

MINUTES FOR OCTOBER 13, 2010 MEETING

COMMISSIONERS PRESENT: Commissioners Jeff Pauli, Kenneth Zanzi, Marty McClelland and Jeff Farley; and Alternate Commissioners Jill Duffy and Bob McPherson.

COMMISSIONERS ABSENT: Commissioners Bonnie Neely, Clif Clendenen and Kevin McKenny; and Alternate Commissioners Michael Winkler and Mike Harvey.

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

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 SEPTEMBER 15, 2010 MINUTES**

THE MOTION WAS MADE by Commissioner Farley, and seconded by Commissioner Duffy, to approve the September 15, 2010 minutes with noted corrections.

THE MOTION PASSED BY A VOTE OF 5-0-0.

5. **INFORMATIONAL AND ONGOING ITEMS**

Planwest Partners Staff recused themselves for public hearing items 5A and 5B, Consideration of Adoption of Resolutions 10-08 and 10-09.

A. Consider Adoption of Resolution 10-08: Making Finding Required for Certifying Compliance w/ CEQA for formation of the Scotia Community Services District

Merle Anderson stated that today's meeting is a follow-up of the September 15, 2010 meeting, in which staff was asked to prepare a resolution of approval for the formation of the Scotia Community Services District (SCSD). There are a number of actions which must be considered today, which include: 1) Resolution 10-08, ensuring California Environmental Quality Act (CEQA) compliance; 2) consideration of staff's recommendations and draft Resolution 10-09, formation of the SCSD and the conditions of approval; and 3) directions to staff about the next step in the process, holding a protest hearing, should the Commission approve Resolutions 10-08 and 10-09.

Mr. Anderson acknowledged a letter to LAFCo from SHN Consulting Engineers, dated October 4, 2009, included in today's meeting packet, which provides a description of the transferring of assets and resources which will occur as a result of the CSD formation process and a complete description of the SCSD finance situation. Due to file size, the attached maps and color photographs were excluded from the packet and the website, but are available upon request.

Mr. Anderson noted that portions of the SCSD Draft Municipal Services Review (MSR) have been recently updated, including finance statements and information, removal of CSD formation

vs. annexation comparison information, which was no longer considered relevant for inclusion in the MSR, and the replacement of a couple of figures (in both the MSR and Resolution attachment) in which the land use map previously used was prepared in a different context. The new boundary map includes a water tank area and the school, which were omitted from previous figures. However, it is felt that it was well understood during the EIR and hearing process that these landmarks were to be included in the district boundary and the newer figures reflect this.

Also, given that LAFCo is a responsible agency under the CEQA, specific duties include certifying the document for the purposes of LAFCo and filing a Notice of Determination (NOD). Resolution 10-08 acknowledges the County's role as lead agency and acknowledges the environmental document certified last year, which makes findings that the project would not result in significant environmental impacts or other overriding issues. A Mitigation Monitoring Plan has also been adopted for the project. Resolution 10-08 concurs with the County's finding of No Significant Impact and certifies the document as LAFCo's own, directing LAFCo staff to file the NOD.

Marty McClelland asked if anyone from the audience would like to speak on the matter, of which, there were none.

THE MOTION WAS MADE by Commissioner Farley and seconded by Commissioner Duffy, to adopt Resolution 10-08: Making the Finding Required for Certifying Compliance w/ CEQA for formation of the Scotia Community Services District.

THE MOTION WAS PASSED BY A VOTE OF 5-0-0.

B. Consider Adoption of Resolution 10-09: Approving Town of Scotia LLC. Community Services District Formation

Merle Anderson stated that Resolution 10-09 is for approval of the SCSD formation itself, which includes adoption of the SCSD MSR, approval of the SCSD formation with the conditions of approval, and adoption of the Scotia CSD Sphere of Influence (SOI). Attachment "A" is the MSR, Attachment "B" is the revised figure previously discussed, and Attachment "C" derives from the SHN letter regarding how the town's resources will be transferred from the Town of Scotia LLC. upon formation of the CSD.

