



# Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

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## NOTICE OF REGULAR MEETING MINUTES

### Marin Local Agency Formation Commission

**Thursday, August 13, 2020**

#### CALL TO ORDER

Chair McEntee called the meeting to order at 7:00 P.M.

#### ROLL CALL BY COMMISSION CLERK

Roll was taken and quorum was met. The following were in attendance:

Commissioners Present: Sashi McEntee, Chair  
Craig K. Murray, Vice-Chair  
Lew Kious  
Barbara Coler  
Damon Connolly  
Larry Loder  
Judy Arnold

Alternate Commissioners Present: Tod Moody  
Chris Skelton  
James Campbell

Marin LAFCo Staff Present: Jason Fried, Executive Officer  
Jeren Seibel, Policy Analyst

Marin LAFCo Counsel Present: Mala Subramanian

Alternate Member Absent: Dennis Rodoni

#### AGENDA REVIEW

Executive Officer Fried suggested that item 5 be moved to the front of the public hearing items as there was a public member in attendance to speak on that item.

Approved: M/S by Commissioners Arnold and Kious to accept the amended agenda.

Ayes: Commissioners McEntee, Murray, Connolly, Arnold, Kiours, Coler, and Loder

Nays: None

Abstain: None

Motion approved unanimously.

## PUBLIC OPEN TIME

Chair McEntee opened the public comment period. Hearing no request for comment, Chair closed the public open time.

## CONSENT CALENDAR ITEMS

1. Approval of Minutes for June 11, 2020, Regular Meeting
2. Commission Ratification of Payments from June 1, 2020, to July 31, 2020

Approved: M/S by Commissioners Arnold and Loder to accept the consent calendar.

Ayes: Commissioners McEntee, Murray, Connolly, Arnold, Coler, Kious, and Loder

Nays: None

Abstain: None

Motion approved unanimously.

## PUBLIC HEARING ITEMS

3. Presentation of the Ross Valley Region Municipal Service Review Public Draft [Information Only]

EO Fried gave opening comments on the Public Draft of the MSR for the Ross Valley Area. He noted it took slightly longer to conduct this because COVID came in the middle and slowed the process down.

Policy Analyst Seibel presented the Public Draft to the Commission. Policy Analyst Seibel highlighted that the study would be used to guide subsequent SOI updates, inform future boundary changes, and initiate government reorganization. Policy Analyst Seibel did not believe that any SOI updates would come out of this MSR. Determinations that would require additional efforts included a working group to explore a new fire district with RVFD, CMFD, and KFPD, and potential annexation of the unincorporated island outside of San Anselmo along San Francisco Boulevard. Irregularities when looking at the jurisdictional boundary between the towns of San Anselmo and Ross also need to be addressed and adjusted, the Town of Fairfax needs to address the format for posting public documents because they're presently not ADA compliant, and CSA 27 needs to address outdated public documentation on its website.

Policy Analyst Seibel noted that Public Comment would close on Sept. 14<sup>th</sup>, and that some comments from Oak Manor constituents had already been received. Any comments or edits would be tracked.

Commissioner Coler made several comments on the Ross Valley MSR, including issues with the name, the consolidation of Fire districts, and the Oak Manor annexation.

Vice-Chair Murray requested that, moving forward, a bit more context on any unincorporated islands be provided. He went on to request a look at the relationship between the police authorities of colleges/junior colleges and the police departments that are in their jurisdiction in future MSR. He also requested mention of SHFPD's involvement, if any, in the renovation of the Sleepy Hollow Community Center.

Chair McEntee opened the public hearing. Hearing no public comments, Chair closed the public hearing.

4. Presentation of the San Rafael Region Supplemental Municipal Service Review for Marin County Flood Control and Water Conservation District Zones 6 & 7 Public Draft [Information Only]

EO Fried introduced the MSR, noting that Flood Zones 6 and 7 were included as supplementals to the already completed San Rafael Area MSR.

He also reminded the commission that LAFCo doesn't have jurisdiction over boundary changes to flood control zones, LAFCo simply looks at whether or not the districts are working efficiently and whether or not the zones are financially stable.

