proposed budget by June 15. He said in September, the Commission would then adopt revisions to the budget to reflect the final actual fund balance for the prior fiscal year. After these revisions, LAFCo staff transmits the budget to the County Controller's Office to invoice member agencies for their share of the one-third apportionment. He stated that waiting to invoice cities and districts until September has resulted in a negative cash and to address this issue, LAFCo staff will transmit the adopted budget to the Controller by the June 15 so that the Controller can expedite invoicing funding agencies for their share of the LAFCo budget. He noted that in item 7 on the agenda, the proposed LAFCo Budget policy, also discusses this process.

He said that in regard to the proposed work plan, staff anticipates several MSRs coming before the Commission in FY 2021-22 including South San Francisco and Westborough Water District, the before mentioned consultant led MSR for City of East Palo Alto, East Palo Alto Sanitary District, and West Bay Sanitary District and County Service Area 11, along with a number of applications and proposals. He stated that staff also continues to work on the audits for the LAFCo budget, reviewing and commenting on relevant plans, projects, and General Plan updates, and implementing updates to the LAFCo website.

Mr. Bartoli concluded by stating that the Budget Committee met on March 3 and unanimously recommended approval of the Draft Proposed FY2021-22 budget.

He thanked Commissioners Draper, Horsley, and Mike O'Neill for their thoughtful input on the proposed budget.

Mr. Bartoli recommended approval of the proposed budget of \$769,299. If approved, the final 2021-22 budget would be set for public hearing on May 19, 2021 and the budget would be circulated to the County, cities, and independent special districts.

Chairman Slocum opened and closed the public hearing. No comments were received.

Commission Action: Vice Chair O'Neill moved to approve adoption of proposed work program and LAFCo budget for FY21-22. Commissioner Draper seconded the motion which was and passed unanimously by roll call vote. (Ayes: Commissioners Cosgrove, Draper, Horsley, Lohman, Rarback, Vice Chair O'Neill, Chair Slocum. Abstentions: None; Noes: None)

## **6. Consideration of Revised LAFCo Schedule of Processing Fees**

Mr. Bartoli gave the Commission a verbal presentation. He began by noting that The Cortese-Knox-Hertzberg (CKH) Act governing LAFCo operations authorizes the Commission to establish a schedule of fees for processing applications and provides that the fees shall not exceed the estimated reasonable cost of providing the service. He said that fees were last revised in 2019 and as part of the FY 19-20 Budget, staff was directed to prepare an update of fees every two years.

He noted that the update to the annexation/detachment fees take into account an increase in salary and benefits, the addition of a full time Management Analyst and shared secretarial position, and the additional complexity and requirements related to processing applications. He said that on average, the fees for minor and major annexations are proposed to be increased 25%.

He stated that the staff rates include not only salary and benefits, but also overhead costs including ISD/IT charges, rent, and other County charges. County Counsel costs are also built into the fees. He noted that the application fees are similar to other urban LAFCos including Alameda, Contra Costa, Marin, Napa, Orange, Santa Clara, and Sonoma. He stated that the fee for consolidation, merger, dissolution and the creation of subsidiary district is proposed to be moved to actual costs, as these actions vary greatly in complexity and required staff time. He also noted that in addition to these changes, the LAFCo fee schedule current didn't include fees for the divestiture of special district powers and that divestiture would be charged at actual cost.

He said that the Commission has historically adopted fees with the goal of recovering a larger share of processing costs for individual proposals while not discouraging boundary change applications.

He stated that On March 3, 2021, the Budget Committee recommended approval of the revised fee schedule.

Mr. Bartoli recommended approval of draft LAFCo Fees and circulate to the County, cities, special districts, and other interested parties, and place the consideration of adoption at the May 19, 2021 Commission meeting, to go into effect 60 days later.

Chairman Slocum opened and closed the public hearing. No comments were received.

Commission Action: Commissioner Horsley moved to approve draft LAFCo Fees and circulate to the County, cities, special districts, and other interested parties, and place the consideration of adoption at the May 19, 2021 Commission meeting. Vice Chair O'Neill seconded the motion which was and passed unanimously by roll call vote. (Ayes: Commissioners Cosgrove, Draper, Horsley, Lohman, Rarback, Vice Chair O'Neill, Chair Slocum. Abstentions: None; Noes: None)

## **7. Budget and Policy Committee.**

### **a. Consideration of Draft LAFCo Budget Policy**

Mr. Bartoli gave a verbal presentation to the Commission. He began by stating that the Commission has contracted with the County of San Mateo for staffing, office space, general services and supplies and legal counsel since 1996. He noted that since that time, the Commission and staff have operated consistent with County budget and accounting practices. He said that in order to memorialize these practices, it is recommended that the Commission adopt budget policies to serve as guidance to the Commission's staff and the County Controller and budget office.

