

**ATTACHMENT 4 - DRAFT MINUTES FOR MARCH 17, 2010 MEETING**

**COMMISSIONERS PRESENT:** Commissioners Marty McClelland, Patrick Whitchurch, Bonnie Neely, Jeff Farley and Clif Clendenen, and Alternate Commissioners Virginia Graziani, Jeff Leonard and Bob McPherson.

**COMMISSIONERS ABSENT:** Commissioners Kevin McKenny and Jeff Pauli, and Alternate Commissioner Jill Duffy.

**STAFF PRESENT:** George Williamson, Contract Executive Officer, Alisha Oloughlin, Contract LAFCo Staff and Jeff Guttero, Legal Counsel.

The meeting was called to order at 9:00 a.m. in the Humboldt County Board of Supervisors Chambers, Chairman McClelland presiding.

- 1. CALL TO ORDER**
- 2. FLAG SALUTE**
- 3. ROLL CALL**
- 4. APPROVAL OF DRAFT JANUARY 20, 2010 MINUTES**

**THE MOTION WAS MADE** by Commissioner Whitchurch, and seconded by Commissioner Neely, to approve the January 20, 2010 minutes with noted corrections.

**THE MOTION PASSED BY A VOTE OF 6-0-0.**

- 5. PUBLIC HEARINGS**
  - A. City of Eureka- Municipal Service Review (MSR) and Sphere of Influence (SOI) Update**

**George Williamson** stated that staff made favorable determinations in regards to the services being provided by the City. Staff also looked at the City's Sphere of Influence (SOI) and saw three areas that warranted a discussion. Those areas, as presented in the Municipal Service Review (MSR,) are the Indianola area, the Freshwater area, and the Humboldt Hill area. Staff recommends that the Commission look at these areas, as appropriate for the City's SOI, open the public hearing, here the testimony of City staff, and provide LAFCo staff with direction. The Commission's options include leaving those areas within the SOI, or directing staff to pursue further study on potential SOI adjustment, in which the appropriate CEQA document can be prepared, potentially bringing this item back in May.

**Marty McClelland** opened the Public Hearing.

**Sidnie Olson**, City of Eureka Community Development Director, stated that the City has met with LAFCo staff and is open to consideration of a SOI change. The City wants to be a party in the discussion and to provide further input. The City Council has been discussing annexation and there are some areas that the City does want to keep within the SOI, while other areas, such as Humboldt Hill, will not likely be annexed in the next 5 years. Also, the City is requesting that the Commission examine one of its existing LAFCo policies, the prohibition of providing services outside of a district's SOI. There are situations, particularly in the Indianola area, where there are health and safety concerns and it may be in the best interest of the residents and/or the services district, if the City were able to provide water and/or sewer to very specific areas. We are prohibited in doing so because of a policy in your LAFCo procedures. We would ask that you take a look at that policy and see if it needs to be revisited.

**Bonnie Neely** asked which areas are being considered by the City for annexation.

**Sidnie Olson** replied, Myrtle town, Cutten, and Southern Eureka (Pine Hill), and potentially some areas that are located outside of the current SOI, including Samoa.

**Bonnie Neely** asked is the City had analyzed whether or not it could provide those services, in terms of water and sewer.

**Sidnie Olson** responded that there is some discussion of service provision in the City's General Plan. If the City chose to expand the SOI, with the assistance of LAFCo, the City would be performing a more detailed service review. It is my understanding that if the Commission was considering changing the City's SOI, direction would be provided to LAFCo staff, who would then work with the City on the required CEQA document, and through that process. City staff can coordinate and talk with the City Council, and with the assistance of LAFCo staff, provide recommendations and support for what may be put forward.

**Marty McClelland** asked when the City is planning to present this item to the City Council.

**Sidnie Olson** stated that if the Commission's direction is to further investigate the SOI, then at the soonest possible time, the City Council will be engaged for input, so that when City staff meets with LAFCo staff, we will be on the same page and can hopefully come to an amicable decision regarding the City's SOI.

