



MINUTES FOR MARCH 18, 2009 MEETING

COMMISSIONERS PRESENT: Commissioners, Marty McClelland, Patrick Whitchurch, Kevin McKenny, Jeff Pauli, Bonnie Neely, Jill Duffy, and Alternates Virginia Graziani and Bob McPherson.

COMMISSIONERS ABSENT: City Representative Jeff Farley, City Alternate Jeff Leonard, and County Alternate Clif Clendenen.

STAFF PRESENT: George Williamson, Contract Executive Officer; Jennifer Longman, Contract LAFCo Administrator; Jeff Guttero, Legal Counsel, and Daniel Hamilton, contract staff for Rio Dell Annexations.

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

4. Approval of Minutes for January 21, 2009

THE MOTION WAS MADE (Neely/McKenny) to approve the January 21, 2009 minutes as submitted.

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

5. Public Hearings

A. City of Rio Dell – Sphere of Influence (SOI) Expansion

Chairman McClelland introduced Daniel Hamilton as the LAFCo Contract Executive Officer for the Rio Dell SOI Expansion and Annexations.

Daniel Hamilton described the two areas (Sawmill and Blue Slide Road areas) proposed to be added to the City of Rio Dell's SOI. He pointed out that the original proposal for the SOI expansion/annexations included a change in service provider from the Fortuna Fire Protection District (FPD) to the Rio Dell FPD, but that item was subsequently removed from the proposal. Daniel Hamilton gave a complete description of the proposal, noting that the proposed use for the annexation areas includes a wastewater treatment plant (WWTF) and effluent spraying on agricultural land.

Chairman McClelland asked Daniel Hamilton if the landowners' letters were included in the Commissioners' packets.

Daniel Hamilton confirmed that the letters were included.

Commissioner McKenny requested additional information regarding the Fire Protection Districts.

Daniel Hamilton explained that the Fortuna FPD is currently the service provider for the Sawmill Annexation area and shows faster response times than the Rio Dell FPD. Based on initial LAFCo review, the City of Rio Dell decided to remove a change in fire protection service providers from the application.

Commissioner Whitchurch asked for clarification of the process of the proposed LAFCo actions.



Daniel Hamilton explained LAFCo's procedure for Sphere of Influence (SOI) amendments, annexations, and protest hearings.

Virginia Graziani requested clarification on the property owner protest requirements.

Jeff Guttero gave a legal opinion on the protest procedure, stating that each of the two annexation areas would be considered separately for the landowner protest requirements, despite the fact that the two are being considered concurrently for Commission action.

Chairman McClelland opened the item for public comment.

John LaBoyteaux, of Redcrest, informed the Commission that the Humboldt County Farm Bureau (HCFB) submitted a letter to the City of Rio Dell during environmental review of the WWTF stating that land that has been sprayed with treated effluent cannot be used to grow crops for human consumption. The HCFB letter suggests that the City of Rio Dell look into other means of disposing of the treated effluent. The letter was submitted to LAFCo staff.

Shane Wilson, Chief of the Rio Dell FPD, stated that the Rio Dell FPD is capable of, and wishes to serve the Sawmill annexation area. He informed the Commission that Rio Dell FPD and Fortuna FPD responded to 11 calls (per a Mutual Aid Agreement) between May 5, 2008 and March 18, 2009, in which the Rio Dell FPD responded first. He submitted these records to LAFCo staff.

Lon Winburn, Chief of the Fortuna FPD, stated that his District wishes to continue serving the Sawmill annexation area.

George Williamson spoke on behalf of the City of Rio Dell and clarified that Daniel Hamilton of PMC was contracted to handle the Rio Dell Annexations as LAFCo Executive Officer due to a conflict of interest. He described the annexation areas and proposed wastewater treatment facility (WWTF), stating that the Regional Water Quality Control Board (RWQCB) is the agency that will approve/disapprove the treated effluent spraying. He clarified that the agricultural lands will remain in agricultural use and that any issues regarding the Fire Protection Districts will be designated to a separate LAFCo item to be acted on at a later date.

Commissioner Neely asked if Rio Dell explored options for effluent disposal other than spraying.

Nancy Flemming, Rio Dell City Manager, took the stand and replied that Winzler and Kelly, the WWTP design engineers looked into other options and found that effluent spraying was the most feasible.

Commissioner Duffy asked if the proposed annexation areas provide sufficient land mass for the WWTF and effluent spraying.

Nancy Flemming confirmed that the areas are large enough.

John LaBoyteaux asked if the City had considered tertiary treatment and reiterated his earlier remark that land sprayed with effluent cannot be used to produce goods for human consumption.

