

**SUMMARY ACTION MINUTES**  
**ALAMEDA LOCAL AGENCY FORMATION COMMISSION**  
**SPECIAL MEETING**

**July 29, 2013**

**1. Call to Order and Pledge of Allegiance**

Chair Sblendorio called the meeting to order at 4:02 p.m. The Pledge of Allegiance was recited.

**2. Roll Call.**

Roll was called. A quorum was present of the following commissioners:

City Members: Tim Sbranti and alternate Jerry Thorne

County Members: Nate Miley (arrived 4:22, item 5) and Scott Haggerty

Special District Members: Ayn Wieskamp and alternate Georgean Vonheeder-Leopold

Public Members: Sblend Sblendorio and alternate Tom Pico

Not Present: Wilma Chan, alternate County Member; John Marchand, City Member; Ralph Johnson, alternate City Member

Staff present: Mona Palacios, Executive Officer; Andrew Massey, Legal Counsel; Ineda Adesanya, LAFCo Planner; and Sandy Hou, Clerk

**3. Public Comment**

Chair Sblendorio invited members in the audience to address the Commission on any matter not listed on the agenda and within the jurisdiction of the Commission. There were no comments.

**4. Approval/Correction of Minutes**

Upon motion by Commissioner Wieskamp and second by Commissioner Sbranti, the minutes of July 11, 2013 were approved.

**5. Agriculture and Open Space Land Preservation Policy Study Session**

Staff provided introductory remarks on the purpose of the study session, namely to:

- Provide information to the commission on LAFCo's role in ag and open space preservation
- Review Alameda LAFCo's existing policies on the topic, and
- Understand the county's voter approved urban growth boundary, Measure D, in relation to LAFCo's decision making.

Staff further clarified that the reason LAFCo is looking at this is to consider whether there are any local conditions or circumstances that LAFCo might want to include in its policies regarding the loss of agriculture and open space lands as the commission considers proposed sphere of influence amendments, annexations or other boundary changes, and that it is an opportunity to take a look at its decade old policies and clarify and update as needed.

## **PRESENTATIONS**

The following topics were presented, utilizing PowerPoint slides, paper copies of which were provided to the Commission as well as to the public. Highlights of the discussion following or during each presentation are noted.

### **I. LAFCo's Purpose and Authority and Alameda LAFCo's Policies on Ag & Open Space**

LAFCo staff (executive officer and legal counsel) presented an overview of LAFCo's purpose and legal authority, and the local policies of Alameda LAFCo regarding agriculture and open space.

#### Discussion:

Commissioner Haggerty inquired how the recently adopted Plan Bay Area might impact the Commission's policies regarding ag and open space. Staff noted that, although she was not prepared to speak, at today's meeting, on how the Commission might want to integrate that into their effort, the Commission currently has a policy to review regional plans as a part of any application review process, so it seems logical to take a closer look at the details of that regional planning effort and how to possibly integrate it into the Commission's policies.

Commissioner Wieskamp expressed that the use of terms in the law and LAFCo's own policies is unclear, such as the terms "important open space" and "prime ag land." She requested that Staff come up with clear guidelines to assist the Commission and the public in understanding what is being talked about when those terms are used.

### **II. Other LAFCos' Agriculture and Open Space Preservation Policies and Practices.**

LAFCo planner Ineda Adesanya provided case studies from other LAFCos' efforts in preserving ag and open space. She shared examples that included agricultural and open space guidelines, preservation and conservation policies, and mitigation policies from the LAFCos in Napa, San Luis Obispo, Santa Clara and Stanislaus counties.

#### Discussion:

Commissioner Miley asked if any "best practices" could be identified from these case histories and how they compared with Alameda LAFCo and suggested that perhaps a matrix of that information would be helpful.

