



AGENDA ITEM 6A

MEETING: July 10, 2017
TO: Humboldt LAFCo Commissioners
FROM: George Williamson, Executive Officer
SUBJECT: **Approval of Conducting Authority Proceedings for the Reorganization of Samoa Peninsula Fire Protection District (FPD) into the Peninsula Community Services District (CSD)**
At the May 15, 2017 LAFCo meeting, the Commission approved the Samoa Peninsula FPD Reorganization proposal, subject to terms and conditions. Approval triggered a 30-day reconsideration period followed by a protest hearing held on June 28, 2017.

BACKGROUND

LAFCo serves as the conducting authority for protest proceedings, providing notice and opportunity for property owners and registered voters living within the affected territory to file protests against further reorganization actions. Pursuant to State law, the subject reorganization would be terminated if 50% or more of registered voters within the subject territory protest. If no majority protest exists, the reorganization proceedings are forwarded to the Humboldt County Board of Supervisors to call an election for confirmation by the voters. A favorable election would require that a majority (50%+1) of the votes cast be in support of the reorganization.

DISCUSSION

The LAFCo Executive Officer was delegated authority by the Commission to conduct the protest hearing, which was held on June 28th at 4:00 p.m. at the Fairhaven Fire Station. Notices for the protest hearing were mailed 21-days in advance to registered voters and property owners within the affected territory, published in the Times Standard, and posted on the LAFCo website.

At the hearing, the Executive Officer summarized the proposal and opened the public hearing. Upon closing of the hearing, a total of four (4) written protests were submitted out of a total of 222 registered voters in the affected territory. In addition, 14 form letters of support were received at the hearing. Subsequent to the hearing, an additional five (5) protests and four (4) form letters of support were received.

At the hearing, the Humboldt Bay Municipal Water District submitted a letter and requested that LAFCo Resolution No. 17-06 be amended to include on the record the discussions regarding the possible transfer of ownership of the HBMWD's domestic water infrastructure to the CSD. In addition, there were concerns related to the characterization of the 'reasons cited in support of the reorganization'. As such, LAFCo staff and counsel is recommending that Resolution No. 17-06 be replaced with Resolution No. 17-08, which contains the modifications.

With regard to the protest hearing, it is recommended that, based on the determination that insufficient written protests were submitted by registered voters, the Commission order the reorganization subject to an election in accordance with Government Code Section 61014. Draft Resolution No. 17-09 is enclosed which requests the election be conducted as part of the November 7, 2017 consolidated district election, includes the question to be submitted to the voters, and directs staff to work with County election officials in preparation of an appropriate ballot measure and impartial analysis for the measure.

A favorable election would require that a majority (50%+1) of the votes cast be in support of the reorganization. Should the election be favorable, the reorganization would not become effective until conditions are fulfilled to the satisfaction of the LAFCo Executive Officer, which must occur prior to the recordation of the Certificate of Completion. The Certificate of Completion must be recorded within one calendar year from the date of approval unless a time extension is approved by the Commission. Staff will keep the Commission apprised of the election process and conditions compliance.

RECOMMENDATION

Staff recommends the Commission adopt Revised Resolution No. 17-08, which rescinds prior Resolution No. 17-06. In addition, staff recommends the Commission adopt Resolution No. 17-09, confirming conducting authority proceedings and ordering the reorganization subject to an election.

Attachments

Attachment A: Revised Resolution No. 17-08

Attachment B: Resolution No. 17-09

Attachment C: Protest Hearing Summary

RESOLUTION NO. 17-08**REVISED RESOLUTION MAKING DETERMINATIONS AND APPROVING A REORGANIZATION CONSISTING OF FORMATION OF THE PENINSULA COMMUNITY SERVICES DISTRICT AND DISSOLUTION OF THE SAMOA PENINSULA FIRE PROTECTION DISTRICT, AND RESCISSION OF PRIOR RESOLUTION 17-06**

WHEREAS, the Humboldt Local Agency Formation Commission, hereinafter referred to as the "Commission," is responsible for regulating the orderly formation and expansion of local government agencies pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the above-referenced proposal was initiated by resolution of application of the Samoa Peninsula Fire Protection District; and

WHEREAS, the proposal seeks Commission approval of a reorganization consisting of dissolution of the Samoa Peninsula Fire Protection District (FPD) and formation of the Peninsula Community Services District (CSD); and

