



PROCEEDINGS OF THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CRUZ COUNTY

Wednesday, December 6, 2017
10:00 a.m.

Supervisors Chambers
701 Ocean Street, Room 525
Santa Cruz, California

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The December 6, 2017 Santa Cruz Local Agency Formation Commission meeting is called to order by declaration of Chairperson LaHue.

ROLL CALL

Present and Voting:	Commissioners J. Anderson, R. Anderson, Leopold, Bottorff, Lind, Friend, and Chairperson LaHue
Absent:	None
Alternates Present:	None
Alternates Absent:	Bobbe, Lather, Coonerty, Terrazas
Staff:	Patrick M. McCormick, Executive Officer Brooke Miller, LAFCO Counsel Debra Means, Secretary-Clerk

MINUTES

MOTION AND ACTION

Motion: Leopold Second: R. Anderson	To approve October 4, 2017 minutes. Motion carries with a unanimous voice vote.
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PUBLIC HEARINGS

PAJARO VALLEY WATER MANAGEMENT AGENCY (PVWMA) SERVICE AND SPHERE OF INFLUENCE REVIEW

Mr. McCormick says that State law requires this Commission to review services being provided by each city and each special district in this County, and to make determinations regarding their status. The Commission has a work program to catch up on the reviews so they are all up to date according to State law.

PVWMA provides groundwater management. The Pajaro Valley is subject to seawater intrusion. PVWMA was formed in the 1980s in order to address and solve the problem. The solution has not been reached yet, but PVWMA continues to work towards a balance in the groundwater.

PVWMA is located in three counties, most of which is in Santa Cruz County. Its boundaries extend south of the Pajaro River to Elkhorn Slough in Monterey County. To the east, it extends into a small section of San Benito County around Aromas. Most of the district's assessed value is in Santa Cruz County, so Santa Cruz LAFCO is the lead agency.

PVWMA was initially set up by a special act of the State legislature. That act did not include LAFCO review in its formation, but LAFCO review is now required for any subsequent boundary changes.

PVWMA's region uses about 60,000 acre-feet of water. The purple pipes' coastal distribution system contains blended water of recycled waste water and groundwater. The treatment plant is co-located at the Watsonville Wastewater Treatment Plant.

PVWMA was on the brink of bankruptcy the last time LAFCO reviewed them. They made substantial progress addressing their fee structure and adjusted it to be fair and equitable. They have been able to proceed with their projects, update their Basin Management Plan, and address the aquifer overdraft. The district is also designated as a Sustainable Groundwater Management Act agency for their basin.

PVWMA is in a unique situation because they have never had a sphere of influence adopted. Neither LAFCO nor the district has initiated the process. In the past, the district was more concerned with water conservation and supplemental supply projects rather than a sphere of influence evaluation. Their boundaries were drawn based upon 1980s hydrology.

It would be an interesting but complicated task to establish their sphere of influence. The current line does not necessarily reflect where the actual groundwater is.

PVWMA should consider proposing a sphere of influence as part of their next Basin Management Plan update. They would become the lead agency to prepare any environmental document which could be an Environmental Impact Report (EIR).

He recommends that the PVWMA and the Reclamation District review be heard today and be continued to the next meeting as a courtesy to the Reclamation District's board members. They have a newly configured board and they are meeting later today. They have not yet had an opportunity to meet since the review has been published.

John Diffenbaugh is a board member for College Lake Reclamation District 2049 and a landowner within the basin. He does not think the public hearings involving PVWMA have allowed a valid exchange of ideas. People can comment on prepared plans, but he has not heard back and forth dialogue with participants and interested parties.

When meeting with attorneys representing the Reclamation District and attorneys for PVWMA, he did not hear any recognition that they had any rights as an entity. The Reclamation District has assets and they have been operating for about 100 years.

He is concerned about the future management of the lake basin and any compensation on the Reclamation District's behalf if PVWMA takes over. He has not had a chance to participate as a property owner in the negotiations for PVWMA to buy them out or get easements to inundate the land. He is not against this project. The overall concerns for agriculture and seawater intrusion is evident. The deliberations about how to approach the landowners have been done in closed session.