The specific Resolution 10-09 actions being considered include: 1) adoption of the MSR, as revised by LAFCo staff, dated October 2010; 2) the Commission concurs with the recommended determinations made in the MSR and the LAFCo staff reports concerning the acceptability of the proposal relative to the proposal evaluation policies contained in the Humboldt LAFCo Policies and Procedures Manual and project evaluation criteria pursuant to the Cortese-Knox-Hertzberg (CKH) Act and hereby adopts those determinations by reference; 3) formation of a CSD to be known as the Scotia CSD, as the boundaries are indicated in Attachment B; 4) recognizing that the financial plan provided in the MSR is determined to be adequate to establish the initial operating budget for the CSD; 5) the SCSD SOI boundary would be coterminous with the district service boundary and would be adopted with the determinations already specified in Chapter 9 of the MSR; 6) the Executive Officer would be directed to revise the official records of the Commission to reflect the changes of the SOI; 7) the Commission recognizes provisional tax appropriations limits (pursuant to the Grant Appropriation Limits (GAN) initiative), which is suggested to be set at \$250,000, with annual tax appropriations to be considered upon formation of the district. Mr. Anderson noted that there have been questions as to whether the GAN limits are applicable to the district. Given that the District may receive

property tax allocations from the County, it was determined that GAN limits should be initially adopted which can later be resolved upon district formation; and 8) direct staff to initiate the protest proceedings pursuant to the California Government Code and in compliance with Resolution 10-09.

Marty McClelland requested staff to remove item 6A, which directs the Executive Officer to revise the official records to reflect any changes to the District's SOI, given that as of yet, there is no adopted SOI to be revised. In addition, Chair McClelland directed staff to add the specific date of approval to the cover of the MSR. Lastly, regarding the condition of approval item 4, the adequacy of the financing plan to establish the CSD, Chair McClelland inquired as to which applicable engineering standards the improvements would be installed.

Michael Foget, Principal Engineer/SHN Consulting Engineers, responded that the review standards derived from the Public Works Greenbook, American Waterworks Association (AWA) standards, the County of Humboldt, and other entities which oversee construction or set those standards. Mr. Foget added that for the record, a detailed list is available which references each specific utility and its applicable engineering and inspection standards.

Marty McClelland asked if anyone from the audience would like to speak on the matter, of which, there were none.

THE MOTION WAS MADE by Commissioner Pauli, seconded by Commissioner Duffy, to adopt Resolution 10-09: Approving the Town of Scotia Community Services District Formation as amended to exclude item 6 and to include reference of the applicable engineering standards provided by SHN Consulting Engineers, specifying the SHN note and the date it was provided.

THE MOTION WAS PASSED BY A VOTE OF 5-0-0.

Merle Anderson stated that, regarding the protest hearing, there is a mandatory 30-day reconsideration period, in which a protest hearing cannot be held. The reconsideration period ends on November 12th. If a reconsideration request has not been received by November 12th, staff can proceed with mailing a 21-day advanced public notice to all registered voters, advising them of the upcoming protest hearing, which is tentatively scheduled for December 8th. If a reconsideration request *is* received, the protest hearing would be postponed. Instead, notices of reconsideration would be mailed out on November 15th for reconsideration on December 8th.

Jill Duffy asked regarding the protest hearing notice, if notices would also be mailed to property owners.

Merle Anderson responded that under the provisions of the law, protest hearings require that registered voters be notified, but do not require that property owners be notified. However, property owners can also be notified if the Commission directs staff to do so. If less than fifty percent of registered voters protest, the Commission can then precede with requesting to the County Board of Supervisors that the County hold the necessary elections on behalf of the proposed district. If fifty percent or more of the registered voters protest, than the process is terminated.