**Bonnie Neely** thanked City Staff for their input and added that more information is required about the direction that the City wants to take, providing greater focus for a later decision.

**Marty McClelland** added that the Freshwater area should be removed from the City's SOI. The district is already providing water there and as part of the County General Plan/Coastal Plan Amendment, they are restricted from providing sewer. The odds are remote that the City will provide services in this area. The Indianola area requires a special study pertaining to water service. Sewer service would be an issue in the Indianola area. In the Humboldt Hill area, police protection is an issue. The area is already served by the district and my assumption is that the City will not annex this area because of the financial burden of providing police services. I propose a SOI reduction in the Freshwater area, to focus the discussion on water service for the Indianola area, and because it's not likely that the City will be extending service to the Humboldt Hill area, eliminate it as a study area.

**Bonnie Neely** concurred and added, regarding Humboldt LAFCo's out-of-district service extension policy, that it is her understanding that if the proposed extension involves a public health emergency, the Commission can support efforts to provide service to the area.

**George Williamson** concurred that the Cortese-Knox-Hertzberg Act includes public health and safety provision that allows for service extensions outside of a district's SOI with the approval of the local commission if there is documented evidence of a health and safety issue. However, Humboldt LAFCo has a more detailed policy in place which states that the Commission will only approve out-of-agency service agreements in anticipation of subsequent jurisdictional change. This policy requires applicants to submit an annexation or reorganization application demonstrating that the service agreement is in anticipation of a subsequent jurisdictional change.

**Sidnie Olson** added that the current Humboldt LAFCo policy, which prohibits the City from providing service in an emergency situation outside of its SOI, has bearing on the City's decision to provide service to the Indianola area. If the City can provide water outside of its SOI, it would not be necessary to include the Indianola area within the City's SOI. The City would like to recommend that the Commission consider removing this policy, which would allow the City to provide service to the Indianola area, without the area having to be within the City's SOI, if the service was deemed necessary due to a health and safety concern.

**Marty McClelland** suggested that the Indianola area study could identify if service areas currently served by the City are either within or outside of the City's SOI. Upon inclusion of these specific areas in the City's SOI, the SOI could be used to illustrate locations where the City might be able to provide water in the future. Many of LAFCo's determinations are in regards to whether an area is inside or outside of a district's SOI, so inclusion of these areas in the City's SOI is very relevant. Therefore, if the water service area were to be studied based on areas presenting health and safety concerns and if all of these identified areas were then included in the City's SOI, the City's request to provide services to these areas would be accommodated. This

method would be preferred over extending services outside of a district's SOI, as the Commission has been very consistent with that policy thus far.

**Bonnie Neely** clarified that the direction to staff is to remove the Humboldt Hill and Freshwater areas from the City's SOI and to perform an Indianola area study to determine the service areas and/or SOI areas that may require water service as a result of health and safety concerns.

**Marty McClelland** added that because City staff has identified the Myrtle town and Cutten areas as potential areas of expansion, those areas should be included in the study as well.

**THE MOTION WAS MADE** by Commissioner Neely and seconded by Commissioner Farley, to continue the item at a later date and in the meantime, for LAFCo staff to continue working with the City and to initiate a study to identify the aforementioned areas for potential SOI inclusion/exclusion.

**THE MOTION WAS PASSED BY A VOTE OF 6-0-0.**

**B. City of Arcata- Sphere of Influence (SOI) Reduction**

**George Williamson** stated that this item is a continuance from the January 20, 2010 meeting in which City staff requested an opportunity to discuss the recommendation to reduce the City's SOI to be coterminous with the Urban Services Boundary (USB) with the Planning Commission. At the Arcata Planning Commission meeting held in February, the Commission voted unanimously to maintain the SOI as-is.

