



## AGENDA ITEM 5B

### SEPTEMBER 16, 2015 REGULAR MEETING MINUTES

#### 1. CALL TO ORDER

The meeting was called to order at 9:00 a.m. in the Humboldt County Board of Supervisors Chamber, with Chair Bass presiding.

#### 2. FLAG SALUTE

#### 3. ROLL CALL

Commissioners Present: Virginia Bass, Estelle Fennell, Gordon Johnson, Sue Long, Robert McPherson, Troy Nicolini, and Alternate Public Member Skip Jorgensen

Commissioners Absent: Bruce Rupp

Staff: George Williamson, Executive Officer  
Colette Metz, Administrator  
Paul Brisso, Legal Counsel

#### 4. PUBLIC APPEARANCES

None

#### 5. CONSENT CALENDAR

##### A) Approval July 15, 2015 Regular Meeting Minutes

Staff clarified that meeting minutes would be provided at the next regular meeting. No action was taken by the Commission on the consent calendar.

#### 6. BUSINESS ITEMS

##### A) Approval of Conducting Authority Proceedings for the Sphere of Influence Amendment and Annexation of Out Of District Fire Service Response Areas and Areas Served By Water & Wastewater to the Fieldbrook-Glendale Community Services District

Executive Officer Williamson summarized the staff report and reported on the outcome of the protest hearing, which was held at the Fieldbrook Fire Station. At the closing of the hearing, only one landowner protest was filed, and it was determined insufficient written protests were submitted by both registered voters and landowners. Commissioner Nicolini thanked staff for conducting the protest hearing to provide additional reassurance that property owners understand the change in service from Arcata FPD to Fieldbrook VFD in Area 4.

**Motion McPherson/ Johnson** to adopt Resolution No. 15-10, approving the Conducting Authority Proceedings for the Sphere of Influence Amendment and Annexation of Out Of District Fire Service Response Areas and Areas Served By Water & Wastewater to the Fieldbrook-Glendale Community Services District. The motion was passed by a roll call vote of 5-0-1 (Long).

**B) Proposed Annexation of Four (4) Parcels and a Portion of State Route 299 Right-of-Way in the Boyd Road Area to the City of Arcata**

Executive Officer Williamson summarized the staff report and noted that this annexation was agendaized as a business item due to property owner consent. Mr. Williamson discussed the commercial and industrial uses at the subject property, and described McKinleyville Community Services District (MCSD) water facilities in the Boyd Road area. He explained that LAFCo staff received a letter from MCSD expressing their commitment to continue providing water services to the subject properties until such time as the District pays off its infrastructure loan. As such, Mr. Williamson noted that a condition of approval was incorporated providing the City and MCSD to enter into a Memorandum of Understanding (MOU) to address long-term water service to the annexation area.

Larry Oetker, Arcata Community Development Director, discussed the process to negotiate with MCSD to come to agreement on Option 1 of the Plan for Services, which allows for continued service by MCSD until such time as subdivision, whereby service would be transferred to the City. He noted that future development would require additional service connections beyond the single service connection provided by MCSD outside their district boundary. Mr. Oetker questioned whether there was a conflict with LAFCo legal counsel who also provides counsel for MCSD, and requested that the condition be changed to reflect Option 1 consistent with the Plan for Services. Paul Brisso, LAFCo legal counsel, clarified that staff has not asked for legal assistance for this application. Any legal matter would need to be deferred until alternate counsel is sought.

Commissioner McPherson commented that the extension of city water is a redundancy and that an agreement between the City and MCSD is necessary to address future service needs and obligations.

Paul Kraus, Eureka Ready Mix, explained that the process started in 2011 when ERM filed a Lot Line Adjustment with the County. He indicated that ERM had paid all costs for the MCSD transmission line extension to the subject property, and didn't realize the implications it would have on future service.

Mark Andre, Arcata Environmental Services Director, noted that the City is still negotiating with MCSD regarding services to the entire Boyd Road area but thought that agreement was made for the ERM site. He indicated that the core need is sewer services to the area, and that the lack of sewer diminishes future build out. He explained that the City had no prior knowledge of the loan and expressed the need to move the annexation forward.

The Commission discussed the need to bring the parties together so there is not a disagreement regarding service provision in the future. The Commission acknowledged that the full extent of service and facility needs may be unknown due to the lack of a subdivision and development plan; however, more certainty of agreement between the parties was requested.

**Motion Fennell/ McPherson** to continue the matter to allow staff time to work with the City and MCSD to develop an agreement at an upcoming meeting. The motion was passed by a vote of 6-0-0.

## **7. PUBLIC HEARING ITEMS**

### **A) Proposed Annexation of 2212 Jacoby Creek Road to the City of Arcata**

Chair Bass discussed the need for an ex parte communication in the effort to be as transparent as possible. Paul Brisso explained the ex parte process and asked that each commissioner disclose conversations. Commissioner Long reported she spoke with Renée Chappelle, construction manager for the landowner, who provided background about the annexation. Commissioner McPherson reported he spoke with Randy Mendosa, Larry Oetker and Doby Class from the City of Arcata, Wayne Palmrose from the Jacoby Creek County Water District, and all landowner representatives including Marc Delany, Kiriki Delany, Renée Chappelle and Chris Hamer. Commissioner Fennell reported speaking with Renée Chappelle, who outlined the concerns of her client that were also included in the packet. Commissioner Nicolini noted that he received one e-mail that he forwarded along to staff. Chair Bass noted she spoke with Renée Chappelle regarding the general information that was included in the packet. Paul Brisso added that at a public hearing, commissioners are to only make their decision based on what they hear at the public hearing, and that if they cannot put aside what they learned in the outside discussions they should recuse themselves.

