

Joe Serrano

From: Becky Steinbruner <ki6tkb@yahoo.com>
Sent: Sunday, September 3, 2023 5:58 PM
To: Joe Serrano
Cc: Francisco Estrada; Nate Lackey; Larry Pageler; Mark Correira; Alicia Walton; Manu Koenig; Becky Steinbruner
Subject: Please Continue LAFCO Deliberation on Branciforte Fire District Reorganizaion RO-22-07, Item 7a on September 6, 2023 Agenda

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Dear Joe,
Please include this letter in the September 6, 2023 LAFCO Correspondence.
Thank you,
Becky

Dear Santa Cruz County LAFCO,
Under Gov't Code 56895, I respectfully request that your Commission continue the matter of my REQUEST FOR RECONSIDERATION of your August 2, 2023 approval of Resolution 2023-17: "RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND ORDERING THE "BRANCIFORTE FIRE PROTECTION DISTRICT REORGANIZATION" (LAFCO PROJECT NO. RO 22-07)" until the regularly-scheduled October 4, 2023 LAFCO meeting.

I also request that the associated Protest Period be adjusted to October 4, 2023 to provide adequate notice to those affected and provide a 30-day Protest Period for RO 2022-07 Branciforte Fire District Reorganization.

Your Commission has the ability, under Gov't Code 56895(f), to continue your decision-making regarding my REQUEST FOR RECONSIDERATION:

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 35 days from the date specified in the notice. The person or agency that filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

<https://codes.findlaw.com/ca/government-code/gov-sect-56895/>

I request that your Commission continue deliberation regarding my REQUEST FOR RECONSIDERATION of the Branciforte Fire District Reorganization and Resolution 2023-17 until the October 4, 2023 for the following reasons:

1) LAFCO Executive Director's staff report statement appears to have arbitrarily shortened the Protest Period to 24 days, and is not consistent with the 30-day Protest Period your Commission approved in Section 10 of Resolution 2023-17.

The staff report for Item 7a states (page 4):

"The Commission adopted a 24-day protest proceeding which started after the end of the Request for Reconsideration Period (September 1, 2023). The protest period began on Monday, September 4 and will end on Wednesday, September 27." (page 4 of staff report)
https://santacruzlafco.org/wp-content/uploads/2023/08/7a.0-RO-22-07-Update-Staff-Report_Hyperlink.pdf

However, Section 10 of the Resolution 2023-17 states:

"Section 10.

*The Executive Officer **will hereby conduct a 30-day protest proceeding as provided in Government Code Section 57000. The protest period is scheduled for July 27September 4 to August 25September 27, 2023. A protest hearing will be held on August 25September 27, 2023.**"*

LAFCO Executive Director cannot arbitrarily change the duration of the Protest Period, for transparency, and the duration of the Protest Period must comport with the 30-day Protest Period approved by your Commission in Section 10 of the Resolution 2023-17.

Therefore, LAFCO should comply with the language in Resolution 2023-17 approved and hold the Protest Hearing on October 4, 2023, providing a 30-day Protest Period.

2) Residents of the two affected agencies have not been given sufficient notice of the commencement of the Protest Period which has been arbitrarily shortened:

The LAFCO Executive Director's staff report on the matter states:

*"The Commission adopted a 24-day protest proceeding which started after the end of the Request for Reconsideration Period (September 1, 2023). The protest period began on Monday, September 4 and will end on Wednesday, September 27. A protest hearing will be held on September 27 to collect the final petitions and hear any resident feedback. **A public notice for the protest hearing was advertised in the Sentinel and mailed out to the residents on Friday, September 1, 2023.**"* (page 4 of Executive report)

Many people no longer subscribe to the Santa Cruz Sentinel, and therefore would not see a Notice of Protest Hearing advertised there, assumably in the Classified section. However, I do subscribe to the Santa Cruz Sentinel, and did not see any such Notice of Protest Hearing published in the September 1, 2 or 3 editions. I also checked for paid advertisements noticing the hearing in other sections of the newspaper, but found none.

Furthermore, the Labor Day holiday on September 4 will cause further delay for people affected by the Branciforte Fire District Reorganization in receiving the mailed notices sent Friday, September 1, 2023 by LAFCO.