WHEREAS, the principal reason cited in support of the reorganization, as specified in the resolution initiating the proposal, is to provide expanded municipal services to the Peninsula through reorganization of the Samoa Peninsula FPD into a CSD; and

WHEREAS, upon formation, the Peninsula CSD would continue the role of providing fire protection services currently provided by the Samoa Peninsula FPD, as well as providing expanded municipal services to the Peninsula; and

WHEREAS, the Humboldt Bay Municipal Water District has expressed its willingness to negotiate the transfer of its ownership of domestic water infrastructure within the boundaries of the Peninsula CSD; and

WHEREAS, the Samoa Pacific Group LLC. has expressed willingness to dedicate, convey, or otherwise transfer certain real property, infrastructure and assets for water, wastewater, streets, parks, and other facilities as part of the proposed multi-phase subdivision approval in Samoa; and

WHEREAS, pursuant to Government Code §56001, the Commission finds there is no existing agency that has demonstrated that it can feasibly provide the services proposed in a more efficient manner; and

WHEREAS, it has been determined that the formation of the Peninsula CSD is a feasible, cost-effective and acceptable approach to providing expanded services to the Peninsula; and

WHEREAS, in accordance with Government Code §61014, the Commission determines the Peninsula CSD, to be financed by benefit assessments and user fees subject to Proposition 218 requirements, would have sufficient revenues to carry out its purposes if such benefit assessments and user fees are approved; and

WHEREAS, the Executive Officer has given sufficient notice of the Commission's consideration of the proposal as required by law; and

WHEREAS, the Commission heard, discussed, and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, existing Spheres of Influence, and applicable General and Specific Plans; and

WHEREAS, the Commission considered all the factors required by law under Government Code §56668 and adopted local policies and procedures; and

WHEREAS, the Commission desires to modify its prior resolution on this matter, Resolution 17-06 adopted May 15, 2017.

NOW, THEREFORE, BE IT RESOLVED by the Humboldt Local Agency Formation Commission as follows:

1. Resolution 17-06, adopted May 15, 2107 is rescinded in its entirety and is replaced, revised and supplemented by this resolution.
2. The Commission's determinations on the proposal incorporate and adopt the information and analysis provided in the Executive Officer's written report.
3. The Commission, as Responsible Agency, certifies it has independently reviewed and considered the Negative Declaration prepared by the Samoa Peninsula Fire Protection District, as lead agency, concerning potential impacts associated with the proposal in accordance with the California Environmental Quality Act (CEQA). The Commission finds the Negative Declaration (finding of no significant adverse environmental effect) is adequate and directs the Executive Officer to file a Notice of Determination with the Humboldt County Clerk.
4. The Commission approves the proposal, contingent upon a successful vote on the formation pursuant to Government Code §61014, and subject to terms and conditions outlined below.
5. The proposal is assigned the following distinctive short-term designation:

"Reorganization of Samoa Peninsula FPD to Peninsula CSD"

6. LAFCo staff is directed to initiate conducting authority proceedings pursuant to the California Government Code (commencing with §57000).

CONDITIONS OF APPROVAL for the proposal shall be as follows:

1. Name – The name of the district shall be the Peninsula Community Services District.
2. Boundaries – A map and boundary description of the Peninsula CSD are set forth in Exhibit A, attached to the Commission’s Resolution making determinations and made a part thereof.
3. Sphere of Influence – A sphere of influence of the Peninsula CSD shall be coterminous with the District boundaries. Future amendments and/or updates of the sphere shall be conducted in accordance with Government Code §56425 and 56430.
4. Successor
 - A. The Samoa Peninsula FPD shall be dissolved and all of its corporate powers shall cease.
 - B. Any employees of the Samoa Peninsula FPD will become employees of the Peninsula CSD.
 - C. The Peninsula CSD shall be the successor to the Samoa Peninsula Fire District for the purpose of succeeding to all of the rights, duties and obligation of the dissolved Samoa Peninsula Fire Protection District, with respect to enforcement, performance or payment of any outstanding bonds or other contracts, obligations, including the provisions of and other liabilities of the dissolved Samoa Peninsula FPD.
 - D. The Samoa Peninsula FPD currently has contracts with the Board of Administration of the California Public Employees’ Retirement System (“PERS”). The Peninsula CSD and PERS will develop a contract that shall be deemed a continuation of the Samoa Peninsula Fire Protection District’s PERS contract pursuant to Government Code §20508. The Peninsula CSD’s contract shall preserve the classic formula for continuing employee members of PERS. Accumulated contributions, assets and liability for service under the former districts’ contracts are vested rights of continuing employee members of PERS, and shall be merged into the contract of the successor district upon reorganization pursuant to Government Code §20508.
 - E. All property, whether real or personal, including all monies (including cash on hand and monies due to uncollected) of the Samoa Peninsula Fire Protection District shall be transferred to and vested in Peninsula CSD.
 - F. Upon the effective date of the reorganization, the Peninsula CSD shall be authorized and entitled to extend and/or continue to levy, impose, or fix and collect any previously authorized charge, fee, assessment or tax approved,