Commissioner Sblendorio asked if there were examples of how other LAFCos have implemented ag & open space preservation policies, and stated that he recollected such presentations at CALAFCO conferences from LAFCos in San Luis Obispo, Yolo, and Ventura &/or Santa Barbara LAFCos. Staff responded that the LAFCo in San Luis Obispo County had recently approved a project with a conditioned SOI that involved requiring that a significant portion of prime ag land remain as such. Commissioner Sblendorio requested that staff contact the LAFCo Executive Officers in those four counties to obtain information on the specifics of relevant projects – what happened and what has happened since the implementation of the policies.

Commissioner Miley inquired if and how other LAFCoS distinguish between ag and open space. He also inquired about the mitigation policies – what kind and if there was inclusion of trusts or credits in the policies. Staff indicated the policy was a 1:1.

Commissioner Sbranti asked about the meaning and significance of mitigation – what does 1:1 mean – and for concrete examples of what it looks like. And how does Alameda LAFCo compare to that.

Commissioner Haggerty requested clarification of LAFCo's authority in relation to measure D.

Commissioner Sblendorio asked if other counties have municipal growth restrictions and what kind of preservation policies they have.

Staff provided brief responses to the Commission's questions and indicated that more complete information would be provided at their next meeting.

### **III. History of Agriculture**

Dennis Bray, Agricultural Commissioner, provided a history of agriculture in Alameda County, utilizing a variety of historical photos in the presentation.

#### Discussion:

Mr. Bray responded affirmatively to Commissioner Wieskamp's inquiry if the grazing land identified on the map included land owned by East Bay Regional Park District land.

### **IV. Land Use and Open Space in Unincorporated Alameda County**

Chris Bazar, Alameda County Planning Department, discussed Alameda County's land use policies and the voter-approved urban growth boundary (Measure D) and its impacts. He also provided examples of other voter-approved initiatives in the Bay Area – in Contra Costa, Napa, Santa Cruz, and Sonoma counties, noting that the one in Santa Cruz County most closely resembles Alameda County's.

#### Discussion:

To a question from Commissioner Miley regarding the legal definition of separators, Mr. Bazar responded that they were intended to recognize distinct communities and that the passage of Measure D locked them in.

To Commissioner Sbranti's inquiry, Mr. Bazar clarified that the only way to make changes to the urban growth boundary was through a vote of the county electorate (50% +1) or by annexation to a city.

Liz McElligott, County Planning Department, responded to Commissioner Miley's question regarding how Santa Cruz County determines their goal of annual population growth by explaining that their numbers are derived from the State's projected population growth.

Staff responded to Commissioner Miley's inquiry regarding what mechanisms are presently available to LAFCo to use to insure that ag and rural land would stay as such in the case that

Castro Valley would incorporate. She referred to the commission's current policy 4.11 as a catch-all type that would encourage the commission to set terms and conditions as part of the approval process. She also clarified that although final approval to incorporate would come from voters, LAFCo has initial approval and could include terms and conditions as part of the approval.

In response to a question from Commissioner Pico, legal counsel noted that the recourse for groups disagreeing with LAFCo's decision would be the filing of a lawsuit.

## **PUBLIC HEARING:**

Chair Sblendorio opened the public hearing. The following individuals addressed the Commission.