**Larry Oetker**, City of Arcata Community Development Director, stated that the Planning Commission would like to obtain the existing SOI and determined that a reduction would be inconsistent with the City's current General Plan. The City spent a great deal of time updating and adopting the current General Plan in 2000, which involved much public discussion and testimony regarding future City growth. In addition, the City has a relatively new Land Use Code, adopted in 2008. During the General Plan update, staff discussed growth post 2020. A concern expressed by Planning Commission staff was in regards to the Boyd Road area off of Highway 299, which is outside of the City limits, but inside the USB. McKinleyville Community Services District (CSD) is currently providing water service to approximately 30-40 parcels in that area, reducing the potential that the City will annex the area in the future. The City has begun preliminary discussions with the district. Another concern is in regards to the water district's main water lines that pass through the City of Arcata. The Eureka line goes through the middle of the agricultural lands between Arcata and Eureka. The Samoa main line goes through the bottoms. The City is concerned that there is the potential to tap into these main lines and begin the sprawl process that would extend into the greenbelt. Finally, there are some areas that are within the City boundary, but not within the City SOI, that the City is considering for inclusion in the City's USB. At this time, the City requests that the SOI remain as-is.

**Virginia Graziani** stated that if the City provides protection of the agricultural and resource lands that is greater than that provided by the County, than there should be no objection to leaving these areas within the City's SOI and requested that Mr. Oetker describe the City's current zoning and density requirements for those areas.

**Larry Oetker** replied that the City has been acquiring agricultural land through both conservation easements and through fee title. The City is looking at the possibility of annexing lands in the coastal zone and open space acquisitions for resource protection. The intent is to keep these areas in agricultural production and to apply a zoning overlay to the Creekside areas for resource protection. The City is working to acquire properties outside of the City limits for flood protection, resource conservation, and agricultural protection. We are also acquiring properties and attempting to connect open space within the timberlands that would extend from West End Road to Fickle Hill for recreation, education and other purposes, while maintaining a sustainable harvest yield on those lands.

**Marty McClelland** asked if the McKinleyville Service District was amendable to transferring the services provided to the Boyd Road area, if the City chooses to pursue annexation.

**Larry Oetker** replied that during the negotiations for the construction of the Mad River Bridge, it was determined that they would be putting an emergency tie-in water line on the bridge so should McKinleyville experience an emergency, the community could tie into the Arcata line. Those conversations are in the preliminary stages.

**Marty McClelland** asked staff to see if the areas south of Boyd Road are within the McKinleyville Community Service District. He added that he does not think tapping of the main water lines are a problem because they are transmission lines, not service lines. The City does not have the authority to provide linkages to anybody outside of the City and the Municipal Services District does not have the authority either. In addition, for the properties located inside the City limits, potential modifications would be to the USB and that would not involve LAFC, as these properties are located within the City. Furthermore, County zoning would apply to the areas located outside of the City, but inside the SOI. County regulations provide protection to those areas, not the City's rezoning.

**Larry Oetker** replied that he was primarily referring to the City annexing those properties.

**Virginia Graziani** noted that she concerned that if those lands remain within the City's SOI, they may be annexed at some point in the future.

**Marty McClelland** asked Mr. Oetker if there is anything in the City's General Plan indicating that the City will annex the old Simpson Mill site within the next 20 years.

**Larry Oetker** responded that there is not.

**THE MOTION WAS MADE** by Commissioner Neely, seconded by Commissioner Clendenen, to amend Resolution 10-01, approving the MSR, but keeping the SOI as is.

**THE MOTION WAS PASSED BY A VOTE OF 6-0-0.**

## **6. BUDGET**

### **A-B) Budget Status Report Fiscal Year 2009-10 and Preliminary FY 2010-11 Budget**

**George Williamson** commented that staff has presented the Preliminary Fiscal Year 2010-11 Budget for the Commission's review. He noted that the Draft Budget will be mailed to all member organizations for comment and brought back in May for a Public Hearing and action, to take effect July 1, 2010. Staff is anticipating all Municipal Service Reviews (MSRs) will be completed by the end of the fiscal year, thus reducing the FY 2010-11 MSR line-item by 20%, still allowing for special studies and additional review if necessary. Staffing services are proposed to remain at the same level and staff is recommending an increase in Commissioner honorariums- from \$20 to \$50 per meeting, which would have a negligible effect on the budget.

