

PROCEEDINGS OF THE
LOCAL AGENCY FORMATION COMMISSION
SANTA CRUZ COUNTY

Wednesday, November 5, 2008
9:30 a.m.

701 Ocean Street,
Room 525,
Santa Cruz, California

The November 5, 2008 Santa Cruz Local Agency Formation Commission meeting is called to order by declaration of Chairperson, Jim Rapoza.

ROLL CALL

Present and Voting: Commissioners J. Anderson, Reilly, Pirie, Campos, Begun,
R. Anderson, and Chairperson Rapoza
Absent: Commissioner Barrett * (asterisk shows point of late arrival)
Alternates Present: Alternates Bell, Coonerty
Alternates Absent: Estrada
Staff: Patrick M. McCormick, Executive Officer
Chris Cheleden, LAFCO Counsel
Debra Means, Secretary-Clerk

MINUTES

September 22, 2008
October 1, 2008

Chairperson Rapoza says there is a member of the public that wants to address the Commission regarding the September 22nd minutes before they take any action.

Donita Springmeyer, one of the proponents of the Bonny Doon application, is asking that the minutes be revised to report the Commissioners' statements verbatim. She feels that the full statements demonstrate the reasons more fully why the Commissioners voted the way they did.

Counsel Cheleden states that the LAFCO minutes are extraordinarily detailed. Normally, minutes are not this detailed. In the event there is any subsequent litigation or any reason to have a full record of the Bonny Doon hearing, there would be a transcript made of all the testimony at the hearing. The court would not rely on the minutes. If there is not an inaccuracy of the minutes, it is fine to vote on the minutes.

Commissioner Begun asks if this is what Ms. Springmeyer wants.

Ms. Springmeyer answers no. The proponents were not sure whether LAFCO would keep the tapes.

She wants to make sure the tape still exists. She has a copy of the tape.

Counsel Cheleden assures her the Commission will keep a copy of the tape.

MOTION AND ACTION

Motion: Pirie Second: Campos	To approve the September 22 nd minutes with Commissioner Reilly abstaining, and to approve the October 1 st minutes. Motion carries with a unanimous voice vote.
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PUBLIC HEARING

EGGLESON/AMOS ANNEXATION TO THE SAN LORENZO VALLEY WATER DISTRICT LAFCO No. 927

Mr. McCormick reports this is an annexation application to the San Lorenzo Valley Water District (SLVWD) in the Quail Hollow Road neighborhood of Felton. Christopher and Jennifer Amos who own two parcels at 185 Eggleston Lane filed the application. The existing water district boundary is down at the intersection of Quail Hollow and West Zayante Roads. This would be an island annexation if these two parcels were annexed. The main for the water district runs down Quail Hollow Road. It would be easy for the district to serve this property.

The whole neighborhood has been noticed because they tend to be the smaller parcels that are close to Quail Hollow Road between the Amos' property and the existing boundary of the SLVWD. There is nothing in law that prohibits the Commission from annexing an island to a water district. However, some of the policies say that LAFCO should try to find a logical annexation. If one property needs service, other properties in the area may need service in the near future.

The Amos' had a well in the past. They are currently receiving water from their neighbors who are part of the Quail Hollow Mutual Water Company.

* Commissioner Barrett arrives.

In addition to the Amos', Mr. Maxwell, at 155 Quail Hollow Road, has submitted a written request to be included in the annexation. Mr. Lo Franco has also requested to be added at 285 and 301 Quail Hollow Road. As of the morning of this meeting, Berri Michael, from 195 Quail Hollow Road, has asked to be added to the annexation.

Staff handed out a Version C of the map. The Commission needs to decide which properties to include in the annexation. The annexation complies with the standards for annexations. The Commission can annex just the Amos' property or a larger annexation. Staff has drafted two versions of the resolutions in the agenda packet.

Commissioner Pirie asks if the properties are added from those who have requested, there are two holes left. She asks if that is unusual or common. She asks if that is a reason to do the whole street.