Brian Lockwood is the General Manager for PVWMA. PVWMA struggled to stay afloat between 2005 and 2010. It did not go through a Proposition 218 process to set their rates before 2006. They went through the process during 2010 and spent about seven years in lawsuits. Because they ultimately prevailed, they now have a rate structure. This last week, the Supreme Court of California ruled that groundwater augmentation charges are not subject to Proposition 218.

PVWMA is proceeding with the proposed College Lake project. They are moving forward with the CEQA process and developing an EIR. There are public scoping meetings scheduled for Tuesday, December 12th at 3:00 p.m. and 7:00 p.m. Much time has been devoted to outreach including advertisements in the Sentinel and the Pajaronian, and on PVWMA's website. There have been meetings with local landowners and other stakeholders in Pajaro Valley.

A final decision cannot be made by the Board of Directors until after an EIR is certified. Discussions will continue at the board level about the vast environmental and fiscal issues associated with the proposed project. There is no guarantee this project will happen.

Recently through the Sustainable Groundwater Management Act, there was a period for making basin boundary modifications. PVWMA worked with Santa Cruz Mid-County Groundwater Agency and the Monterey Water Resources Agency to make basin boundary adjustments.

The Aromas Formation, which provides most of the water in the Pajaro Valley, extends further into Monterey County, and to Soquel Creek and Central Water Districts. PVWMA has also been working with Salinas Valley Groundwater Sustainability Agency and the Monterey County Water Resources Agency to discuss what works in the areas they manage.

Setting up a sphere of influence would be tricky because of the way the rate structure is set up on a parcel by parcel basis. The management tax has been in effect since the formation of the agency in 1984. Establishing a sphere is worth continued discussion.

Between 2010 and 2014, the agency formed an ad hoc Basin Management Planning Committee, a committee the State envisioned when they were developing the Groundwater Sustainability Plan regulations with stakeholders involved. There were 21 members on the committee; 3 were board members and the other 18 were from the community representing large and small agricultural municipalities, large and small water districts, the County of Santa Cruz, local residents, and members at large.

The committee met for over two years to discuss the potential of more than 44 potential projects and programs. They decided to recommend seven projects to include in the Basin Management Plan. These efforts concluded in 2014 through a CEQA process and the certification of a programmatic EIR that involved environmental impacts on the program at large. Currently, PVWMA is working on a specific EIR for the proposed College Lake project.

PVWMA recently hosted drop-in events. Letters were sent to all of the potentially affected landowners within the College Lake area, inviting them to a meeting on July 10th. There were about 75 people in the audience and the focus was to educate and get feedback about the project. They are about to start the CEQA scoping meetings.

The Board of Directors has had some closed-session meetings about potential litigation. They made recommendations about how to proceed with the environmental process and property rights procurement. Those decisions were made in open session.

The board's preference for property rights procurement in the potential project area that would be flooded all year would be procured through fee title acquisition. In areas where parcels might be partially affected with some parts under water, or where groundwater levels are changing through time, the board was interested in looking into easements.

Hopefully, evaluating a final EIR will occur towards the end of 2018. Scoping meetings will start next week. A Draft EIR should be ready for public review in the summer of 2018. PVWMA's board and staff have been engaged in drawing stakeholders to get their comments and have their concerns on the record to be evaluated as part of the EIR.

Commissioner Leopold thanks Mr. Lockwood for his commitment. He asks if Mr. Lockwood wants their sphere of influence to be connected to the Basin Management Plan update.

Mr. Lockwood thinks it deserves more evaluation. He is not clear what the difference is between developing a sphere of influence and how the agency operates now. PVWMA's boundaries were established at the State level. Management fees were established as a tax on everyone within their statutory boundaries. Their augmentation charge is different and it went through Proposition 218 compliance. Because there is a no-flow boundary at the San Andreas Fault with two different tectonic plates and groundwater basins, PVWMA does not charge for groundwater extractions on the eastern side of the fault.