imposed and/or levied by Samoa Peninsula FPD, including but not limited any rates and charges for the provision of fire protection services.

G. The property tax allocation factor for the Samoa Peninsula FPD, for those properties within the District, shall be reallocated so that in future fiscal years these taxes shall be allocated to the Peninsula CSD.

5. District Board of Directors

A. Governing Board - The Peninsula CSD shall be governed by a board of directors composed of five (5) members elected at large for four-year terms by registered voters residing within the District.

B. Election of Initial Governing Board - The Board of Directors of the Samoa Peninsula Fire Protection District shall serve as the initial Board of Directors of the successor agency, the Peninsula CSD.

C. Staggered Terms of Office - For the initial Board of Directors, the terms of three (3) members shall be four years and the terms of two (2) members shall be two years.

D. First Board of Directors Meeting - In addition to all other means authorized by law, the first meeting of the Board of Directors may be called by notice given in a lawful manner by any four members of the Board of Directors.

6. Authorized Services - The Peninsula CSD shall be authorized the following functions and services as active powers, authorized to be provided within its boundaries, pursuant to Government Code §61100:

A. Water

B. Wastewater

C. Fire Protection, rescue, and emergency response (including tsunami evacuation)

D. Parks, Recreation, Trails, and Open Space

E. Landscape Maintenance within Public Areas

F. Streets and Street Maintenance

G. Storm Drainage

The District may in the future provide other types of services if authorized by the Community Services District Law, subject to compliance with the statutory procedures for authorizing additional services.

7. Benefit Assessments and User Fees - Services provided by the District shall be subject to successful completion of Proposition 218 proceedings for benefit assessments and user fees to fund the activities of the District. Assets shall be transferred only for those services with sufficient revenue necessary to carry out those services.

8. Detailed Engineering Analysis – All benefit assessments and user fees shall be supported by a detailed engineering analysis and/or rate study prepared by a licensed engineer. The detailed engineering analysis shall describe the condition of all infrastructure at the time of asset transfer to the District, the projected demand on capacity, the regulatory and design criteria under which improvements will be made (including ADA compliance), the costs associated with recommended improvements and ongoing operations and maintenance, and the methodology for allocating or apportioning costs to parcels within the District.
9. Dedication of Asset Transfer – All assets and resources proposed for transfer shall be offered with an irrevocable dedication by Samoa Pacific Group LLC to the Peninsula CSD. The LAFCo Executive Officer, with legal counsel as deemed necessary, shall verify prior to issuing a certificate of completion that a legal mechanism has been adequately established to ensure such transfer of assets and resources either at initiation of the community service district, or as particular infrastructure components are subsequently confirmed to be improved and acceptable for transfer to the Peninsula CSD.
10. Asset Transfer and Transition Agreement – Prior to the transfer of any dedicated assets, the Peninsula CSD and Samoa Pacific Group LLC shall set forth mutual agreements in writing for the orderly transition and conveyance of assets, including those obligations to accept and take ownership of those assets by the Peninsula CSD.
11. Monthly User Fees – The initial annual user fees for the Peninsula CSD, including any and all debt service, shall not exceed the small community affordability thresholds of 2.5% for water and 2.0% for wastewater (as a percentage of community median household income) as established by the EPA.
12. Creation of Zones – Pursuant to Government Code §61140 et seq., the Peninsula CSD Board of Directors may form one or more zones with varying levels of service and establish different levels of special taxation therein. The District may use divisional accounting to establish accurate divisional budgets and rates and charges based solely on the cost to provide services within the town of Samoa and the rest of the peninsula, so rates in each service area will not be affected by the other.
13. Appropriations Limit – In accordance with Government Code Section 61113, the Peninsula CSD shall, on or before July 1 of each year, establish an appropriations limit and make other necessary determinations for the following fiscal year pursuant to Article XIII B of the California Constitution.
14. Effective Date – The effective date of Peninsula CSD shall be determined by the certification of the election results by the Humboldt County Board of Supervisors and the filing of the certificate of completion by the LAFCo Executive Officer with the County Clerk-Recorder's office. The certificate of completion must be

filed within one calendar year from the date of approval unless a time extension is approved by the Commission.