EO Fried mentioned that when Flood Zone 6 was created, it was in unincorporated Marin County. The City of San Rafael later incorporated that area into the city's limits. Most of the work is now done by San Rafael. LAFCo is suggesting taking the County out of the process entirely which would create administrative efficiencies.

EO Fried then mentioned an issue with Flood Zone 7. Although currently financially stable, the zone's funding is not increasing at the same level that the cost of services is increasing. The district will run into financial problems in the future when major projects are needed. LAFCo has recommended creating a more permanent long-term funding source to help meet the needs of the zone. It's good to note that the Flood Control Zone is in the process of discussing this issue and is close to putting a ballot measure on a ballot in the near future.

EO Fried mentioned that some comments had already been received and that Public Comment Period closes Monday, Sept. 14<sup>th</sup>. All comments/responses/edits are tracked and will be included in the Final Draft. Final approval of the edits will be addressed in the October Commission Meeting.

Some commissioners left comments on the MSRs, namely Vice-Chair Murray and Commissioners Connolly and Coler.

Hearing no public comment, Chair closed the public hearing.

5. Approval of Resolution 20-23, Annexation of 200 Pachecho Ave (APN 146-230-79) to Novato Sanitary District (LAFCo File #1349) and approval of CEQA Exemption

EO Fried summarized the application, which was for a single-family home with a septic tank nearing the end of its useful life. The applicant wanted to replace it before it failed, but county regulations stated that if a property is within 400 feet of a sewer line, it must connect to that sewer line. The parcel associated with the application was unusual because it falls in the unincorporated area of Indian Valley while the sewer line is within the City of Novato, and inside of the Novato Urban Growth Boundary. This has created issues with annexation of this property into the sanitary district because the City of Novato can not issue the permits needed to connect a sewer lateral to the sewer line unless the septic tank on the property to be connected to the Novato Sanitary District line has failed or is in imminent danger of failing.

EO Fried suggested approving the application to speed up the process when the septic tank does eventually fail in order to prevent extra emergency costs and administrative delays.

Chair McEntee opened the public hearing. Applicant Ian Murdock spoke.

EO Fried read a public comment email from Craig Knowlton from the Indian Valley Association.

Hearing no further public comment, Chair McEntee closed the public hearing and brought it back to the commission for deliberation.

Commissioner Arnold requested that the item be postponed until next meeting. Commissioner Kious concurred with Commissioner Arnold. Commissioner Coler concurred but with stipulations.

A discussion ensued where commissioners asked questions and considered different options that could be pursued going forward, as well as different stakeholders that would be relevant to communicate with in order to solve the current hold-up with the application and prevent hold-ups in the future.

Due to the discussion that occurred the applicant said he wanted to withdraw the application and asked if he could get his application fee back.

Commissioner Kious noted procedurally, that a refund of money is a separate issue from this filing, and asked legal counsel if a refund was something acceptable and allowable to do in the commission meeting, or if it needed to go through EO Fried for administrative action.

LAFCo Legal Counsel noted that separately there are two prongs for a refund to be allowable. One is that based on the requirements the commission can reduce or waive a fee, but the commission must find that the payment would be detrimental to the public interest under Gov.

Code 56383(d). Legal Counsel does think the Commission would be able to move at that night's meeting with accepting the withdrawal of the application as the applicant indicated. With the finding that the fee would be detrimental to the public interest, the Commission could waive or reduce the fee.

Vice-Chair Murray reminded the Commission that the septic system would fail in the future, forcing the applicant to go through the same process again with an added threat to public health. He countered that if the applicant could wait until October to complete this application, then that would be best.

Commissioner Skelton took issue with making the finding that Legal Counsel found in the government code for refunding because of the time and resources staff had already invested into this application.

Chair McEntee then yielded to EO Fried, based on the applicant's interest in withdrawing, on how to proceed.

EO Fried said that it is the Commission's decision to refund the applicant or not.

Applicant wanted to condition his withdrawal on receiving the application fee back.

Chair McEntee expressed sympathy for the position that the applicant was in. She asked, given the applicant's request to withdraw the application, if anyone would make a motion regarding the fees.

Approved: M/S by Commissioners Coler and Arnold

Ayes: McEntee, Connolly, Arnold, Coler, Kious

Nays: Murray, Loder

Abstain: None

Motion approved by a 5-2 vote.