He said that the draft policy includes identifying LAFCo funds as separate from the County general fund; the budget adoption process and the policy of having the difference between of the estimated fund balance and actual fund balance either be added to or deducted from the adopted reserve; the 1/3 apportionment billing process and timing (after adoption of final budget instead of at the September revisions); payroll administration, contract approval and execution (for less than \$5,000 and money already budgeted); and reserve amounts. He noted that the Budget Committee recommended that reserves should not exceed 10% of the LAFCo budget.

Mr. Bartoli recommended approval of draft LAFCo Budget Policy and circulate to the County, cities, special districts, and other interested parties, and place the consideration of adoption at the May 19, 2021 Commission meeting.

Chairman Slocum opened and closed the public hearing. No comments were received.

Commissioner Ann Draper requested that administrative policies, such as the budget policy be kept separate from other process and LAFCo proposal policies. Mr. Bartoli agreed on keeping policies separate.

Commission Action: Vice Chair O'Neill moved to approve draft LAFCo Budget Policy and circulate to the County, cities, special districts, and other interested parties, and place the consideration of adoption at the May 19, 2021 Commission meeting. Commissioner Lohman seconded the motion which was and passed unanimously by roll call vote. (Ayes: Commissioners Cosgrove, Draper, Horsley, Lohman, Rarback, Vice Chair O'Neill, Chair Slocum. Abstentions: None; Noes: None)

## **8. Legislative and Policy Committee**

### **a. Consideration of Updates to Procedures of Outside Service Agreement Policy for City Water Extension**

Mr. Bartoli gave a verbal presentation to the Commission. He began for stating that in 2019, the Commission adopted an updated Outside Service Agreement Policy for instances in which a city or district is requested water or sewer service from a property owner outside agency boundaries. He said LAFCo can authorize extension if the territory is in the SOI in anticipation of future annexation or outside the SOI if extension mitigates a public health threat. He noted that recently, staff received an inquiry from a property owner in the Town of Woodside that underscored a need for a revision to the policy. He said a new house was proposed for a vacant property in Woodside, which is located in the Redwood City water service area established by the San Francisco Public Utilities Commission (SFPUC). He stated that in the case of cities having established water service areas that include territory in another city is unique in California and was not contemplated by Section 56133 which governs the extension of water service. The intention of Section 56133 is to allow the provision of service to areas within an agency's sphere of influence in anticipation of future annexation to that agency.

He said that the current policy only addresses the extension of service from a city to an unincorporated area in the city's sphere or to an area outside the sphere including another city when there is a public health issue and where the extension of service by a city to said property would not result in a boundary change. He said the policy is silent on these types of service extensions for water service by a city to another incorporated area but within the agency's established water service area when no public health threat exists. He noted that in order to address the unique service patterns related to SFPUC water retailers that provide service to territory in another city, a revision specific to city water extensions to other cities is recommended.

He said that for incorporated areas that receive water service from another municipality, it is not anticipated that the provision of this water service would require a property to detach from one city and annex to another as these areas are not located in the sphere of influence of another city. He said that there is no anticipation of a boundary change in conjunction with the extension of a water, so Section 56133 is not applicable for a water extension by a city outside of its boundary to another incorporated area. He continued to say that to ensure that a water extension of this manner is exempt, LAFCo will require notification by the service provider prior to the extension of service and the Executive Officer will provide written confirmation that said service is exempt from Section 56133. He shared a map of the Redwood City water service area in the Town of Woodside.

He said this policy would not apply to districts, as a special district can have territory in both incorporated and unincorporated areas. He said it would also not apply to city service extensions into unincorporated area where an OSA or annexation would be appropriate for a change (or future change) in a boundary.

He noted that in the draft policy, there is a reference to the Bay Area Water Supply & Conservation Agency (BAWSCA) as having a role in setting the service boundaries. He said in a conversation with BAWSCA staff, SFPUC is the sole agency that sets the water service boundaries. Staff will make this correction in the draft policy before it is circulated to interested parties.