In addition, PMC has provided an estimate of the remaining district formation application processing costs. PMC provided a letter dated October 6, 2010 to LAFCo concerning the budget costs to date. There was an amendment to the agreement in 2008, in which PMC requested a budget increase in the amount of \$10,791.00, which although was approved and signed, an invoice was never submitted. Therefore, there is a difference in the amount that is actually on-

hand verses what has been approved, which PMC understands to be the agreed upon amount. Given that there was confusion around the exit of Daniel Hamilton and a mishap with the public notices, PMC has agreed to write-off \$8,000 from the amount that PMC has incurred. PMC has not billed LAFCo since May, 2010. There is currently approximately \$50,000.00 worth of billing which has accrued since May. PMC is requesting a budget amendment of \$48,886.00, assuming that PMC will be staying involved through the conditions of approval and certificate of completion process.

Marty McClelland directed staff, both contract and sub-contract, to pay closer attention to budgetary contracts and to receive any required budget amendment approval in advance vs. after-the-fact, thus avoiding a similar situation in the future. All future invoices should be authorized and submitted in a timely manner.

THE MOTION WAS MADE by Commissioner Zanzi, seconded by Commissioner Farley, to approve Amendment No.4 to PMC's Task Order #2 in the amount of \$48,886.00, to allow for completion of the Town of Scotia Community Services District Formation application processing, including overseeing the conditions of approval and the certificate of completion process.

THE MOTION WAS PASSED BY A VOTE OF 5-0-0.

Jeff Guttero, LAFCo Legal Counsel, noted that the Commissioner's meeting packet includes an identical LAFCo legal counsel contract as the current contract, with a contract term of 1 year, which is proposed for Commission approval.

THE MOTION WAS MADE by Commissioner Pauli, seconded by Commissioner Duffy, to approve the 2010-11 LAFCo Legal Counsel Contract as submitted.

THE MOTION WAS PASSED BY A VOTE OF 5-0-0.

C. Study Session: Humboldt County Community Development Services Staff Presentation-Status Update of Fire District Reorganization and Formation.

John Miller, Senior Planner, Humboldt County Community Development Services, provided a brief update of the County's work with local fire departments and Fire Protection Districts (FPD) to implement some of the programs developed as part of the Humboldt County Master Fire Protection Plan, adopted in 2006, which included a number of policy recommendations for the General Plan Update that were incorporated into the Community Infrastructure and Services Element and the Safety Element. In addition to the fire-related subjects of the plan, it also contained overall objectives to increase funding to local fire departments, improve fire department capacity, to expand fire related district boundaries to match the areas where services are actually provided, and to help non-district fire departments establish districts. Since adoption of the fire plan, the County has provided support to local fire departments, including assistance in preparing MSRs, grants for training and training supplies, negotiation of an agreement with fire districts to provide a portion of Proposition 172 funding to the districts, providing workman's compensation insurance to districts through the County's risk pool, and assisting fire departments through other Homeland Security Grants. County staff continues to work with fire departments to help improve capacity, expanding district boundaries to match the service areas and to establish new districts where appropriate. The overall objectives include: 1) increasing fire capacity and funding; 2) ensuring that adequate infrastructure and services are available for current and planned development; 3) providing efficient service delivery and costs of services delivery; and 4) protecting agricultural lands. The end result will help districts to establish

funding sources, help the public by identifying where service are (and aren't) available, and help the County in its long-term planning efforts. Mr. Miller presented a County map illustrating where housing within the County currently exists, with the greatest concentrations located along the major roadways, in the Humboldt Bay Area, and in the Eel River bottoms. Mr. Miller identified where Fire District's in the County are located and noted that some residential areas lack a fire district. He also identified where fire districts currently respond outside of their district boundaries and where non-district (informal, volunteer) departments respond. There are four fire districts that provide fire protection across County lines, including Willow Creek FPD, Ruth Lake CSD, Palo Verde FPD, and Whale Gulch Volunteer Fire Department (VFD). Based on the map, the County's focus area is primarily in southern Humboldt, where fire districts are the smallest in relation to the area served and where there's the largest area (not necessarily population) where there are voluntary fire departments/companies providing services outside of district boundaries. The non-district departments can't establish long-term sources of revenue other than donations verses FPDs, which can establish a special tax and special assessment, and in formed prior to 1978, can participate in property tax revenues. The FPDs that are currently working with the County its re-organization efforts include: Fieldbrook, Ferndale, Garberville, Petrolia, Redway, Rio Dell, Telegraph Ridge and Whitethorn. The non-district departments/companies participating include: Briceland, Bridgeville, Honeydew, Palo Verde, and Whale Gulch.