With the recent results of the lawsuit changing the field for Proposition 218, and given the existing statutory boundaries and the fees associated, he is not sure what it would mean to have a sphere of influence. He would have to talk further with LAFCO staff and his counsel.

Commissioner Leopold thinks it would be wise to talk with LAFCO staff before the next LAFCO meeting.

Mr. Lockwood understands from staff recommendation that establishing a sphere of influence should be part of the next Basin Management Plan update. Their Basin Management Plan was developed and adopted before the Sustainable Groundwater Management Act (SGMA). Now they are called Groundwater Sustainability Plans, not Basin Management Plans.

PVWMA staff has submitted their Basin Management Plan, their Agency Act, and other associated reports to the State Department of Water Resources (DWR) as an alternative to a Groundwater Sustainability Plan. The State has been reviewing the paperwork for 11½ months and there should be a decision by June of 2018. They are hopeful the decision will be sooner because if their alternative paperwork gets turned down, they would have to hurry and submit a Groundwater Sustainability Plan by 2020 because their basin is considered a high priority and it is critically overdrafted.

Chairperson LaHue asks if the agency's boundaries and the boundaries just established via SGMA are the same.

Mr. Lockwood answers no. The statutory boundary is not the same as the DWR basin boundary. There are a couple areas that are different. East of the San Andreas Fault, the statutory boundary runs up to the ridgeline. However, the DWR designates a Pajaro Valley Sub-Basin. There are about 7,000 acres between San Benito County and Monterey County which are considered within the Pajaro Valley Sub-Basin, but not within the statutory boundary. Under SGMA, that is a potentially unmanaged area. When they submitted their Basin Management Plan as an alternative, they argued that their plan covered that area because the hydrologic model that the agency developed in collaboration with the USGS between 2005 and 2010 incorporates the area as part of the simulation.

Chairperson LaHue agrees with Commissioner Leopold that a meeting about PVWMA's sphere of influence should be held before the next LAFCO meeting.

Commissioner Roger Anderson thinks PVWMA's sphere and boundaries is a complicated issue. He wonders what the statutory requirements are for LAFCO and whether LAFCO can leave a special district without a sphere of influence.

Mr. McCormick replies that the LAFCO Commission cannot make a decision on any boundary change unless public hearings have been held and the Commission has adopted a sphere of influence. There have not been any applications; so, this issue has never been triggered. The State statutory requirement is for LAFCO to develop a sphere of influence for each city and special district. PVWMA was never ready to propose a sphere of influence and LAFCO did not insist upon it in the absence of having a boundary change application initiated by PVWMA, property owners, or another agency.

LAFCO is obligated to complete spheres of influence in a timely manner. If anyone decides LAFCO is delinquent, LAFCO could be subject to a lawsuit.

There are two alternatives to creating a sphere for PVWMA. One is the statutory boundary of PVWMA and the other is the basin. The basin is a compelling sphere of influence. He suggests that PVWMA be the proponent rather than LAFCO since PVWMA knows all the nuances of SGMA and the statutory fees that recently changed. They can figure out what their options are and bring a proposal to LAFCO. They can have it included in their long term work program. LAFCO would do a review hearing and adopt a sphere.

He is concerned that the environmental document could be an EIR and that could be expensive for LAFCO's budget. If it is done as part of a larger environmental document which PVWMA typically does for a BMP, the additional environmental review cost would be trivial.

Mr. Lockwood adds that under SGMA, Groundwater Sustainability Plans (GSP) are not subject to environmental impact report reviews. If the alternative paperwork gets accepted in 2018 by DWR as an alternative to a GSP, then it becomes subject to 5-year reviews. It would be looked at again in 2023. If the paperwork is rejected, they would have to hurry to develop and submit a GSP that would put them on track for 2020.

Commissioner Roger Anderson asks what the salinity content is after the water is blended.

Mr. Lockwood replies that the background chloride concentration in Pajaro Valley's groundwater is between 10 and 20 parts per million (ppm). Up to 100 ppm is acceptable. The Castroville Seawater Intrusion Project (CSIP) regularly delivers water to strawberry growers with chlorides around 250 ppm. If it gets to 300 to 500 ppm, the water gets unusable.