15. Final Processing Costs – Any and all costs including mapping, engineering, planning, environmental review, fiscal analyses, LAFCo processing fees, election proceedings, recording fees, and any other required local, state, and LAFCo fees incurred to complete the formation of the Peninsula CSD, including State Board of Equalization filing fees, will be borne by the project proponents.

PASSED AND ADOPTED at a meeting of the Humboldt Local Agency Formation Commission on the 10th day of July, 2017, by the following roll call vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAIN: Commissioners:

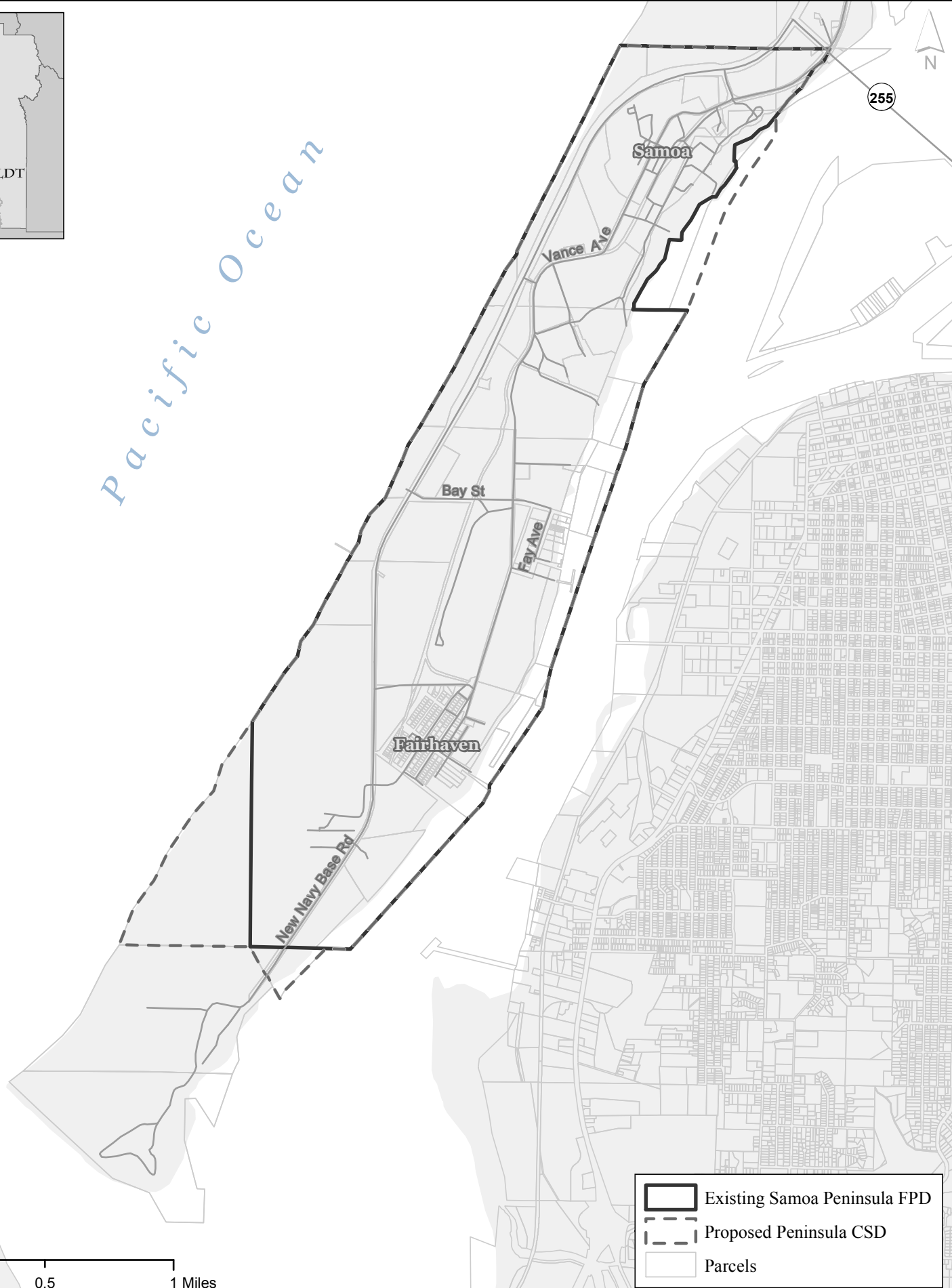
Estelle Fennell, Chair
Humboldt LAFCo

Attest:

George Williamson, Executive Officer
Humboldt LAFCo






Pacific Ocean



255

N

0 0.5 1 Miles

-  Existing Samoa Peninsula FPD
-  Proposed Peninsula CSD
-  Parcels



Peninsula Community Services District Formation

Exhibit
A

Sources: Boundaries - Humboldt County GIS, Roads - US Census TIGER, Rivers - CA FRAP

Date: 6/27/2017



RESOLUTION NO. 17-09

**CONFIRMING CONDUCTING AUTHORITY PROCEEDINGS AND ORDERING
A REORGANIZATION CONSISTING OF FORMATION OF THE PENINSULA COMMUNITY
SERVICES DISTRICT AND DISSOLUTION OF THE SAMOA PENINSULA FIRE
PROTECTION DISTRICT, SUBJECT TO AN ELECTION**

WHEREAS, the Humboldt Local Agency Formation Commission, hereinafter referred to as the "Commission," is responsible for regulating the orderly formation and expansion of local government agencies pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.); and

WHEREAS, the above-referenced reorganization consisting of dissolution of the Samoa Peninsula Fire Protection District and formation of the Peninsula Community Services District was initiated by resolution of application of the Samoa Peninsula Fire Protection District; and

WHEREAS, the principal reason cited in support of the reorganization, as specified in the resolution initiating the proposal, is to provide expanded municipal services to the Peninsula; and

WHEREAS, on May 15, 2017, the Commission adopted Resolution No. 17-06, which was subsequently modified, revised and replaced with Resolution No. 17-08, thereby making determinations and approving the reorganization with terms and conditions; and

