



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

SPECIAL MEETING MINUTES OF OCTOBER 15, 2007

1. CALL TO ORDER; ROLL CALL

Chair Gingles called the meeting to order at 4:02 p.m.

Roll was called with Regular Commissioners Dodd, Kelly, Inman, Wagenknecht and Chair Gingles present. Alternate Commissioners Coffey, Luce and Rodeno were also present.

Staff present: Keene Simonds, Executive Officer; Jackie Gong, Commission Counsel and Kathy Mabry, Commission Secretary.

2. PLEDGE OF ALLEGIANCE

Chair Gingles led the audience, staff and Commission in the Pledge of Allegiance.

3. PUBLIC COMMENT

Chair Gingles invited members of the audience to provide public comment.

No comments were received.

4. COMMISSION ACTION ITEMS

a) California Government Code §56133: Continued from October 1, 2007 Meeting

Staff summarized its supplemental report evaluating the alternative option proposed by the County of Napa addressing the Commission's role under Government Code 56133 as it relates to the City of American Canyon providing services outside its jurisdictional boundary. Staff reaffirmed its recommendation presented at the October 1st meeting for the Commission to approve a comprehensive approach to Option "D".

Chair Gingles invited comments from the audience. The following are summaries of the comments received:

- Leon Garcia, American Canyon Mayor, stated that American Canyon would defer for the time-being to hear from the County of Napa.
- Nancy Watt, County Executive Officer, summarized the County's proposed alternate option. Ms. Watt noted that the County has revised its alternate option from the October 1st meeting. Ms. Watt stated that the alternate option as revised would establish extraterritorial service areas for American Canyon, but exempt all future services in the Airport Industrial Area (AIA) from 56133.
- Commissioner Inman asked whether the fifth paragraph in the County's alternate option resolution implies that American Canyon has an obligation to provide services within the extraterritorial service areas.

- Allan Lilly, outside counsel representing the County, responded to Commissioner Inman's question by stating that the alternate option resolution does not make a determination that American Canyon has an obligation to provide service with the affected area.
- Dana Smith, Assistant Napa City Manager, commented that the intent in creating 56133 was to address jurisdictions providing service outside their boundaries without oversight, creating edge communities. Ms. Smith stated that another approach to addressing 56133 in south Napa County would be to establish or empower a special district to provide services through contracts with other providers.
- Leon Garcia referenced the contents of a letter he was submitting to the Commission.
- Bill Ross, American Canyon Counsel, highlighted legal issues relating to the Commission's consideration of a policy on 56133. Mr. Ross stated that the City supports staff recommendation for a comprehensive approach to Option D.
- Iris Yang, outside counsel representing American Canyon, referenced the contents of a letter she was submitting to the Commission. Ms. Yang noted that the incorporation of American Canyon with the merger of the American Canyon County Water District created an anomaly for the Commission to address by leaving the City with a service area larger than its incorporated boundary.
- Commissioner Dodd asked Ms. Yang to summarize the key concerns of American Canyon with regards to the County's alternate option.
- Ms. Yang commented that the County's alternate option does not provide definitions of new or extended, which concerns the City.
- Commissioner Inman noted that the County's alternative option with its expanded extraterritorial service areas raises questions regarding CEQA. Commissioner Inman added that the alternate option also raises questions on whether American Canyon has an obligation to serve lands within the extraterritorial service areas.
- Michael Abramson, Napa Sanitation District General Manager, identified a correction in the map included with the County's alternate option. Mr. Abramson added that the dissolution agreement between NSD and American Canyon identifies the centerline of Fagan Creek as the general dividing line between each agency's respective sewer and recycled water services. Mr. Abramson noted that the agreement includes certain exceptions to specify that the lands associated with the Napa County Airport and Chardonnay Golf Course shall be served by NSD. Mr. Abramson asked that the Commission recognize these provisions in establishing extraterritorial service areas for American Canyon.
- Hillary Gitelman, County Planning Director, stated her surprise that staff's recommendation for a comprehensive approach to Option D would allow for the extension of urban services to the Hess Vineyard without any further Commission review. Ms. Gitelman added that there are no provisions in the County's alternate option resolution obligating American Canyon to provide services in the extraterritorial service areas.

- Commissioner Wagenknecht asked why it is important for the County to include all the unincorporated lands outside the AIA in the extraterritorial service areas.
- Ms. Gitelman responded to Commissioner Wagenknecht's question by stating that the County's proposed extraterritorial service areas reflect American Canyon's existing water service area. Ms. Gitelman added that the Commission could merge the resolution in the County's alternate option with the maps (depicting extraterritorial service areas) included in the staff resolution for the comprehensive approach to Option D.
- Commissioner Kelly asked for the County to clarify its key concerns.
- Ms. Gitelman stated that the County's key goal is for the Commission to exempt the AIA from 56133 and not explicitly define new or extended services.
- Mr. Lilly asked the Chair to consider taking a break to allow the County to revise its alternate option resolution to address the concerns raised by the Commission. Mr. Lilly suggested that the Commission consider the County's alternate option resolution without the fifth paragraph.

At 5:13, Chair Gingles ordered a 10 minute break.

At 5:21, Chair Gingles ordered the meeting back from break.

- Mr. Lilly recommended the Commission adopt the County's draft resolution with the certain changes: "Basically instead of using the County's Exhibit A, which caused so much concern we heard for the first time today, we instead have first paragraph reference Exhibits A and B from the staff's proposed resolution, and then the maps that are there would have to also have the Airport Industrial Area added to them, there's no question as to where that is, which is on our maps. So, basically if we take the County's resolution, have staff's exhibits A and B with the Airport Industrial Area Specific Plan Area added to them, and then paragraph one simply needs to be amended so where it says: Shown in Exhibit A, we're just going to Shown in Exhibit A and B, and then the only other change is to entirely delete paragraph five".
- Bill Ross, City Attorney for American Canyon, stated that whatever the Commission's decision is on Alternative 1, Option D should include paragraph four.....does not have to serve as a precedent.
- Commissioner Dodd made a motion and a second by Wagenknecht to approve the County's position with changes identified by Mr. Lilly.
- At the request of Chair Gingles, roll call was taken with the following votes:
Commissioner Dodd = Yes, Kelly = Yes and Wagenknecht = Yes.
Commissioner Inman = No and Chair Gingles = No.
The motion was successful. (LAFCO Resolution No. 07-27)

- Staff requested clarification on the approved motion to include language addressing the request made by Michael Abramson.
- Commissioners Dodd and Wagenknecht both agreed to the clarification request from staff.
- Chair Gingles confirmed vote was 3-2.

4. COMMISSION ACTION ITEMS – continued:

b) Cancellation of November 5, 2007 Regular Meeting

Staff provided a report to the Commission recommending the cancellation of its next scheduled regular meeting for Monday, November 5, 2007, and noted that items earmarked for presentation at the November 5th meeting would not be affected by the cancellation.

Upon motion by Commissioner Wagenknecht and second by Chair Gingles, the next regular meeting will be on Monday, December 3, 2007.

5. ADJOURNMENT TO NEXT REGULAR SCHEDULED MEETING:

Per agenda item 4b, the next regular meeting will be on Monday, December 3, 2007 at 4:00 p.m.

Jack Gingles, LAFCO Chair

ATTEST: Keene Simonds
Executive Officer

Prepared by:

Kathy Mabry
Commission Secretary