1. Larry Tong, Interagency Planning Manager for East Bay Regional Park District, noted that State law requires each city and county to have ag and open space preservation policies and commending the Commission for reviewing its own related policies, urged them to really delve into the matter in order to ensure the preservation of open space.
2. Jocelyn Combs, former LAFCo Commissioner and resident in the Tri-Valley area, expressed her support of the Commission looking at its policies and suggested that the Commissioners look at what is happening in adjacent counties and pay attention to what is important to the agricultural community.
3. Larry Gosselin, DVM, Local Rancher in the Livermore area and active in regional planning use since 1998, expressed that enhancement of agriculture should be an important consideration beyond just preservation. Referring to the South Livermore Plan as a model, he recommended that the Commission form an ad hoc committee to include along with LAFCo staff, representation from the County, cities and agricultural community to come up with policies with more specificity to contribute to enhancement of agriculture. He agreed with Ms. Combs suggestion to consider what is going on in adjacent counties.
4. Nancy Bankhead, Livermore Sheep Rancher, agreed with Commissioner Wieskamp that definitions regarding open space and agriculture need to be more clearly defined. She noted that she felt unfairly penalized by Measure D that was preventing her from adding an event center to her ranch, what she saw as an opportunity to make ranching economically viable as well as educational to the public. Currently only land associated with wineries are allowed to have event centers.
5. Katherine Boxer, Alameda County Resource Conservation District Executive Officer, spoke on the purpose, focus and goals of resource conservation districts to show how they supported the goals of ag and open space preservation.
6. Chuck Moore, Rancher, resident in Crow Canyon, owner of an Equestrian Center noted the importance of the Commission to consider input from the agriculture community. He stressed that open space belongs to all, but ag land to the individual trying to make a living on that land. Measure D has restrictions to the economic detriment of farmers/ranchers. In his case, the measure prevents him from constructing a roof to enhance his center. He remarked that the cost of hay has increased significantly - from \$9/bale three years ago to \$22/bale today. To retrain agriculture in the county, it is important to ease the restrictions on Measure D.

*Commissioner Miley commented that Measure D purports to support agriculture, but that it puts too much restrictions on agriculture. Staff responded to his question if LAFCo has ways to support ag in spite of Measure D, by responding when a proposal comes forward.*

7. Morgan King, Sr., resident of Dublin, member of Friends of Doolan Canyon, spoke in support of Measure D for its preservation of open space. He expressed his opinion that Measure D passed because the public perception was that LAFCo was not doing its job. It was only doing half of its job, i.e., ensuring orderly boundaries and efficient provision of services, but not paying attention to open space preservation. What is important now is how LAFCo can take agricultural and open space land preservation more seriously.
8. Glenn Kirby, resident of Hayward, Vice Chair of the Hayward Chapter of Sierra Club, retired County Planning Commissioner, stressed the importance of Special Districts in preserving land and enhancing the quality of life. He expressed that it is important for LAFCo to have strong policies that help to communicate to applicants the Commission's commitment to preserving ag and open space. He suggested the Commission keep in mind that prime ag land is not defined simply by the type of soil and that mitigation does not create more land, it actually means a loss of open space. He urged the Commission to study closely the use of terms and conditions to find a way to protect open space and ag land.
9. Mimi Steele, resident of Castro Valley, owner of rural property, asked the Commission to consider the rights of property owners. She made reference to a study done by the Cato Institute that showed how LAFCo pushed San Jose to a more dense urbanization than Los Angeles. *Chair Slendorio asked Ms. Steele to please contact LAFCo Staff with information about that study. Commissioner Miley agreed that a balanced approach is needed in ag and open space preservation in relation to property owners and that compensation to property owners for land lost provides that balance.*
10. Chris Pareja, resident in unincorporated area between Hayward and San Lorenzo, stated that he had been involved in Plan Bay Area and subsequently had spent time talking with ranchers in the County regarding their concerns. He expressed concerns about the lack of clarity in the use of terms such as open space, ag land, prime ag land, urban and suburban. He urged the Commission to take into account various concerns regarding balancing interests and noted that open space often means talking about private property. He also recommended considering the effect that the urban growth boundary might have on ranchers outside the boundary but still affected by it.
11. David Bewley, resident of Dublin, speaking as a proponent of open space preservation asked the Commission to consider what action they would take towards a potential application involving Pacific Union Homes proposal to build 1900 retirement homes in Doolan Canyon, considering the County's urban growth boundary, Livermore's position to leave North Livermore as open space and then even residents in Dublin opposed to the development. He urged them to carefully consider the use of terms and conditions to ensure ag and open space preservation.
12. Mack Casterman, California Native Plant Society, East Bay Chapter (ebcnps.org) shared information about his organization which works for the understanding of and preservation of native flora. He provided various examples of "Botanical Priority Protection Areas" in East

County and expressed support of the urban growth boundary because it assisted in preservation of native flora, as well as endangered species.