WHEREAS, pursuant to Part 4 (commencing with Government Code Section 57000), the Commission served as conducting authority for protest proceedings following resolution adoption, providing notice and opportunity for property owners and registered voters living in the territory proposed for reorganization to file protests against further reorganization actions; and

WHEREAS, on June 28, 2017, the LAFCo Executive Officer held a public hearing in conjunction with the protest proceeding; and

WHEREAS, following said public hearing, the LAFCo Executive Officer determined, pursuant to Government Code Section 57078(b), that the number of qualified protests concerning the reorganization *did not* constitute a majority protest that would require abandonment of the proposal.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Commission hereby orders the reorganization subject to confirmation by the voters residing within the affected territory in accordance with Government Code Section 61014.

2. The Commission requests that the Humboldt County Board of Supervisors direct County election officials to conduct the necessary election, setting the matter for consideration on the November 7, 2017 consolidated district election, pursuant to Government Code Section 57000.
3. The question to be submitted to the voters shall read as follows:

“Shall the order adopted on May 15, 2017, by the Humboldt Local Agency Formation Commission ordering a reorganization affecting the Samoa Peninsula Fire Protection District and providing for the formation of the Peninsula Community Services District be confirmed, subject to the terms and conditions specified in Resolution No. 17-08 as revised on July 10, 2017?”

This order of reorganization shall be confirmed where such question is favored by a majority of the votes cast within the territory for which the election is held.

4. The LAFCo Executive Officer is directed to work with County election officials in preparation of an appropriate ballot measure for the reorganization, including preparation of an impartial analysis for the measure.
5. Upon completion of the official canvass of ballots cast at the election, the Executive Officer shall direct that either a Certificate of Completion or a Certificate of Termination, as required by Government Code Sections 57176 through 57203, and a Statement of Boundary Change, as required by Government Code Section 57204, shall be prepared and filed for the proposal.

