



PROCEEDINGS OF THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CRUZ COUNTY

Room 525

Wednesday, April 1, 2015
9:30 a.m.

701 Ocean Street
Santa Cruz, California

The April 1, 2015 Santa Cruz Local Agency Formation Commission meeting is called to order by declaration of Vice-Chairperson Roger Anderson.

ROLL CALL

Present and Voting:	Commissioners J. Anderson, Smith, Lind, Coffman-Gomez, Leopold, and Vice-Chairperson R. Anderson
Absent:	* R. Coonerty, Bottorff, Friend
Alternates Present:	None
Alternates Absent:	Bobbe
Staff:	Patrick M. McCormick, Executive Officer Brooke Miller, LAFCO Counsel Debra Means, Secretary-Clerk

MINUTES

MOTION AND ACTION

Motion: J. Anderson	To approve March 4, 2015 minutes.
Second: Leopold	Motion carries with Commissioner Lind abstaining.

PUBLIC HEARING

WORK PROGRAM AND FINAL BUDGET FOR FISCAL YEAR BEGINNING JULY 1, 2015

Mr. McCormick says this is the second and final budget hearing for the next fiscal year. At the last meeting, the Commission added \$19,500 to the budget to retire the pension fund liability faster than previously scheduled due to the 7.5% interest rate. The loan amount is \$127,000. The payment schedule is not a normal amortization. It is calculated based upon an anticipated salary level. Through the year 2034, it would cost \$259,000. With the amount of money set aside, the Commission can pay the loan off in five years instead, for a total cost of \$153,000.

Staff recommends putting the money in the budget now. Next March or April, the Commission would make a decision on what lump payment to make for that budget year. The payment could be accelerated or postponed. Once the payment schedule is started, there is no commitment to continue paying it off quicker.

The draft budget resolution would adopt a total budget for \$672,000. It would require new funding from the participating agencies of \$331,000, which is the same amount of money as this last budget cycle. There is not an auditor's estimate yet of the breakdown for the various agencies.

* Commissioner Coonerty arrives.

Commissioner Leopold asks if speeding up the side fund payment would reduce the long term liability by about \$100,000, and still not require any more money than last year.

Mr. McCormick replies that is correct.

Vice-Chairperson Roger Anderson adds that the big advantage of paying down the side fund ahead of time is that there is a 3% per year escalation of cost.

He thinks it is worth paying down the side fund. As proposed by staff, money would be set aside in the budget for this purpose only if it is not needed for MSRs or some other priority.

Mr. McCormick adds that the decision would be made next March or April.

MOTION

Motion: J. Anderson Second: Leopold	To approve Resolution 2015-5, the final budget, as recommended by staff. Motion carries with a unanimous voice vote.
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AMENDMENTS TO INDEMNIFICATION POLICY

Mr. McCormick reports that the Commission completed an overhaul of many of its policies five years ago, but the indemnification policy was not one of them.

Sometimes the Commission gets sued and needs to defend its decision. Since the 1990s, the Commission's policy has been that an applicant indemnifies and holds the Commission harmless against the costs of defense. There is a standard indemnification form that is used, and typically this form is executed after the LAFCO approval. In the 1990s, this LAFCO was an early innovator of this concept. Since then, it has been a common practice.

The updated policy would move the indemnification to be part of the application materials; so, the paperwork is done earlier than before.

Counsel Miller says the changes made to the indemnification agreement form are minor. They tighten up the indemnity language. Some of the older clauses were written in a way that favored the approval holder unnecessarily. It has been revised to give the Commission more protection.

Vice-Chairperson Roger Anderson notices that before, the approval holder could be the other side. He wonders what happens if the applicant is unhappy with the Commission's decision.

Counsel Miller answers that the revised indemnification agreement is not a release. It would protect the Commission against third party claims. If someone wishes to dispute this Commission's decision or conditions, it does not require them to release the claims. It would require indemnification from the applicant in third party claims, such as a neighboring parcel holder or a community group. It does not include a release.