Jim Barsanti, of the Rio Dell Fire Protection District (FPD), commented that the Rio Dell FPD is capable of providing service to the Sawmill annexation area and needs the associated revenue. Therefore the Rio Dell FPD will pursue annexation of the areas to the FPD.



Ken Kirtley, property owner in the annexation areas, commented that he has a concern over road maintenance and that no negotiations have been settled on between the landowners and the City of Rio Dell for the effluent spraying. He stated that he is not fully in favor of the project at this time.

Commissioner Neely, asked Ken Kirtley if a WWTF would prohibit him from his desired use of his land.

Ken Kirtley stated that portions of his land are in the flood plain.

Dennis Wendt, owner of the Eel River Sawmill property, commented that most of Ken Kirtley's land is not located in the flood plain.

Nancy Flemming confirmed that the agricultural lands are to stay in agricultural use for perpetuity.

Commissioner Neely commented that the staff report states that the City only has to keep the land in agricultural use for two years after which the City can change that policy and suggested adding a condition that Rio Dell accept that the land be in agricultural use in perpetuity.

Virginia Graziani asked where exactly the spraying will occur.

Nancy Flemming stated that the City is still working with the RWQCB to determine the exact details of the WWTF and location of the effluent spraying.

Commissioner Duffy stated that the property owners have an option to protest and asked for clarification of the protest process.

Daniel Hamilton clarified the LAFCo protest procedure.

THE MOTION WAS MADE (Neely) to continue the public hearing to allow more time for deliberation. The motion died due to the lack of a second.

The Commission discussed the Sphere of Influence and Annexation proposals and the implications of the LAFCo action in relation to the final approval and moving forward of the proposed project. The Commission discussed the possibility of continuing the hearing to gather more information and answer some of the questions that were brought forth to the Commission.

Commissioner Neely asked if there was an alternative location for a WWTF in the City of Rio Dell.

Jack Thompson, Rio Dell City Council Member, took the stand and replied that the City of Rio Dell has explored all options and is working with the RWQCB to ensure that the WWTF is designed to the highest standards available and that the City will not take any action that will jeopardize the agricultural lands.

Commissioner Duffy stated that if we are making a cognizant decision to centralize a City's core services, but there are inadequate lands within the city limits for a WWTF, the City will go outside. She stated that the lands can still be used for livestock grazing. She stated that her greatest difficulty is the lack of a willing landowner.



Commissioner Neely asked if this was an issue that the Commission could direct staff to investigate and report back at a special meeting in April.

Commissioner McKenny commented on the timeliness of the process. He complimented staff on the pace that the application has been processed thus far. He stated that he understands the position of the City of Rio Dell, that they are in need of a WWTF and are stuck between a rock and a hard place. He believes that the City is doing the best they can in this situation. He stated that Commissioner McClelland makes a good point about understanding the issue fully before taking action and that a special meeting may be beneficial. However, the cost to the City of Rio Dell should also be a consideration. He also stated that he agrees with Commissioner Duffy that the project does not entail agricultural land conversion.

Commissioner Neely stated that part of what drove her comments was the letter that was submitted on behalf of the Farm Bureau and asked John LaBoyteaux to come forward and address some of the points made in the letter.

John LaBoyteaux stated that the position of the Farm Bureau is that the proposed land use restricts the agricultural use of the property to the point that it is considered a conversion. He stated that his understanding is that the hay that could be grown there cannot be consumed by dairy animals. He stated that the issue is whether the restricted use is a conversion and the Farm Bureau views it as that.

Commissioner Whitchurch stated that he is reluctant to make a motion because he does not know if the motion will pass and he feels that would be doing a disservice to the City of Rio Dell.

Commissioner McKenny stated that the State will come in and resolve this issue if the City does not and that they will do it at any cost, which will be paid by the people. He said that this is happening all over the state right now.

Commissioner Duffy informed Commissioner Whitchurch that he cannot predict whether a motion will pass unless the motion is made.

THE MOTION WAS MADE (Whitchurch/Duffy) to adopt Resolution 09-10 approving the staff recommendation to amend the City of Rio Dell's Sphere of Influence.

THE MOTION WAS PASSED BY A VOTE OF 4-2-0, (Neely and McClelland voting no).

Daniel Hamilton presented staff report 5B for the annexations of the Sawmill and Blue Slide Road sites. He explained the rezoning of the proposed annexation areas. He stated that the staff report is an explanation of the City's proposed land use and is not a determination that the land is/is not a conversion of agricultural land. He stated that the City has prepared a Plan for Services and will maintain the roadways and will provide all municipal services except fire protection which will be provided by the Fortuna and Rio Dell FPDs. He stated that a tax share agreement exists between the City and County. He stated that the Staff Report findings recommend approval of the annexations.