Mr. McCormick answers that if it was a service that gets dispatched by 911, municipal police, or fire, there should not be any holes. Since it is a service delivered through a pipe and can be individually applied to one parcel and not another, it is more about trying to have the most logical boundary one can without forcing people to be in a district they do not want to be in. There is nothing wrong with an irregular boundary in this case. The current boundary of SLVWD has irregularities in it, based upon people who want the service. The Commission usually tries to figure out the most logical boundary possible.

Commissioner Pirie wonders if LAFCO has not heard from people, is there an assumption that they do not want to be in the water district.

Mr. McCormick replies that his recommendation now would be to include as many people as possible. The water district is not funded by property tax; it is funded by connection fees and water rates. Someone getting into the water district is not making a financial commitment to the district; their taxes will not go up. Because the water district has a main in front of their property and the annexation process takes time and money to go through on an individual basis, it is good insurance for a property owner to annex at this time. They can continue to stay on their well until they want to hook up to the water district. If they were already annexed to the district, they would not have to go through LAFCO with a four to six month annexation process. If someone has a failing well, those are four to six anxious months.

In the letter he sent to the property owners, he explained the potential downside of annexing. If they are in the district, and the district chooses to adopt some general tax or assessment subject to a Proposition 218 election, they could conceivably be paying for that assessment or that special tax, even if they were not receiving a service. It is very unlikely for a water district, but they could be subject to some special tax election.

Commissioner Jim Anderson asks if the whole property was annexed, and someone chose not to participate, are they still included in the annexation fees.

Mr. McCormick replies that the annexation fees are the responsibility of Mr. and Mrs. Amos. As properties join, they should make private arrangements with the Amos' to share in the costs. If a separate property owner wants to apply for an annexation a year from now, it will take four to six months, it is subject to this Commission's discretion to say yes or no, and the cost is several thousand dollars.

Commissioner Jim Anderson asks if they could vote in a water district election.

Mr. McCormick answers that any property annexed, whether it is connected or not, will be able to vote in water district matters as full electors of the district.

Jeff Maxwell, who lives at 155 Quail Hollow Road, encourages the Commission to support Version C plus one, including Berri Michael, who is his adjacent neighbor. His parcels adjoin three that already exist in the SLVWD. His parcel and an adjacent one share an underperforming well for three residential units. It is in his best interest to be included in this annexation.

They are not that far from the Santa Margarita aquifer studies. One of the unquantifiable features of that study was private well users, SLVWD, and the Lompico County Water District draw off that aquifer. There has been a scientific evaluation of the decreasing levels of the aquifer. Creating the opportunity for private well users to transition to a larger water system would be beneficial for the community.

Berri Michael, who lives next door to Jeff Maxwell, received a call from him last night about this issue. She would appreciate being included in this annexation.

Phil Doody, who lives at 400 Quail Hollow Lane, is interested in joining the annexation. He says there are a circle of homes which represent the Quail Hollow Mutual Water Company. This company has a well and a pump system that service those homes. He asks if the group of homes in the mutual water company choose to join the annexation, whether there is any legal disbenefit that would affect them in terms of continued use of their well system. He wonders if the water district would disallow private water systems within its range of influence.

Jim Mueller, district manager for SLVWD, answers that the district has no prohibitions of private water service either by a mutual water company or individuals within the boundaries of SLVWD. In his opinion, if his property is annexed to SLVWD, there would be no prohibition from the district if they remained as a mutual water company.

Chairperson Rapoza asks if Mr. Mueller will explain to Mr. Doody what would happen with the well and service from the well if he decided to hook up to SLVWD.

Mr. Mueller replies if they elected to have a dual system that is using a private well for irrigation and receiving potable water service from SLVWD, under State law, the SLVWD would require a cross connection control device at the point of entry into their property from the water district's system so that the private water would not come back and possibly contaminate the water in the SLVWD main.