In order for residents in the affected agencies to have the benefit of the full Protest Period, LAFCO should hold the Protest Hearing on October 4, 2023, during the regularly-scheduled LAFCO meeting, providing 30 days for protest and avoiding any non-emergency Special Meetings of LAFCO.

3) Residents of the affected agencies did not receive proper notice of the August 2, 2023 LAFCO hearing at which the Resolution 2023-17 was approved.

The Amended Resolution 2023-17 in which many dates were corrected by the Executive Director for presentation at your September 6, 2023 meeting, states that:

*"The Commission shall consider the reorganization after it has been placed on the agenda of a Commission meeting. After deeming the proposal complete, the **Executive Officer advertised the reorganization in the Santa Cruz Sentinel on May 23, 2023**"*

There were no true and correct copies of any advertised public notices included in the August 2, 2023 LAFCO agenda packet and none is included in the September 6, 2023 LAFCO agenda packet to show proof that notice was provided in the Santa Cruz Sentinel for either meeting. Given that so many dates in the Resolution 2023-17 were in error, and the fact that no public notice is evident in the September 1, 2, or 3 issues of the Santa Cruz Sentinel for the proposed September 27, 2023 Protest Hearing Special Meeting of LAFCO, it is necessary to support transparency and continue LAFCO's deliberation on this matter at the regularly-scheduled October 4, 2023 LAFCO meeting.

4) The multiple date changes made to correct the errors in the Resolution 2023-17 approved on August 2, 2023 are significant and critical to the integrity of the document, and under Gov't Code 56883, must be made by a written request by a Commissioner, the Executive Officer or affected agency member. However, no such written request has been submitted publicly by a member of the Commission, the Executive Officer, or an affected agency.

Govt. Code 56883:

*The executive officer may, before the completion of a proceeding, on good cause being shown, correct clerical errors or mistakes made through inadvertence, surprise, or excusable neglect that may be contained in the resolution adopted by the commission making determinations, **upon written request by any member of the commission, by the executive officer, or by any affected agency.** A correction made pursuant to this section shall not be cause for filing a request pursuant to [Section 56895](#).*

Therefore, I request that the LAFCO delay further discussion regarding the Resolution 2023-17 in order to provide time necessary to obtain a written request compliant with Gov't Code 56883 to correct the dates in the approved Resolution.

5) By delaying deliberation on my Request for Reconsideration to October 4, 2023, LAFCO will provide necessary time for the Boards of Scotts Valley Fire Protection District and Branciforte Fire Protection District to meet publicly at regularly-scheduled meetings to publicly discuss and approve an updated CalPERS cost analysis, as well as new significant information and implications of my REQUEST FOR RECONSIDERATION and potentially make necessary amendments and approvals **to avoid litigation.**

The next regular meeting for Scotts Valley Fire Protection District Board is scheduled for Wednesday, September 13, 2023 at 6:00 p.m.

The next regular meeting for the Branciforte Fire Protection District is scheduled for Thursday, September 21, 2023 at 6pm.

Delaying further LAFCO action until the next regularly-scheduled Commission meeting on October 4, 2023 will provide time for the Boards of the affected agencies and their employees represented to consider approvals of CalPERS cost analysis updates, which are forecast to be available in September, 2023, and which they must approve before the the Reorganization is finalized (Gov't Code 20463(b)):

"(b) If the governing body of a public agency requests a quotation, it shall provide each employee organization representing employees that will be affected by the proposed participation or change with a copy of the quotation within five days of receipt of the quotation."

<https://codes.findlaw.com/ca/government-code/gov-sect-20463/>

A delay by LAFCO to October 4, 2023 for deliberation regarding my REQUEST FOR RECONSIDERATION would also allow the Boards of the affected agencies to change wording in the Plan for Service regarding immediate action by the successor agency to transition to district-based Board elections and thereby avoid costly litigation regarding the California Voting Rights Act problems currently in the document that is imminent and certain if the wording is not changed.