PASSED AND ADOPTED at a meeting of the Humboldt Local Agency Formation Commission on the 10th of July, 2017, by the following roll call vote:

AYES:	Commissioners:
NOES:	Commissioners:
ABSENT:	Commissioners:
ABSTAIN:	Commissioners:

Estelle Fennell, Chair
Humboldt LAFCo

Attest:

George Williamson, Executive Officer
Humboldt LAFCo

**PROTEST HEARING SUMMARY – JUNE 28, 2017
REORGANIZATION OF THE SAMOA PENINSULA FIRE PROTECTION DISTRICT
INTO THE PENINSULA COMMUNITY SERVICES DISTRICT**

1. CALL TO ORDER

The meeting was called to order at 4:00 p.m. at the Samoa Fire Department, 1982 Gass Street, Fairhaven, with Executive Officer Williamson presiding.

LAFCo Staff Present:

George Williamson, Executive Officer

Colette Metz, Administrator

2. PUBLIC APPEARANCES

No members of the public requested to speak on items that were not on the agenda.

3. PROTEST HEARING – SAMOA PENINSULA FPD REORGANIZATION

The Executive Officer conducted the protest hearing as follows:

A) Describe the proposal and purpose of the hearing

The Executive Officer described the purpose of the meeting and how the Commission delegated authority for the protest hearing to be conducted by the Executive Officer in Fairhaven. Mr. Williamson explained that, in addition to the Commission's public hearing that was conducted on May 15, 2017, a second protest hearing is required. Pursuant to State law, the reorganization would be terminated if 50% or more of registered voters within the subject territory protest. If no majority protest exists, the reorganization proceedings will be forwarded to the Humboldt County Board of Supervisors to call an election for confirmation by the voters. A favorable election would require that a majority (50%+1) of the votes cast be in support of the reorganization.

B) Summarize LAFCO Resolution No. 17-06, subject to terms and conditions

The Executive Officer summarized the outcomes of the May 15, 2017 public hearing. He explained the reasons for the reorganization proposal and reviewed the terms and conditions that were included in the Commission's resolution of approval.

C) Open the hearing

The Executive Officer opened the public hearing at 4:10 p.m.

D) Receive any oral or written protests, objections or evidence

Craig Spjut, Fairhaven resident, questioned why the protest form was not included in the notice. Mr. Spjut read his protest letter and reasons for opposition (see attached). He is opposed to reorganizing the fire district to facilitate the Samoa subdivision project.

John Friedenbach, General Manager of the Humboldt Bay Municipal Water District, discussed the HBMWD infrastructure and possible transfer of ownership of the

domestic water infrastructure within the boundaries of the proposed CSD. Mr. Friedenbach submitted a letter requesting the LAFCo Resolution No. 17-06 be amended to document the HBMWD's willingness to negotiate the transfer of infrastructure with the proposed CSD (see attached).

Richard Spjut, Fairhaven resident, read his protest letter and reasons for opposition (see attached). Mr. Spjut expressed opposition to the reorganization and the Samoa subdivision project.

Troy Nicolini, SPFPD Board Member and LAFCo Commissioner, discussed the motivation behind the fire district supporting the reorganization process, and the reasons how it would benefit the District and the community. He commented that the "reasons cited in support of the reorganization" have been mischaracterized and should be revised in the LAFCo resolution.

Lia Stoffers, SPFPD Board Member and Fairhaven resident, discussed how she has approached the reorganization process cautiously, but is optimistic that it will benefit the fire department and community. Ms. Stoffers discussed her concerns, including how the wastewater maintenance budget would account for tertiary treatment options that are still being evaluated, how the CIP and budget would factor in the harsh marine environment, and reassurance that new infrastructure installed for Samoa will meet appropriate standards/quality.

E) Note all written protests received prior to the hearing

The Executive Officer noted that three written protests had been received by mail and one in person prior to conducting the protest hearing.

F) Close the hearing

The public hearing was closed at 5:25 p.m.

G) Determine the value of written protests filed and not withdrawn

The Executive Officer noted that a total of four (4) written protests from registered voters had been received out of a total of 222 registered voters in the affected territory. In addition, 14 form letters of support were received. He briefly discussed next steps, including approval of conducting authority proceedings at the next Commission meeting on July 10, 2017, and proceeding with the election process to be held on November 7, 2017.

4. ADJOURNMENT

The meeting was adjourned at 5:30 p.m. Next regular LAFCo meeting: July 10, 2017 at 9:00 a.m. at the Humboldt County Board of Supervisors Chamber, 825 5th Street, Eureka.