Mr. Bartoli recommended approval of draft LAFCo updates to procedures of outside service agreement policy for city water extensions.

Chair Slocum opened public comment.

Carlyle Ann Young, member of the public, asked if this policy only impacts agencies that receive water from SFPUC and are members of BAWSCA.

Mr. Bartoli clarified that this policy is specific to city agencies that are members of BAWSCA that have boundaries set by SFPUC or customers of SFPUC. This does not have an impact on special districts or agencies that do have their service area set by SFPUC.

Chair Slocum closed public comment.

Commissioner Horsley noted that in his District he has individuals who are directed connected to SFPUC and others to Corrales Mutual Water surrounded by Redwood city., He stated that this has been an issue that he has been working on for the last ten year. Mr. Bartoli noted that LAFCo is aware of this issue and will continue to work on a solution for the customers.

Commission Action: Commissioner Horsley moved to approve draft LAFCo policy and circulate to the County, cities, special districts, and other interested parties, and place the

consideration of adoption at the May 19, 2021 Commission meeting. Vice Chair O'Neill seconded the motion which was and passed unanimously by roll call vote. (Ayes: Commissioners Cosgrove, Draper, Horsley, Lohman, Rarback, Vice Chair O'Neill, Chair Slocum. Abstentions: None; Noes: None)

## **b. Legislative Report**

Mr. Bartoli gave a brief oral report and noted that this is an information only item. He said it is still early in the State legislative session, many bills are only starting to be reviewed by legislative committees. He said several of these bills are carry over from the previous legislative session. He noted that of the 29 bills being tracked by CALAFCO as March 5, the bills fall into the following categories:

- Special District Governance (5 Bills – AB 1195, AB 903, AB 959, AB 1246, SB 96)
- General Plan/Transits Plans/Climate Plans (4 Bills – AB 11, AB 897, SB 475, SB 499)
- Land Use/Housing (3 Bills – SB 55, AB 1295, SB 10)
- Open Meetings/Brown Act (3 Bills – AB 339, AB 361, AB 703)
- Public Records Act (3 Bills – AB 473, AB 474, SB 274)
- Potential Spot Bills (3 Bills – AB 428, AB 588, AB 1477)
- Validating Acts (3 Bills – SB 810, SB 811, SB 812)
- Water (3 Bills - AB 1250, SB 273, SB 403)
- Local Government (1 Bill – SB 813)
- Outside Service Agreements (1 Bill – SB 13)

He stated that on March 4, the LAFCo Legislative Committee reviewed these 29 bills. He said currently, there are no bills with recommended action from CALAFCO other than "Watch".

He said that since the Committee met, CALAFCO provided additional information on AB 959 affecting four open space districts, including the Midpeninsula Regional Open Space District. He noted that AB 959 (Mullin) would allow for park and open space districts the ability to adopt public nuisance ordinances and establish procedures for abating these nuisances. He stated that under the district's principal acts in Pubic Resources Code, these districts have limited legal tools to prevent unauthorized uses of their land. He said that administrative abatement is a method of addressing public nuisances due to the fact that it provides all parties with due process and does not require court-based proceedings. He said that other public agencies, include dependent park districts already have this authority. He finalized by saying examples of nuisances that impact sensitive habitat and wildfire protection zones on Park District lands include, illegal water diversion, extension of private yards, illegal encroachments on Park District property, unauthorized landscaping, and streambed alteration. He said they will continue to watch these bills and update the Commission.

**9. CALAFCO – Information Only**

**a. CALAFCO 2020 Annual Report**

Mr. Bartoli gave a brief oral presentation to the Commission he began by stating this is an information only item. He noted the report discusses the challenges that all LAFCOs have dealt with during the pandemic. He said the report highlights how CALAFCO has been able to still provide educational opportunities including six webinars, many of which were coordinated by the CALAFCO Deputy EO, Martha Poyatos. He said CALAFCO also notes its continued work on LAFCo focused legislation and its legislative tracker.

**b. CALAFCO Quarterly February 2021 Newsletter**

Mr. Bartoli noted that this is an information only item. He stated Annual conference scheduled for Oct 6-8 in Newport Beach and staff will have more info soon. The staff workshop will also be in Newport Beach, March 23 – 25, 2022.

**10. Commissioner/Staff Reports**

None

**11. Adjournment**

Chair Slocum adjourned the meeting at 3:41 p.m.