Chairman McClelland opened the floor for public comment.

John LaBoyteaux commented that he is very sorry that the public hearing was not continued for the purpose of receiving the project engineers' input.



THE MOTION WAS MADE (Whitchurch/Pauli) to adopt Resolution 09-11 approving the staff recommendation to annex the Blue Slide Road and Sawmill areas to the City of Rio Dell.

THE MOTION WAS PASSED BY A VOTE OF 4-2-0 (Neely and McClelland voting no).

Commissioner Duffy stated that the City of Rio Dell has been working for years to identify a solution for their wastewater service and that in order to provide urban services it is sometimes necessary to expand the SOI to sufficiently provide services within the urban footprint.

Commissioner McKenny commented that the City of Eureka is facing wastewater issues as well relating not only to having sufficient land area for the facilities and future growth but also keeping up with changing regulations.

Commissioner Neely commented that a project's impact needs to be mitigated within the project proposal and not passed on to others and that is the reason she was hoping for clarification on some of those issues. She stated that she is comfortable with the Commission's decision.

Chairman McClelland stated that the Commission will take a fifteen minute break and return at 10:35.

Chairman McClelland called the meeting to order.

George Williamson explained that the City of Arcata's updated MSR and SOI expansion will be continued to the next meeting, on May 20, 2009 because Larry Oetker, Arcata City Manager, is not present and he wished to comment on this action. He explained that an Initial Study for this item was prepared by LAFCo staff and circulated, finding no significant impacts for the SOI amendment.

Chairman McClelland opened the item for public comment and requested that staff update the City of Arcata's map to clearly show the existing City boundary and the SOI boundary with the five areas in question at a better scale. He requested that staff meet with Larry Oetker to receive his comments on the map and request that Mr. Oetker appear at the May 20, 2009 meeting.

The item was continued to the May 20, 2009 meeting.

George Williamson presented the Arcata Fire Protection District's MSR and SOI update.

Jennifer Longman informed the Commission that the proposed SOI map had changed slightly after a meeting with the District to include more parcels and pointed out the changes to the Commission.

George Williamson explained that LAFCo staff met with the District and updated the map to show the parcels that are developed or developable and in need of fire protection services.

THE MOTION WAS MADE (Duffy/McKenny) to adopt Resolution 09-01 approving the MSR and amended SOI for the Arcata Fire Protection District.

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

George Williamson recommended approval of the Resort Improvement District No. 1 MSR and SOI update.

Chairman McClelland opened the item for public comment and there were no comments.



THE MOTION WAS MADE (McKenny/Neely) to adopt Resolution 09-12 approving the MSR and SOI for Resort Improvement District No. 1.

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

6A Budget Status Report

George Williamson presented the Budget Status Report to the Commission, noting that the LAFCo budget is on track and the staffing services are expected to be completed without augment.

BY ORDER OF THE CHAIR, with the concurrence of the Commission, the budget status report was received and filed as presented by staff.

6B Preliminary Fiscal Year 2009-2010 Budget

George Williamson presented the preliminary budget explaining that the proposed budget amount remains the same as the fiscal year 2008-2009 budget. The budget shows a 2% increase in staffing services and the cost of SDRMA insurance and CSDA membership. The budget includes staffing costs for preparation of MSRs.

Commissioner Duffy asked if the contingency funds are meant as a reserve fund.

George Williamson confirmed.

Virginia Graziani asked if there is any opportunity for a budget decrease due to completion of most of the MSRs.

Chairman McClelland stated that the level of MSR/SOI work to be completed will be significantly lower and asked staff to prepare a report detailing the work that needs to be completed in this fiscal year.

George Williamson agreed to provide the report at the May 20, 2009 meeting.

Chairman McClelland informed the Commission and staff that there is no need to follow up on the cost comparison of SDRMA insurance versus other insurance providers because he confirmed that the cost is approximately 60% of the County's estimated insurance cost.

THE MOTION WAS MADE (Neely/McKenny) to approve the Budget and to direct staff to look into reducing the budget.

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

The Commission requested a 5-10% reduction depending on the level of services that are necessary.

The Commission discussed the fund balance and affirmed that there is a carry-over of any unused funds to be used for LAFCo costs only.

Commissioner Duffy asked if the 15% contingency fund has been met and if so, whether the cost to Cities and Special districts could be reduced.

Chairman McClelland directed staff to investigate the contingency fund balance and report back at the May 20, 2009 meeting.

7. Compliance Work Plan Update



George Williamson presented the updated work plan to the Commission noting that staff has made good progress on MSRs and that the remaining MSRs are scheduled to be completed before the end of the calendar year.

Chairman McClelland directed staff to review the compliance work plan to ensure that the MSRs listed for completion in 2009 are necessary.