## **BUSINESS ITEMS**

6. Approval of Voting Delegates to CALAFCO, Nomination of CALAFCO Board Members, and update on other CALAFCO related matters.

EO Fried explained that CALAFCO's conference had been canceled due to COVID-19, but that CALAFCO still had a few official items to address, and that Marin LAFCo needed to pick a voting delegate and an alternate. Voting for CALAFCO Board of Directors would be done by email only. He also discussed the issue surrounding how and if CALAFCO needed to do a business meeting. If the annual meeting is held, it will be held virtually, in which case a delegate will be necessary. The business meeting will be held at the same time it would have normally been held during the annual conference

Chair McEntee noted that the last couple of years, Vice-Chair Murray and Chair McEntee had attended, before that, Commissioner Skelton had attended. Chair McEntee inquired as to whether any other commissioners would be interested in attending. Hearing none, the vote was called.

Approved: M/S by Commissioners Connolly and Moody to approve Chair McEntee and Vice-Chair Murray as delegate and alternate delegate.

Ayes: Commissioners McEntee, Murray, Kious, Coler, Loder, Connolly, and Arnold

Nays: None

Abstain: None

Motion approved 7-0 .

EO Fried also noted that if any special districts or county members on the Commission wished to run for the CALAFCO Board, that night's Commission meeting would be the final night to ask for nomination.

Vice-Chair Murray noted that he was interested and believed he would work well with the staff, but that the current President of CALAFCO is a special district member in the Coastal region, as such Vice Chair Murray would not run this time. He urged Commissioners to run in the future.

Chair McEntee opened public comment. Hearing no public comment, Chair closed the public hearing.

#### **EXECUTIVE OFFICER REPORT** (discussion and possible action)

a) Budget Update FY 2019-2020 and 2020-21

Staff stated FY2019-2020 came in slightly under budget and would be finalized soon. FY 2020-2021 was slightly over average for the first month but mostly due to annual big ticket items paid in the first month of the fiscal year, and because of a technology purchase.

b) Current and Pending Proposals

There are no current or pending proposals after the withdrawal of the application discussed in the current meeting. A few are outstanding.

c) Update on MSR(s) [Verbal Report Only]

2 MSR drafts in front of the Commissioners, research on the Twin Cities MSR had begun

d) Special District Election of LAFCo Members

Staff noted that in regards to the special district elections of LAFCo members, a chapter of the California Special Districts Association was now affiliated in Marin County. LAFCo is working on a process to hand over the LAFCo elections for special district seats so the Chapter instead of LAFCo would help make those elections happen.

#### **COMMISSIONER ANNOUNCEMENTS AND REQUESTS**

Chair McEntee asked for any commissioner announcements and requests. Hearing no additional requests or announcements, the Chair called for adjournment.

Chair McEntee adjourned the meeting at 9:19 P.M.

## ADJOURNMENT TO NEXT MEETING

Thursday, October 8<sup>th</sup>, 2020 | 7 PM

Attest: Olivia Gingold  
Jr. Analyst / Clerk

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Any writings or documents pertaining to an open session item provided to a majority of the Commission less than 72 hours prior to a regular meeting shall be made available for public inspection at Marin LAFCo Administrative Office, 1401 Los Gamos Drive, Suite 220, San Rafael, CA 94903, during normal business hours.

Pursuant to GC Section 84308, if you wish to participate in the above proceedings, you or your agent are prohibited from making a campaign contribution of \$250 or more to any Commissioner. This prohibition begins on the date you begin to actively support or oppose an application before LAFCo and continues until 3 months after a final decision is rendered by LAFCo. If you or your agent have made a contribution of \$250 or more to any Commissioner during the 12 months preceding the decision, in the proceeding that Commissioner must disqualify himself or herself from the decision. However, disqualification is not required if the Commissioner returns that campaign contribution within 30 days of learning both about the contribution and the fact that you are a participant in the proceedings. Separately, any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or a copy of all the documents constituting the agenda packet for a meeting upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting. Please contact the LAFCo office at least three (3) working days prior to the meeting for any requested arraignments or accommodations.

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