**Virginia Graziani** stated she appreciates staff's concern, but does not feel that it is a good time to be raising government officials' stipends and recommends that they remain as-is.

**THE MOTION WAS MADE** by Commissioner Farley and seconded by Commissioner Graziani, to approve the preliminary FY 2010-11 Budget for purposes of circulation, without the proposed honorarium increase.

**THE MOTION WAS PASSED BY A VOTE OF 6-0-0.**

## **7. COMPLIANCE WORK PLAN**

**BY ORDER OF THE CHAIR**, with the concurrence of the Commission, the March, 2010 Compliance Work Plan was received and filed as presented by staff.

## **8. PENDING APPLICATIONS**

### **A. Scotia CSD Formation**

**Jeff Guttero** commented that agenda item 8A, a memo issued by Mr. Hamilton, notes that the Scotia CSD application is complete and the matter is planned for the May meeting. In regards to the proposed study session, Mr. Guttero is concerned about compliance with the Brown Act and Mr. Hamilton is interested in the Commission's feedback on the usefulness of the study session.



**Marty McClelland** responded that due to the complicated nature and the abundance of information regarding this issue, a study session is necessary. He added that close attention should be paid as to how the study session is conducted and that the item should be scheduled as a public hearing for the May meeting.

**Cliff Clendenen** suggested engaging a third party firm to assist in the interpretation and analyzation of the competing proposals.

**Marty McClelland** responded that there are two competing reports available (from SHN and Winzler and Kelly), both at least 2-3 years old, and assumes there is current City wastewater information. It may be best to wait on engaging a third party and instead, take testimony and hold the study session to see if the Commission understands what is being proposed.

**Frank Bacik**, invited the Commission to hold the study session at the Winema Theatre in Scotia. He noted that during potential annexation discussions with Rio Dell in 2006-07, a third party, PMC, prepared an engineering report that evaluated both engineering positions.

**Virginia Graziani** suggested that Scotia residents have an opportunity to participate.

**Marty McClelland** responded that the public will be invited to the study session, but will not have an opportunity to comment. When a public hearing is held, public notice will be provided and the public will have an opportunity to speak. He added that LAFCo is here to look at the advantages and disadvantages of both annexation and creation of a new district. We must ask ourselves whether or not it's best to create a new district next to an existing City, or to annex.

**Jim Stretch, the City of Rio Dell Interim Manager**, requested that the study session include discussion on both annexation and district formation.

#### **B) CAL FIRE Water Service Extension - Trinidad**

**George Williamson** noted that this item is an update on the CAL FIRE application to extend the City of Trinidad's water service to the CAL FIRE Station on Patrick's Point Drive. In February he spoke with the Trinidad City Council regarding service provision. There are two options to supply the Station with water: 1) extend the City's water service, authorizing an out-of-area service extension; or 2) expand the service capabilities of County Service Area No. 4 (CSA4) to include water service, which what staff is pursuing. Winzler and Kelly are performing a feasibility study to determine the City's service capability and the physical effects of connecting the Station to the City's water supply. The County Board of Supervisors has been requested to convene as the CSA4 Board to consider expanding the district's powers to include water service and to enter into a service negotiation with the City for a single-use water service to the Station. Staff will report back on this item in May.

#### **C) Rio Dell Scotia Annexation Application – Status Report**

**George Williamson** commented that the Rio Dell City Council has authorized staff to proceed with an annexation application for the Town of Scotia. He added that when this item proceeds to LAFCo, he will not be involved as a result of a prior and on-going relationship with the City.