Their Projects and Facility Operations Committee, which typically meets the last Wednesday of every month, sets water quality objectives or targets. The nitrate target is below the drinking water standard. The sodium target is below 100 ppm and chloride is below 150 ppm. There are very salt-sensitive crops being grown in the Pajaro Valley. Strawberry growers are fine with receiving water if the chloride is less than 150 ppm.

It can sometimes be a struggle to optimize the production and use of the recycled water they are producing. The facility was supposed to produce 4,000 acre-feet of recycled water per year. Conservation programs within the City of Watsonville have reduced the inflows to the treatment plant from about 6.5 million gallons per day to 4.5 million gallons per day. That reduces the ability to achieve the 4,000 cap. It could be more than 4,000 if the flows were higher. They try to use all of the recycled water available all of the time so no wastewater is being discharged into Monterey Bay National Marine Sanctuary.

The primary blended sources come from a diversion that leads to a managed aquifer recharge. They are permitted to pull water from Harkins Slough from November 1st and May 31st, but practically, diversion usually starts after January, once there has been sufficient rainfall. The water goes into a recharge facility located on the San Andreas Terrace. PVWMA extracts it and it goes into the pipeline as a blended source. Other blended sources include two production wells, one they lease and one they own.

The proposed College Lake project could produce an average of 2,400 acre-feet of surface water per year. It could help reduce the reliance on other groundwater supplies such as the City of Watsonville's potable connection and the blend wells.

There is also a proposed diversion on Watsonville Slough.

Commissioner Roger Anderson asks if the blending is one-to-one.

Mr. Lockwood replies no. When they first started, it was a one-to-one ratio, but then they realized they were exceeding the delivered water quality objectives the committee had decided upon. The production of recycled water became optimized by adding just enough of a blended source as needed. They tend to deliver about 68% to 70% recycled water, about 6% from the recovery well project (the Harkins Slough diversion), and the balance of about 25% is groundwater which comes from the City of Watsonville's water and blend wells.

MOTION AND ACTION

<p>Motion: Friend Second: Leopold</p>	<p>To continue the item to the next meeting and direct staff to prepare and include a resolution to accept the service review. Motion carries with a unanimous voice vote.</p>
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RECLAMATION DISTRICT NO. 2049 (COLLEGE LAKE) SERVICE AND SPHERE OF INFLUENCE REVIEW

Mr. McCormick reports that this Reclamation District provides drainage services to College Lake. The district used to have three board members. They just added two more board members; so, they now have a new five-member board.

College Lake is about 240 acres and it is located west of East Lake Avenue, behind Valley Catholic Church, and it borders the County Fairgrounds. In the summer, the lake area is dry and farmed.

The Reclamation District was formed in 1920 and is the oldest district in Santa Cruz County. It has a drainage area of 20 square miles. The actual district is less than .5 square miles. Casserly Creek flows through College Lake. There is a small weir and a pumping plant to pump the water out of the lake. The water flows through a channel and dumps into Salsipuedes Creek, then to Corralitos Creek, the Pajaro River, then out to the ocean.

The last audit had serious deficiencies. The County Auditor is preparing a new audit. The district has corrected several deficiencies since the last audit. They utilized a local law firm to help redo their bylaws and revise their claim processing. Hopefully, the next audit will show improvements.

Most of their revenues are property assessments used mostly to operate the pumps. The district has incurred significant legal charges in recent years. The fund balance was low for a few years, but they have been able to increase it back up.

One of their biggest operational problems is complying with the Federal Endangered Species Act. Even though College Lake is dry most of the year, the creek and the seasonal lake support steelhead coming through in different portions of their lifecycle. Steelhead migrate through College Lake and the channel. For 80 years, the channel would be dug out by the district or the farmers, but they cannot do that now. It has silted up. If the district continues to operate separately from PVWMA's proposed project, they will have to raise the elevation of their operating system.

The Reclamation District's sphere of influence is its current boundary. He recommends affirming their current sphere of influence as it is. If the PVWMA does follow through with the proposed College Lake project, there will be no need to drain the lake. PVWMA would manage the lake for many purposes. To condition a zero sphere would facilitate an orderly dissolution of the Reclamation District and for LAFCO. To dissolve a district involves a hearing before LAFCO.