MOTION

Motion: Leopold Second: Coffman-Gomez	To approve the revised indemnification agreement as recommended by staff. Motion carries with a unanimous voice vote.
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OTHER BUSINESS

TIME EXTENSION FOR LAFCO No. 952, ATKINSON LANE / MID-PENINSULA REGIONAL HOUSING APPLICATION TO RECEIVE EXTRATERRITORIAL WATER AND SEWER SERVICES FROM CITY OF WATSONVILLE

Mr. McCormick says there is a non-profit housing project in Watsonville off Atkinson Lane. The site is partially in the City limits, which is the portion closest to Atkinson Lane. The rest of the site is outside the City limits. The project has 46 units. The City and the County have approved their land use actions.

Their application to LAFCO one year ago was for extraterritorial water and sewer service to the back parcel. There are mains in Atkinson Lane. The Commission approved the extraterritorial service that allowed Mid-Peninsula Housing Corporation to proceed with loan applications. The Commission thought it was undesirable to be splitting a parcel with the City boundary; so, they wanted a commitment to go forward with an annexation. Mid-Peninsula agreed that, within two years, they would proceed to annex the back portion of the site.

The applicant has not yet been successful putting together a complicated financing package. They would like a two-year extension on the extraterritorial authorization so they can continue working on their financing. They remain committed to annex at a later date.

Commissioner Jim Anderson asks whether they were under time constraints for this approval so they could meet a financing deadline.

Mr. McCormick replies yes. There are cycles for pools of available money to support low to moderate income housing projects. They were in a hurry to get into last year's cycle. They were not successful in the last cycle. There are more cycles coming up and they hope to be more competitive. In order to get in the pool, they have to have all of their approvals in line. They cannot be waiting upon environmental review, a site plan approval, or water and sewer service.

Commissioner Leopold says there are complications of affordable housing funding and it requires patience and skill to put it together. The County, the City, and several other people have spent a lot of time working on this project. There is a broad interest in completing this project. He supports the time extension.

Commissioner Coffman-Gomez understands that there is a traffic impact. She asks if LAFCO would be involved with this area's the traffic issues. This was brought up when Mid-Pen presented this project to the City Council.

Mr. McCormick says there are mitigation measures in the environmental document and mitigation responsibilities on each of the impacts, and traffic is one of them. LAFCO does not do the follow-up on any of the mitigations.

Commissioner Coffman-Gomez asks if their funding is held up as a result of the annexation or if there anything snagging their financing as a result of part of the property being in the County and the other part being in the City.

Betty Wilson works for Mid-Peninsula Regional Housing Corporation. She answers no. Lenders are looking for projects that have completed their discretionary approval process. The extraterritorial approval to access water and sewer without an annexation being required makes their process complete. They competed well for funding last year, but they still did not get an award for home funds.

The State passed cap and trade legislation. \$130 million annually will be available for affordable housing and sustainable communities. They applied earlier this year to help fund this project, and to subsidize bus passes for the residents to discourage car use. This was the only project selected in the AMBAG region to compete further. They are working on this now and it is due April 20th.

Commissioner Coffman-Gomez wants to make sure they are not getting held up as a result of the dealings between the County and the City.

Ms. Wilson says they are on course with the extraterritorial approval in place.

Commissioner Coffman-Gomez thinks it would be simplified if the City were able to finalize their 2030 general plan.

MOTION

Motion: Coffman-Gomez Second: J. Anderson	To grant the two-year extension as recommended by staff. Motion carries with a unanimous voice vote.
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STATUS OF PROPOSALS

Commissioner Coffman-Gomez asks for an update about Lompico.

Mr. McCormick replies that LAFCO's approvals are generally good for one year. After the failure of the bond election, the San Lorenzo Valley and Lompico County Water Districts decided to renew their liaison committee, which consists of two board members from each board. They will discuss future options which may or may not turn into a request to LAFCO for an extension. It could give them a chance to get another bond, turn in a new application with a different set of conditions, or there could be some cooperation that is below the radar screen for LAFCO. It could also result in the two districts severing their relationship, and Lompico could stay independent with significantly high costs. All members of the Lompico Board are committed and believe the merger is the best option. The manager and the majority of the SLVWD board are new.