**Jim Stretch**, commented that the Rio Dell City Council has taken action to proceed with the annexation application for the Town of Scotia. As a result of the previously mentioned studies prepared in 2006-07, it is expected that the application process will be expedited. The City continues to be ready and able to provide service to Scotia and it's extremely unusual for a district to be created on the border of an existing city that is willing and able to provide services. During previous annexation discussions, there were issues pertaining to wastewater, fire, and police services. The City's wastewater facility upgrade is underway and progressing quickly. The plant is being replaced not because it has to be, but because as-is, it will not meet nitrate standards in 2012 and neither will the plant in Scotia. The City feels that it's best to work together to resolve these issues. In regards to fire service, it doesn't make sense to have two small fire districts side by side that will most likely be assisting each other. Police service was not included as part of the district formation application because it was proposed that the level of service currently provided by the County is adequate. Now that Scotia is no longer a company



town, controls over who will own or rent in the community are no longer in place and crime activity may increase. The City would be the best provider of police services to Scotia and this should be addressed in the MSR and adopted plan. This is a rare opportunity to meld these two communities together, while maintaining Scotia's historic and unique identity.

**Jeff Farley** asked if the City proposes to combine the two fire departments or to keep them separate. The Scotia firefighters are specially trained to respond to an incident at the Mill.

**Jim Stretch**, replied that the City proposes to combine the two departments and can maintain the level of service currently provided, including serving the Mill.

**Patrick Whitchurch** commented that he understands that LAFCo needs to look at all the alternatives, but is slightly disturbed that the City waited until now to proceed with their annexation application, which he considers to be a disservice to the Town of Scotia.

**Marty McClelland** noted that several years ago LAFCo made it clear that the Commission needed to look at several alternatives. As such, he does not feel that the situation has resulted in a disservice to Scotia residents.

**Virginia Graziani** concurred with Commissioner Whitchurch, but agrees with Commissioner McClelland that the Commission has an obligation to look at both proposals.

## **9. INQUIRIES CORRESPONDENCE, REFERRALS**

### **A) Election of 2010 LAFCo Chair and Vice Chair:**

**Marty McClelland** opened the 2010 LAFCo Chair and Vice Chair nominations.

**THE MOTION WAS MADE** by Commissioner Neely and seconded by Commissioner Farley, to appoint Commissioner McClelland as the 2010 LAFCo Chair for 2010.

**THE MOTION WAS MADE** by Commissioner Farley and seconded by Commissioner Whitchurch, to appoint Commissioner Neely as the 2010 LAFCo Vice Chair for 2010.

**THE MOTIONS WERE BOTH PASSED BY A VOTE OF 6-0-0.**

### **B) Commissioner term expirations in May, 2010**

**Virginia Graziani** stated that McKenny is district member and she is a district member alternate Kevin's term expires in May, a month before hers. She was under the impression that the person that came in second place during the election became the alternate and was wondering why there are two separate expiration dates.

**Marty McClelland** requested that staff research the bylaws and staff agreed to do so.

**Patrick Whitchurch** requested that staff inform him of whether his term expires at the beginning or at the end of May and staff agreed to do so.

### **C) CALAFCO University – Fire District Organization and Reorganization**

**George Williamson** commented that CALAFCO, of which Humboldt LAFCo is a member, is hosting a Fire District Organization/Reorganization workshop. A panel of experts that specialize in fire district reorganizations and formations will be present. Representatives from Humboldt Fire District No. 1, the City of Eureka, and/or the County are planning to attend. This opportunity is open to any CALAFCO member.

### **D) Website Development**

**Alisha Oloughlin** commented that the new LAFCo website is officially online with a new mapping section and a link to the County's GIS portal, as request by the Commission.

## **10. Public Appearances:**

**Jack Thompson**, Rio Dell City Council Member, inquired if the new website illustrates mapping Sections. Mr. Thompson was directed to speak with Mrs. Oloughlin for clarification.

## **11. Adjournment: 10:22 a.m.**