George Williamson agreed to review the compliance work plan.

BY ORDER OF THE CHAIR, with the concurrence of the Commission, the compliance work plan update was received and filed as presented by staff.

8. Ongoing Items

8A. Scotia CSD Formation

George Williamson notified the Commission that the Scotia LLC submitted a final environmental impact report (FEIR) to the County. Frank Bacik, of the Scotia LLC, informed LAFCo staff that the item is scheduled for hearing by the Humboldt County Planning Commission on May 7, 2009 and he expects to be submitting materials to LAFCo after that date.

Daniel Hamilton added that LAFCo staff submitted comments regarding the EIR and LAFCo processes that were not included in the EIR. He stated that the FEIR did not include the LAFCo items and that the document requires additional information to be deemed complete for approval of the CSD formation by LAFCo.

Chairman McClelland directed LAFCo staff to provide the comment letter that was submitted on behalf of LAFCo.

George Williamson informed the Commission that the City of Rio Dell also submitted a comment letter to the Scotia CSD and found that the FEIR was inadequate.

9. Inquiries:

9A. Garberville Sanitary District Expansion/ Potential Change of Form

George Williamson informed the Commission that the Garberville Sanitary District continues to work on a district expansion/potential change of form and expects to be submitting materials to LAFCo within the next 2-3 months.

9B. Fortuna Annexations

George Williamson informed the Commission that the Fortuna Annexations are tied to the General Plan Update.

9C. Samoa Peninsula Services – Potential Manila CSD

George Williamson informed the Commission that the town of Samoa and the Samoa Pacific Group continue to have general discussions with Manila CSD regarding potential annexation.

9D. City of Arcata – Creek Side Homes Annexation

George Williamson informed the Commission that the Arcata City Council heard the Creekside Homes Annexation on February 18, 2009 and have continued that hearing to April in order to learn more about the construction and timing of the Foster Avenue extension to Sunset because they felt that it would affect the annexation.

10. Correspondence, Referrals, and Review Requests:

10A. Humboldt County Association of Realtors (HCAR)

George Williamson informed the Commission that the HCAR submitted a letter on the Regional Housing Needs Allocation Process, which was included in the Commissioners' meeting packets.

10B. Senate Bill 215 (Wiggins)

George Williamson informed the Commission that Senator Wiggins has proposed legislation regarding LAFCoS and Sustainable Communities Strategies that is still working its way through the legislature. The Commission was provided with information regarding this legislation in their packets.

10C. Grand Jury Appearance

George Williamson informed the Commission that the Humboldt County Grand Jury is looking into Special Districts to see if there are opportunities for greater operational efficiency. The Cities and County Committees have requested the Executive Officer appear on March 24, 2009 as part of this inquiry.

Chairman McClelland inquired as to whether one could report back from the Grand Jury.

Commissioner Duffy replied that one may not report back from the Grand Jury.

Chairman McClelland inquired about the status of the adoption of the housing allocations.

The Commissioners replied that the allocations are overdue.

Chairman McClelland inquired about a statement in the staff report regarding Senate Bill 215 that claims the Bill repeals the permission of LAFCoS to consider regional Sustainable Communities Strategies pointing out that it seems to contradict the intention of the legislation.

10D Arthur Jones' email

Chairman McClelland asked if the Commissioners had any questions regarding item 10D, the Arthur Jones correspondence.

Commissioner McKenny pointed out an error in the staff report in which the date read 2009 and should have read 2002. He then asked for clarification of the term "anticipation of annexation".

George Williamson directed Commissioner McKenny to the agenda item attachment that explains the 2002 Commission action updating LAFCo's policy on providing services outside a City or District Sphere.

Commissioner McKenny stated that there are people in need of water service on Indianola and Freshwater that live outside the Sphere and asked for further clarification regarding this issue. He stated that he feels LAFCo should look at the issue and determine what to do to enable people to get water if they need it.

Chairman McClelland stated that extending services outside a District or City is avoided because it encourages growth

Commissioner Whitchurch asked about the Commission's power/latitude to affect this policy.



Chairman McClelland suggested that the item be put on the agenda to include more information about this policy.

Commissioner Duffy pointed out that Arthur Jones' situation is unique because his property is located adjacent to an existing Blue Lake water line. She pointed out that growth control did not occur in Mr. Jones case.

Chairman McClelland restated that the item should be placed on the LAFCo agenda for a later meeting date.

BY ORDER OF THE CHAIR, with the concurrence of the Commission, the staff report was received and filed as presented by staff.

10. PUBLIC APPEARANCES

Chairman McClelland opened the floor to the public. There were no public appearances.

11. ADJOURNMENT

The meeting was adjourned at 11:22 AM.