It is important to note that the Santa Cruz County Elections Department has provided current registered voter counts for the Branciforte Fire Protection District that are significantly higher than those initially reported by the LAFCO Executive Director and merit public consideration by both Boards of the affected districts. (See Item #5 on pages 11 & 12 of 77) <https://santacruzlafco.org/wp-content/uploads/2023/08/7a.1-Attachment-Req-for-Reconsideration.pdf>

This is new and significant information from Ms. Tricia Webber, Santa Cruz County Clerk and Elections Dept. Manager, that could alter the decision-making of the two fire agency Boards and should also cause LAFCO to pause.(see Exhibit F in REQUEST FOR RECONSIDERATION, page 58 of 77) <https://santacruzlafco.org/wp-content/uploads/2023/08/7a.1-Attachment-Req-for-Reconsideration.pdf>

Therefore, I respectfully request that your Commission delay any action on my REQUEST FOR RECONSIDERATION until your regularly-scheduled October 4, 2023 LAFCO meeting in order to provide the Boards of Scotts Valley Fire Protection District and Branciforte Fire Protection District time to consider this new and significant information that **clearly changes the Branciforte representation numbers to 51% for what would become a district-based successor agency Board seat in the Branciforte area.**

6) LAFCO should delay decision-making on my REQUEST FOR RECONSIDERATION until October 4, 2023 to allow significant new information regarding the Barnes Family Trust gift to benefit the Branciforte Fire Protection District that will be obtained in Public Records Act responsive materials.

On September 3, 2023, I filed a Public Records Act request with Branciforte Fire District Chief Nate Lackey in order to secure the necessary information regarding restrictions on use of this \$500,000 gift from the Barnes Family Trust. LAFCO reports were silent on these monies, and in fact, incorrect information regarding the Type 6 engine was presented to the Commission on August 2, 2023. The engine is NOT being purchased with Measure T monies, but rather from the Barnes Family Trust monies that are, for some reason, kept in the Measure T fund account and with out any specific accounting key code.

I could not correct the Executive Director when he said this on August 2, because as a member of the public, I was not allowed to speak again after I had already given public testimony.

The LAFCO Executive Director's report for Item #7a on the September 6, 2023 agenda remains silent on the issue of the Barnes Family Trust, and does not address or explain the Trust's issues brought

forth in my REQUEST FOR RECONSIDERATION (Item #4 on pages 2 and 3: https://santacruzlafco.org/wp-content/uploads/2023/08/7a.0-RO-22-07-Update-Staff-Report_Hyperlink.pdf)

The Plan for Service, stated as the authority by the LAFCO Executive Director for how the successor agency would operate, is also silent on the existence of the \$500,000 Barnes Family Trust fund dedicated to benefit the Branciforte Fire Protection District and its residents. (see Responses to Item 4, pages 2 & 3: https://santacruzlafco.org/wp-content/uploads/2023/08/7a.0-RO-22-07-Update-Staff-Report_Hyperlink.pdf)

Because there is no information available on the Branciforte Fire District website about the Barnes Family Trust gift and the LAFCO Executive Director has not provided any information to your Commission regarding this *critical NEW information*, I was compelled to file a Public Records Act request with Chief Lackey to obtain the necessary information to provide the Commission.

The responsive materials will likely not be ready by the September 6, 2023 LAFCO meeting, but likely *could* be ready by the September 13, 2023 Scotts Valley Fire Protection District Board meeting and before the September 21, 2023 Branciforte Fire Protection District Board meeting for their consideration.

Therefore, I respectfully request that the LAFCO delay taking action on my REQUEST FOR RECONSIDERATION until October 4, 2023 so that this new and significant information regarding the Barnes Family Trust and inherent use restrictions can be deliberated publicly with accurate information.

In conclusion, for all of the reasons stated above, I respectfully request that the LAFCO delay action on my REQUEST FOR RECONSIDERATION of RESOLUTION 2023-17, "RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND ORDERING THE "BRANCIFORTE FIRE PROTECTION DISTRICT REORGANIZATION" (LAFCO PROJECT NO. RO 22-07)" until the regularly-scheduled October 4, 2023 LAFCO meeting and also schedule the Protest Hearing for RO 22-07 to October 4, 2023 in the best and highest interest of the public affected.

Thank you for your consideration of this matter.

Sincerely,
Becky Steinbruner,
for Public Benefit