The subject property is some distance away from the transmission and distribution line on Quail Hollow Road. There would need to be some minor infrastructure improvements to get a water main from Quail Hollow Road southwesterly into their parcels. The water district requires main line footage in direct proximity to their property. There would have to be a minor mainline of several hundred feet. That cost would be born by the private property owners.

Mr. Doody says he and his wife, who live at 400 Quail Hollow Circle (APN: 073-191-16), wish to join the annexation.

Chairperson Rapoza asks if something additional in writing is needed as a formal request from the property owner.

Counsel Cheleden says nothing in writing is needed.

Christopher Amos, the applicant, asks if there is a time period where others in the neighborhood that could not make it to this meeting could join in the annexation.

Mr. McCormick answers that the boundaries of the annexation are set once the Commission makes a decision. At the conclusion of the hearing, the Commission has the option to keep the matter open for other parties to join, or to add some parties to the annexation that are not on record in support. The Commission may want to continue the matter for a month and keep it open and on the record. He can send another letter to the property owners explaining that they have until a certain date to respond affirmatively. State law does not let the boundary change after this hearing.

Commissioner Pirie asks the Amos' if continuing the matter one month would be any problem for them.

Ken Clouse, who lives at 420 Quail Hollow Circle, appreciates Mr. Amos' efforts and he will supply water to the Amos' until the final action is made. He thinks it would be wise, from the point of view of the six water users from the Quail Hollow Circle Mutual Water Association, to have more time. He can think of two of the six property owners that may not understand the situation. He himself understands the situation better from attending this meeting. One of the owners is elderly, the other owner is very busy, and it is difficult to meet with them. Another month would be helpful to these owners.

Alternate Bell wants to know how many people are requesting the annexation now.

Chairperson Rapoza answers there are five individuals covering seven parcels.

Mr. McCormick adds that the property owners on record, according to the map, are the Amos', Lo Franco, and Maxwell. Michael and Doody added support at this meeting.

MOTION AND ACTION

Motion: Pirie Second: R. Anderson	To continue this matter to the next meeting. Motion is carried with a unanimous voice vote.
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RESOLUTION IMPLEMENTING DISAPPROVAL OF FORMATION OF BONNY DOON FIRE PROTECTION DISTRICT AND DETACH BONNY DOON FROM COUNTY SERVICE AREA 48 (COUNTY FIRE)

Mr. McCormick says that staff has prepared a resolution and two letters implementing a decision that the Commission made on September 22, 2008. There was not a complete Commission at the last meeting to adopt the implementing documents. The matter was continued to this meeting. Staff recommends that the Commission adopt draft Resolution No. 913, formally disapproving the formation of a new fire protection district, and direct the Chairperson to send letters to CAL FIRE and the County of Santa Cruz conveying the operational and financial suggestions that developed as part of the hearing process.

Rob Caldeira, inquires about California Government Code Section 56880 where LAFCO is required to act upon the draft resolution within 35 days. As of this meeting, he thinks it has been 44 days.

Counsel Cheleden says there is a provision in State law that says timelines in LAFCO are permissive, not mandatory.

Mr. McCormick adds the Commission acts by majority vote. The preliminary decision of the Commission made on September 22, 2008 was by a one-vote margin. By the Commission's rules, The Commission has to act with four affirmative votes. There were not four affirmative votes at the last meeting. It was a matter of necessity that the matter was put on the next agenda.

Request for roll call vote:

- Commissioner Jim Anderson: NO
- Commissioner Pirie: YES
- Commissioner Campos: YES
- Commissioner Roger Anderson: YES
- Commissioner Barrett: NO
- Commissioner Begun: YES
- Chairperson Rapoza: YES

MOTION AND ACTION

Motion: Pirie	To approve the resolution.
Second: Campos	The motion passes.