Jeff Pauli added that by better explaining exactly how fire departments could benefit from fire district formation or reorganization, they may be more likely to participate.

John Miller responded that staff has made a great effort to relay the benefits, as well as the challenges, of district formation and district annexation to fire districts and companies and will continue to work with the departments.

D. Study Session: LAFCo Staff and City of Eureka Staff Presentation on City of Eureka SOI Status- Indianola, Myrtle town and Cutten Areas.

George Williamson reported that the Eureka and the Garberville Sanitary District (SD) MSR and SOI Updates are the last of the district's remaining, both of which are currently under study and preparation. In regards to Eureka, staff has been directed to look at SOI reduction in the Humboldt Hill and Freshwater areas and SOI expansion in the Indianola area, given the health and safety issues related the current water supply. Staff has been in contact with City of Eureka staff regarding expected future growth and the City's preferred SOI boundary. The City has provided LAFCo staff a draft SOI boundary map for consideration, which keeps Indianola within the SOI, capturing the area south of Eureka, and removes Humboldt Hill. LAFCo staff has also been in contact with Humboldt Bay Municipal Water District (HBMWD) whom made it clear that they wanted to continue as a wholesale supplier and to work with entities such as the City of Eureka to make that supply available to those that need it.

Rob Wall, City of Eureka Senior Planner, stated that the City formed a sub-committee, with Council Members Jager and Leonard, the City Manager and staff involved, with the purpose of reviewing the City's SOI. There was some agreement that Humboldt Hill and the Freshwater area should be removed. Regarding the Indianola area and out of sphere emergency water hook-ups as a result of health issues, there are numerous residents on septic and well that are requesting City of Eureka water. This has been a source of contention between the City of Eureka and the Humboldt Community Services District (HCSD) regarding service to those

residents. The City's research indicates that the City could serve the Indianola area if there was an amendment to local LAFCo policy. State LAFCo policy would allow for emergency service provision outside of a district's SOI for a documented health and safety reason, but Humboldt LAFCo's policy prohibits service provision outside of a district's SOI without an SOI amendment to include the proposed service area. Currently, the City limits and the City SOI are coterminous. That was a 1984 action. The City has drafted a SOI update map for LAFCo staff, however, that map has not been vetted before the Eureka City Council yet. City staff would like an opportunity to vet that map before Council and wishes to continue working with LAFCo staff on the SOI update.

Marty McClelland stated that the City's SOI being coterminous with the City boundary is partially related to the Coastal Act and the growth pressures for the City to extend northward. Chair McClelland reaffirmed that Humboldt LAFCo does have an existing policy which prohibits service extension outside of a district's SOI, which the Commission has been strict on enforcing thus far and it has served the Commission well. Chair McClelland requested that LAFCo staff research an exception to the Commission's rule to see if the Indianola situation is truly an exception to local policy. It raises a bigger issue in Indianola because the area needs sewer, which is a huge issue for Indianola and the entire community.

Jill Duffy added that staff should look at some of the area's surface water characteristics during the winter. A recent study was performed which looked at Fecal Coliform loading in the Humboldt Bay and the Indianola area was certainly an area of concern. That information was forwarded to the State Water Board in 2003. In addition, Oscar Larson did a study in that area in 1990.

E. LAFCo Staff Update on Garberville Sanitary District MSR and SOI Update.

George Williamson reported that the GSD MSR is the last remaining Special District MSR update to complete for this 5-year update cycle. Staff is working with GSD staff on the SOI update, in which the district is looking at sphere expansion. The district has formed an SOI update ad-hoc committee and will be hosting community meetings to study the community's preferred SOI boundary. Alisha attended a meeting with the ad-hoc committee in which a MSR and SOI update and the associated environmental document schedules were determined. The update is scheduled to be completed in the next approximately eight months, concluding around May, 2011.

4. PUBLIC APPEARANCES [None]

5. ADJOURNMENT [9:13 AM]