LAFCO's approval of the merger expires in August. The districts need to decide whether they want to request an extension of their LAFCO resolution by the August meeting.

LEGISLATION

Mr. McCormick says one of the most intensive parts of the legislative year has begun with the legislature coming back from a spring break. Bills will start moving through the first policy committee and the first house during the next four to six weeks.

Mr. Hertzberg's bill, SB 239, would require an extensive process for a fire agency to contract to provide services outside its boundary. It would include approval of the proposal by all of the affected labor units, and it would require LAFCO approval. Neither is currently required. There are a number of fire contracts in Santa Cruz County.

The Pajaro Valley Fire Protection District, for example, has two contracts. One contract is with the City of Watsonville to protect the Freedom area. Watsonville has a station at the airport. The other contract is with Cal Fire, and it staffs PVFPD's main station and protects the rest of the district.

LAFCO does not review contracts currently. The process would be complicated. It would be equivalent to getting state agencies to produce numbers to be used by LAFCO for its evaluation for a city incorporation. He is not aware of any LAFCO decisions that require a union signoff before an application is made. There are many requirements for an agency to meet and confer with their employees on these issues.

Commissioner Leopold says that the Professional Firefighters and their lobbyists met with CALAFCO to talk about this bill. CALAFCO asked what problem they were trying to fix. They pointed to Stanislaus County where a joint powers authority was formed that covers fire services. After three years, it went bad. CALAFCO responded that LAFCOs do not look over JPAs. There were no other examples offered.

He is a labor supporter and he believes labor should have some say. The current state labor law states that any change like this requires a meet and confer.

Assembly Member Dodd was a Napa County Supervisor and he is now a member of the legislature. He is pushing for a bill that will amend the 56133 concerning extraterritorial services. It is likely that Monterey, Santa Barbara, and Ventura Counties will come out with strong no positions. He does not think it affects much in Santa Cruz County, but it may be worth opposing the bill eventually.

Commissioner Smith agrees with Commissioner Leopold about SB 239 and CALAFCO should take opposition to the bill.

Vice-Chairperson Roger Anderson asks why the Dodd bill stems from Napa County.

Commissioner Leopold met with Assembly Member Dodd and CALAFCO's executive director Pamela Miller. When Dodd was asked why the legislation was needed, he answered about helping wineries in Napa and Sonoma Counties.

MOTION AND ACTION

Motion: Leopold Second: Smith	To take a position of opposition to SB 239. Motion carries with a unanimous voice vote.
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Commissioner Leopold adds that he went with a few other LAFCO Executive Officers to meet with the Office of the Governor, the State Water Boards, the California Environmental Protection Agency, and the Office of Planning and Research to talk about climate change, land use, and water. They identified problems with small water districts, and they were interested in what role LAFCOs could play in helping deal with some of those problems, as well as consolidations.

He brought up the issues with Lompico Water District and how this LAFCO approved the merger, but the voters turned the bond down by one vote. They seemed interested in small water district consolidations, and they thought there may need to be a fund at the State level to help deal with liabilities to encourage these mergers to happen.

They will be working on legislation because the drought is still in effect and the Governor is interested in dealing with this. They have identified about 500 small water districts in California which will either run out of water or cannot keep up with the administrative or water quality responsibilities. This is a big problem. There is also the issue of mutual water companies because they are not under the purview of LAFCOs or the state's Public Utilities Commission.

CLOSED SESSION

PERFORMANCE EVALUATION OF LAFCO EXECUTIVE OFFICER PURSUANT TO GOVERNMENT CODE SECTION 54957

OPEN SESSION

REPORT FROM CLOSED SESSION

Vice-Chairperson Roger Anderson says the closed session was about personnel matters and there was no action taken.

Meeting is adjourned at 10:45 a.m.

VICE-CHAIRPERSON ROGER W. ANDERSON

Attest:

Patrick M. McCormick, Executive Officer