RECEIPT OF DONITA SPRINGMEYER'S LETTER OF OCTOBER 17, 2008 REQUESTING RECONSIDERATION OF THE FORMATION OF BONNY DOON FIRE PROTECTION DISTRICT AND DETACHMENT FROM COUNTY SERVICE AREA 48 – LAFCO NO. 913 AND

DISCUSSION REGARDING SCHEDULE OF REGULAR AND SPECIAL MEETINGS IN REMAINDER OF 2008

Mr. McCormick reports that Bonny Doon Volunteer Fire and Rescue Incorporated, the proponents of the Bonny Doon Fire application, have filed a letter, pursuant to State law, called a Request for Reconsideration in response to the decision recently made by the Commission. State law is specific about this process. This reconsideration has to be noticed, which involves publishing a notice in the newspaper at least 21 days in advance.

There will be a public hearing, and staff has been working on finding a date that will work for the same set of Commissioners who acted on the matter on September 22, 2008. The regular meeting of December 3rd would not have the complete board that heard the original decision. The best date staff could find is the morning of Monday, December 8, 2008. He also recommends that all business that would otherwise be held on December 3rd, be conducted on December 8, 2008; so, there will only be one meeting in December.

Tom Scully, one of the proponents, says December 8th is not a good date for him. He is the main spokesperson for the application. He will be out of town that morning for a training session. He asks if there is another date mutually agreeable to everyone. He needs to be at a State function on December 8th.

Commissioner Campos asks if the hearing could be in late November.

Mr. McCormick answers that it can be anytime an ad can be put in the paper 21 days ahead of time. The newspaper has some lead time. Late November could be a problem.

Commissioner Campos asks if November 26th would work.

Mr. McCormick says that date would be too soon to comply with law.

Counsel Cheleden adds that people have 30 days to file a request for reconsideration. So it would be better to wait until after 30 days from today's date so that a hearing could not be conducted and then have another request for reconsideration come in that was timely.

Commissioner Campos asks if December 11th would work.

Commissioner Jim Anderson thinks Mr. Scully should be asked to see if he is available.

Mr. Scully says December 11th works for him. He is only gone the first two days of that week.

Mr. McCormick points out that when Commissioner Barrett's term with the Scotts Valley City Council ends, he will no longer be on LAFCO. Part of the time constraints staff has been working on is trying to get the same board to hear the reconsideration. He does not think there is anything that would prohibit a different configuration of Commissioners to hear the reconsideration. If the date

gets moved to the middle of December, there will be a couple of new Commissioners.

Alternate Reilly adds that she will soon be off the LAFCO Commission too.

Chairperson Rapoza adds that Commissioner Reilly is the city alternate. She participated in all of the discussions, but she will not be on LAFCO after December 9th. He asks when will be Commissioner Barrett's last day.

Commissioner Barrett replies whenever the vote is certified.

Commissioner Begun asks Commissioner Barrett if he leaves LAFCO when someone else takes his place.

Commissioner Barrett answers that someone will take his place when they certify the vote.

Alternate Reilly says they are seating the new Santa Cruz City Council on December 9th.

Commissioner Roger Anderson adds that Scotts Valley City tends to be quick at seating the new city council.

Commissioner Begun asks what the open dates are.

Commissioner Campos says December 10th and December 11th are open for him.

Alternate Reilly says that in the past, the councils have seated new council members provisionally, even if the vote had not been certified. She says that the County Elections Officer had asked all the cities to wait this year.

Commissioner Pirie concludes that the hearing should be held before December 9th.

Alternate Bell asks if there is any reason why the meeting cannot be held on the usual LAFCO date of December 3rd. She agrees that the LAFCO configuration should be the same for this reconsideration hearing as it was at the September 22nd hearing.

Commissioner Begun asks when and where is Mr. Scully's training.

Mr. Scully says the training is in San Luis Obispo from 8:00 a.m. until 5:00 p.m. He is advising on the reconstruction of the HazMat training for the entire state.

Commissioner Begun asks Mr. Scully if he could make an evening meeting on December 8th.

Mr. Scully answers that he would come back for the hearing.

Counsel Cheleden says there is a law that supports the new Commissioners listening to all of the

tapes, reading all of the materials, and qualifying themselves; but he and staff are trying to avoid that.

