

LAKE LOCAL FORMATION COMMISSION
MINUTES
March 17, 2021

Members Participating

Bruno Sabatier, Chair, County Member
Stacy Mattina, City Member
Ed Robey, Public Member
Dirk Slooten, City Member
Stan Archacki, Special Districts *
Jim Scholz, Special Districts
Moke Simon, Vice-Chair/County Member *
Victoria Brandon, Special District Alternate
Russ Perdock, City Alternate

Staff Participating

John Benoit, Executive Office
P. Scott Browne, Legal Counsel
Kathleen Moran, Clerk

Absent: Tina Scott, County Alternate, Suzanne Lyons, Public Member Alternate.

1. Call to Order - Chairman Sabatier called meeting to order at 9:30 a.m. via teleconference and Zoom.

2. Approval of Minutes - Motion by Commissioner Mattina, second by Commissioner Robey to approve the Minutes of the January 20, 2021 meeting. Motion carried by the following vote:

AYES: Commissioners Slooten, Scholz, Robey, Sabatier and Mattina.

NOES: None.

ABSENT: Commissioners Simon and Archacki.

3. Public Comment – None.

*9:37 a.m. Commissioner Archacki is present.

4. Consent Agenda

Motion by Commissioner Robey, second by Commissioner Scholz to review and authorize payment of expenses for January and February 2021. Motion carried by the following vote:

AYES: Commissioners Slooten, Archacki, Scholz, Robey, Sabatier and Mattina.

NOES: None.

ABSENT: Commissioner Simon.

Present: James Berger, Landowner-Applicant, Richard Carlyle, Civil Engineer, Berger Annexation Project.

5. Public Hearing LAFCo 2019-0007 – Annexation and Sphere of Influence amendment request in Paradise Valley known as the Berger Annexation to the Clearlake Oaks County Water District

EO reviewed staff report. This new application is to adjust the boundary of the COCWD to match an approved minor lot line adjustment. This will modify the district boundary to encompass the entire area of the Paradise Valley Ranch Plan of Development approved by the Lake County Board of Supervisors on December 10, 2013. The subject property was to be included in the original annexation request. This does not change or increase the scope of the project but will ensure that the District encompasses the entire project.

Chair opened Public Hearing.

The recommendations in EO's staff report were discussed. Applicant confirmed the request is being made to correct the original approval.

Chairman Sabatier asked that a discussion of LAFCo's role re: infill vs. expansion, smart growth and future expansion be agendized.

Hearing no further comments Chair closed Public Hearing.

Motion by Commissioner Mattina, seconded by Commissioner Scholz to adopt Resolution 2021-0002 A Resolution making Determinations and Approving a Sphere of Influence Amendment to include 17 additional acres more or less in the Clearlake Oaks County Water District Sphere of Influence and authorize the Chair to sign. Resolution passed and adopted by the following vote:

AYES: Commissioners Slooten, Archacki, Scholz, Robey, Sabatier and Mattina.

NOES: None.

ABSENT: Commissioner Simon.

Motion by Commissioner Mattina, second by Commissioner Scholz to adopt Resolution 2021-0003 A Resolution Making Determinations and Approving the Annexation of 17.13 acres to the Clearlake Oaks County Water District – LAFCo File 2017-0004 and authorize the Chair to sign. Resolution passed and adopted by the following vote:

AYES: Commissioners Slooten, Archacki, Scholz, Robey, Sabatier and Mattina.

NOES: None.

ABSENT: Commissioner Simon.

6. Public Hearing LAFCo 2020-0001 – Jackson, Polanco and Rancheria Sphere of Influence Amendment and Annexation (JPR Annexation) to the Callayomi County Water District.

Chair opened Public Hearing. EO reviewed staff report and stated that the area proposed for the annexation, comprised 27.87 acres, is currently receiving water from the Callayomi County Water District.

Hearing no further comments, Chair closed the Public Hearing.

Motion by Commissioner Robey, seconded by Commissioner Mattina to adopt Resolution No. 2021-0004 A Resolution Making Determinations and Approving a Sphere of Influence Amendment for the Water Sphere of Influence to include 27.87 additional acres more or less in the Callayomi County Water District (CCWD) Sphere of Influence and authorize the Chairman to sign. Resolution passed and adopted by the following vote:

AYES: Commissioners Slooten, Archacki, Scholz, Robey, Sabatier and Mattina.

NOES: None.

ABSENT: Commissioner Simon.

10:13 a.m. Commissioner Simon joined the meeting.

7. Public Hearing - Lake LAFCo Proposed Budget FY 2021-2022

EO briefly reviewed proposed budget. Final budget will be on the May 19th Agenda. EO stated the proposed budget is much the same as in previous years and deferred to Counsel for information that could have great a fiscal impact on LAFCo's statewide.

Mr. Browne spoke to a recent court case out of the Second District Court of Appeal that could have significant implications for how LAFCo's handle indemnification for fees incurred in legal challenges to LAFCo actions. The case is San Luis Obispo LAFCo v. City of Pismo Beach, et. al. In that case, SLO LAFCo sued the City of Pismo Beach and the developer for attorneys' fees incurred in successfully fighting the Defendants challenge to its denial of an annexation to the City. The claim for fees was based on an indemnification agreement signed by the City and developer as applicants for the annexation. Defendants challenged LAFCo's right to attorney's fees arguing that it was a basic violation of due process and their right to petition for redress. The Court ruled that LAFCo has a statutory duty to process applications, so absent statutory authority, it cannot require indemnification as a condition for processing an application. The court found that the existing authority for LAFCos to charge fees only applied to costs associated with the administrative process, and ended once a certificate of completion was filed. Mr. Browne stated that the court's decision was not final yet, and he will keep the Commission apprised but the outcome could greatly affect future budgets.

Motion by Commissioner Robey, seconded by Commissioner Slooten to adopt Resolution No. 2021-0006 A Resolution of Lake Local Agency Formation Commission Adopting a Proposed Budget for FY 2021-2022 and authorize the Chair to sign. Resolution passed and adopted by the following vote:

AYES: Commissioners Slooten, Archacki, Scholz, Simon, Robey, Sabatier and Mattina.
NOES: None.
ABSENT: None.

8. Contract amendment with Municipal Resource Consultants (MRG) for continued facilitation services for the South Lakeport Annexation Project

Motion by Commissioner Slooten, seconded by Commissioner Scholz to approve Contract Amendment for additional facilitation services for the South Lakeport Annexation Project, in the maximum amount of \$11,700 and authorize the Chair to sign. Motion carried by the following vote:

AYES: Commissioners Slooten, Archacki, Scholz, Simon, Robey, Sabatier and Mattina.
NOES: None.
ABSENT: None.

9. Executive Officer's Report

- a. Cemetery District MSR and SOI
- b. South Lakeport Annexation
- c. Form 700 due April 1, 2021 – file with Auditor-Clerk
- d. Public Member Alternate Recruitment 2021 – appointed by LAFCo

- e. Updated Fee Deposit Schedule

10. LAFCo Counsel's Report. Information given under Agenda item 7.

11. Commissioner Reports - none

Chair requested to place a discussion on next Agenda re: Meeting formats, i.e., in person, Zoom or a hybrid model.

12. Correspondence – Calafco 2021 Event Calendar

10:36 a.m. Meeting adjourned.

Next regular meeting: Wednesday May 19, 2021 9:30 a.m. either in Clearlake or Zoom.

By: Kathleen Moran, Clerk