13. Rex Warren, a rancher in the canyon lands stressed that open space and ag land are not the same and that more needs to be done to promote agriculture. He urged the Commission to not adopt Measure D as a policy and to let the agricultural community assist the commission in developing its policies regarding agriculture preservation.

Chair Sblendorio closed the public hearing.

### **Commission Discussion:**

Chair Sblendorio suggested that staff provide a summary of the meeting to be discussed at the Commission's regular meeting in September.

Commissioners Wieskamp and Sbranti agreed that an agricultural advisory group could possibly be helpful to the Commission in developing policies that would support agriculture.

Commissioner Haggerty expressed concerns in relation to Measure D and asked for clarity about LAFCo's authority in relation to Measure D – whether or not it could change the measure – because his understanding was that it could not, so it seemed pointless to him to be discussing policy matters if LAFCo cannot make changes to Measure D.

Commissioner Wieskamp noted that, although it could not change Measure D, it seemed that LAFCo could, through use of terms and conditions when approving annexation proposals, do something that would be helpful to agriculture.

Legal Counsel, in response to Commissioner Haggerty's inquiry about the point of looking at LAFCo policy, explained that once unincorporated land is annexed into a city, Measure D does not apply. He explained that the policies that the Commission is being asked to consider are what kind of terms and conditions the commission might want to apply to an annexation to preserve open space or agricultural property (a charge given to LAFCos). He noted that the Commission may conclude that its existing policies, coupled with Measure D, make any new policies unnecessary. That is where the policy comes into play.

Commissioner Miley stated the Commission heard today that Measure D is not doing a very good job of protecting nor advancing agriculture in the County, and that the Commission wants to see how it can protect and enhance agriculture. He noted that some speakers showed how LAFCo in the past has been more concerned with urban development and not protecting agriculture.

Commissioner Haggerty expressed his misgivings that the Commission be used to circumvent Measure D. Staff emphasized that LAFCo cannot make land use decision, but LAFCo does decide boundary changes, so if a city annexed land then the city's land use policies would apply to the annexed area. By approving the annexation, LAFCo can indirectly affect land use.

Commissioner Pico expressed that he found the meeting very helpful and that he believed it had achieved its goal of providing the Commission more information on what is happening throughout the county as well as other counties, which can help LAFCo make the best decisions when it comes to annexation and the protection of open space, protection of habitat, endangered species, scenic views, etc. He acknowledged that Measure D is a significant part of the picture, that it does pose

limitations on LAFCo, but the Commission learned today that there are numerous other organizations and groups such as the Alameda County Resource Conservation District that are working on these issues and it is important that LAFCo have a broad understanding of what is happening all around. He stressed that he has no desire to overturn Measure D, but wants to better understand the issues so that, as a new member, he could better represent the people of Alameda County in fulfilling LAFCo's mission to help protect and preserve the land. He said that he had learned a lot from the meeting and believes the Commission needs to continue to take a look at the information it has, look at whether or not it wants to modify, change or clarify any policies. In light of all the issues raised, he stated that he sees today's study session as just the beginning of a long process to try to solve some of the issues of Alameda County, especially the agricultural interests.

#### **Next Steps**

Staff indicated that she would like direction from the Commission on how they wished her to proceed on this topic.

**Motion:** Commissioner Wieskamp motioned that staff work on the various topics brought up during the meeting, items to be considered and facts to be gathered, and return to the commission with information for the commission to further discuss and consider making decisions. Commissioner Sbranti seconded the motion. As part of the motion Commissioner Haggerty requested staff to include a more thorough clarification of LAFCo's powers and legal jurisdiction, especially in relation to the County's Measure D. Motion passed unanimously.

6. **Matters Initiated by Members of the Commission** – There were none

7. **Adjournment of Special Meeting**

The meeting was adjourned at 6:53 p.m.

8. **Next Meeting of the Commission**

**Regular Meeting: Thursday, September 12, 2013 at 4:30 pm**

Respectfully submitted,



Sandy Hou, LAFCo Clerk

These minutes were approved by the Commission on 9/12/13.

Attest:



Mona Palacios, LAFCo Executive Officer