Chairperson Rapoza asks that if the two city Commissioners are gone, do not their councils and the mayors have to meet in order to appoint the two replacements.

Mr. McCormick answers that is correct. There is a time lag because the councils are merely recommending to the Mayors' Selection Committee and that committee has to have a noticed public hearing when they meet. There will be some delay for Commissioner Barrett and Alternate Reilly's replacements to be qualified.

The other possibility would be to have a six-person Commission make the decision. The Commission would have to act by an affirmative four votes.

Commissioner Jim Anderson asks if the other two proponents will be available on December 8th.

Mr. Scully says Ms. Springmeyer will be available. He does not know if Mike Phinn will be available. He wants to be at the hearing so he can respond to whatever is going on.

Commissioner Pirie acknowledges that the Commission is trying hard to accommodate Mr. Scully's schedule, but it does not seem possible to accommodate him.

Chairperson Rapoza adds that Counsel Cheleden's comment about a request for reconsideration happening anytime within 30 days of the decision. That 30 days would be up December 4th or December 5th. A hearing should not be held before then and have someone come in the next day, still within the 30 days for another reconsideration. Another hearing would have to be held for that request.

Counsel Cheleden adds that it would be unfortunate to be in that position and that is why December 8th was recommended.

Commissioner Begun asks if someone else comes in with another application, would there be another hearing.

Counsel Cheleden answers no. Under the reconsideration statute in the LAFCO law, there is a 30-day period after the Commission's final decision where someone, in addition to those who have already filed a reconsideration request, could file another reconsideration request. He would rather have the 30-day period run and consider all reconsideration requests at one hearing.

Commissioner Roger Anderson asks if another request comes in, does the Commission still have to re-notice it with a 21-day period, or can the notice be written to consider any requests for reconsideration.

Counsel Cheleden says that the draft notice for December 8th is currently drafted to apply to all

duly-filed reconsideration requests.

Commissioner Roger Anderson thinks this is a difficult situation where the Commissioners cannot meet another day and Mr. Scully cannot meet on Monday. He thinks there is no choice but to keep the December 8th date and time.

MOTION AND ACTION

Motion: R. Anderson Second: J. Anderson	To keep the December 8 th date for the reconsideration request hearing and all regular business. Motion carries with a unanimous voice vote.
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Mr. Scully thanks the Commission for their consideration. He will try to work with CSDI about December 8th.

Mr. McCormick says staff has reserved the Santa Cruz City Council Chambers for 9:30 a.m., Monday, December 8th. The Supervisors' Meeting Room is not available then.

MEETING SCHEDULE FOR 2009

Mr. McCormick reports that there are no known conflicts for the normal meeting schedule. He recommends LAFCO meetings be scheduled for the first Wednesday of the month except July in 2009.

MOTION AND ACTION

Motion: Pirie Second: Barrett	To approve the meeting schedule for 2009. Motion carries with a unanimous voice vote.
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STATUS OF PROPOSALS

Mr. McCormick says there are two new applications that are related. Application No. 928 is an application from the City of Santa Cruz to amend their municipal sphere of influence to include the future development sites outside the city limits on the university campus. The university is also applying to receive extraterritorial water and sewer service for the portions of the upper campus that are slated for development under their current development plan.

He is planning to process these applications together; so, the hearings for both of them will be on the same date. The City has begun the Environmental Review process. He will be responding to their letter on the Commission's behalf about what issues need to be in the environmental document for the Commission's hearing on this matter. These applications will not be heard until after the completion of the environmental document. He will keep the Commission updated.

MOTION AND ACTION

Motion: Pirie Second: Barrett	To adjourn. Motion carries with a unanimous voice vote.
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Meeting adjourns at 10:25 a.m. The next meeting is scheduled for Wednesday, January 7, 2009.

CHAIRPERSON, JAMES W. RAPOZA

Attest:

Patrick M. McCormick, Executive Officer