Executive Officer Williamson summarized the staff report, and noted that a previous emergency sewer service extension was authorized by LAFCo in 2013. He explained that the City's land use code requires annexation filing within 18 months from the date sewer services is provided, and noted that different LAFCos and cities have more stringent requirements for annexation. Mr. Williamson explained that staff is obligated to bring this matter forward as proposed by the City in their application, which is a single parcel annexation with landowner consent.

Joe Mateer, Arcata Senior Planner, provided background on the sewer extension request and annexation process, noting that the property changed ownership during the City's application review process and there were additional delays due to archaeological resources and site reconnaissance during construction of the sewer connection.

Larry Oetker, Community Development Services Director, discussed the need to follow the rules and regulations of the City and the actions LAFCo took when authorizing the sewer service connection, and provided a printed copy of the previous 2013 action with findings made by LAFCo.

Kiriki Delany, property owner of 2212 Jacoby Creek Road, provided a presentation discussing the rezoning with special considerations made by the City Council. He explained that when he had signed a consent form for annexation, and later a deed declaration for the site, there were no special conditions placed on the property. He explained that he objects to the Special Considerations-Commercial combining zone that serves to devalue the property.

Chris Hamer, attorney representing the property owner, stated that the property owner was not told that there would be restrictions placed on the property. She explained that the property owner did not consent to the specific proposal before LAFCo and alternatively has filed a written objection/protest with LAFCo. She added that the City requirement has preempted the field of annexation which is LAFCo's responsibility.

Commissioner Nicolini asked whether the existing zoning could be preserved. Mr. Oetker explained that the property owner had requested a zoning change from Residential Very Low to Commercial. The City added a Special Considerations-Commercial combining zone to address the historical resources and to make all the current uses "allowable uses" under the zoning. The Commission further discussed whether there could be a resolution between the two parties on the zoning.

Chair Bass opened the public hearing and invited public testimony at 11:08 a.m.

Wayne Palmrose, Jacoby Creek County Water District, commented that property owner payment for the District's outstanding loan is essential for repayment. He also provided his personal opinion that annexation is not needed.

Chris Freeman, Jacoby Creek area resident, commented that he opposes an annexation without property owner consent.

Marc Delany, project construction manager, provided written comments and noted that he opposes a single parcel annexation without property owner consent.

David Haney, Bayside area resident and employee of Streamguys, commented that Streamguys has brought significant revenue to the area and believes the process should cease.

The Commission discussed the proposal and the expressed property owner opposition to be annexed. Commissioner Nicolini noted that he was troubled about the contrasting opinions and views concerning the annexation process. Paul Brisso noted that the Commission has the power and discretion to make a decision in good faith based on the official record and what was discussed or presented at the public hearing. Commissioner Fennell noted that she found the hearing very compelling and that based on the surrounding area and lack of community support, she believes the annexation shouldn't proceed at this time.

**Motion McPherson/ Fennell** to disapprove the proposed Annexation of 2212 Jacoby Creek Road to the City of Arcata. Disapproval would statutorily prohibit the initiation of a similar proposal for one year unless a request for reconsideration is filed and approved within 30 days of Commission action. The motion was passed by a vote of 5-1-0 (Nicolini).

**B) Proposed Sphere of Influence Amendment and Annexation of the Sunny Brae Forest Management Unit/Davis property to the City of Arcata**

Executive Officer Williamson summarized the staff report and described the annexation proposal that would add approximately 323 acres of City-owned undeveloped forestland known as the Sunny Brae Forest Management Unit (SBFMU) to be managed as part of the Arcata Community Forest. Mr. Williamson noted that the annexation would create islands surrounding approximately 50 privately-owned parcels that would remain in Humboldt County's jurisdiction. While LAFCo tries to avoid the creation of islands, the proposal's intent is to annex natural resource lands. The Commission discussed the urban services boundary that includes the single residential property and excludes the community forest lands, as well as the City's sewer capacity.

**Motion Fennell/ Nicolini** to adopt Resolution No. 15-13, approving the Sphere of Influence Amendment and Annexation of the Sunny Brae Forest Management Unit/Davis property to the City of Arcata, as described in the staff report, subject to the recommended conditions. The motion was passed by a roll call vote of 6-0-0.

**C) Countywide Park and Recreation Services Municipal Service Review and Sphere of Influence Updates for the Rohner Community Recreation and Park District and the North Humboldt Recreation and Park District**

Executive Officer Williamson summarized the staff report and explained that there is ongoing interest to maintain the Rohner Community Recreation and Park District, and that the City is exploring the subsidiary district option. The Commission discussed both the dissolution and subsidiary district options. With concurrence from the Commission, the Chair directed staff to bring back options in 6 months.

**Motion Nicolini/ Fennell** to continue the matter to allow staff to work with the City on establishing the RCRPD as a subsidiary district of the City of Fortuna and bring this back to the Commission within six months. The MSR will be brought back for adoption at that time as well. The motion was passed by a vote of 6-0-0.

**8. INFORMATIONAL AND CONTINUING ITEMS**

**A) Status of Current and Future Proposals**

Executive Officer Williamson summarized the staff report. With concurrence from the Commission, the Chair received and filed the report.

**B) CALAFCO Conference Report-Out**

Commissioner McPherson noted that the CALAFCO conference provides great educational and networking opportunities. Commissioner Bass noted that Bill Chiat's session on leadership was very well done and agreed that the CALAFCO conferences are really beneficial for commissioners.

**9. WRITTEN CORRESPONDENCE**

**A) September 2015 Issue of CALAFCO's Journal *The Sphere***

**B) 2015-2016 CALAFCO Membership Directory**

**10. ADJOURNMENT**

The meeting was adjourned at 11:55 a.m. Next regular meeting: November 18, 2015.