Charles Banovac is the Chairman of the Reclamation District's board. They changed their board members from three to five members a couple years ago. Two of the board members are new and this occurred after the last audit. Five members makes it easier to comply with the Brown Act.

The last audit was done about six years ago. He heard the previous board was told it was unnecessary to answer the audit. The new board decided to work on complying with the audit's criticisms, such as having bylaws and expanding the board. The next audit was scheduled and it was difficult to supply them information because the previous bookkeeper manager no longer works for the district. They decided to work on answering the old audit before working on the newer audit.

They are confident the Auditor is happy with their progress. They established cost controls with their new bylaws and they were reviewed by their attorney. They delayed this year's budget because they wanted to make sure the cash in number from the previous year was correct. He was concerned that number would be on an accrual basis.

PVWMA has had meetings about how much they want to pay the different College Lake landowners, and whether to lease or buy. They believe this will happen in the next couple of years. Once the specific EIR is completed in about a year, they will enter into negotiations to purchase or lease from the 14 landowners.

They have spoken with the fish regulators in the past. Bill Stevens from National Fisheries will be attending their board meeting later today.

Commissioner Leopold says that it looks like the district is zeroing out the fund balance and he asks if these numbers from the review are accurate.

Mr. Banovac replies that in some years, historically, some of the entities that would report to the Auditor would zero out the budget every year because they would not show a starting cash. Their starting cash will be about \$38,000. The Auditor's office gave them permission to show the starting cash on their final budget. They will collect about another \$40,000 mid-January and mid-May. The ending cash number will be much higher than zero.

Mr. McCormick adds that information in the review is what was in the County's financial system. It is an accounting convention consistent with how the County would handle any party. Until a budget is adopted, they would presume to zero out whatever cash was on hand. It is not a red flag due to overspending or insufficient funds to operate.

Commissioner Leopold asks if there should be an actual budget available at the January meeting.

Mr. Banovac answers yes.

Commissioner Roger Anderson observes that legal services expenditures are large.

Mr. Banovac answers that was when the general EIR was conducted. PVWMA's advisors had told them if the weir was raised by 2.5 feet and the water in the lake is not pumped until June or July instead of April after the last rain, it would only affect about ten acres of farming. They were concerned about waiting until summer to pump the lake. They incurred lawyer fees for those negotiations. They got a majority of the money back, but not all of it.

They currently have legal fees for bylaws and costs to add directors.

Mr. Lockwood adds that recently, the Reclamation District's board of directors have taken significant steps towards proper noticing of board meetings and becoming Brown Act compliant.

PVWMA is the largest landowner and largest ratepayer in the College Lake Reclamation District. Pumping the lake is of no benefit to PVWMA's property since there is no farming there. Their property is in its natural state.

For fiscal year 2013-14, PVWMA and the Reclamation District entered into an agreement where PVWMA paid the Reclamation District \$25,000 to cover their legal fees to challenge the programmatic EIR.

Both agencies continue discussions, and staff attends their board meetings. Their board membership has changed recently and steps have been made to make their board meetings more accessible to the public. They have undergone ethics training and redone their bylaws. It shows a vast improvement.

Mr. Diffenbaugh thanks Mr. McCormick for his presentation, especially the history of College Lake. He appreciates Mr. Lockwood for sharing his knowledge.

He wonders what it means to be exempt from further environmental review. He notices under staff recommendations, it says zero influence means the district should be dissolved. He wonders what the time table would be for that, or would the district exist until PVWMA acquires the property or water rights.

Corralitos Creek also flows into the lake basin before the lake is full, then it flows as a conduit out of the lake. This is an interesting feature of the lake, and thus the Army Corps of Engineers is interested in the lake for flood control because it can absorb a lot of water.

PVWMA will inherit the siltation and steelhead problems if the district dissolves. The influence of the lake going up Corralitos Creek could disturb the agricultural activities for a much larger area than the lake basin.

Chairperson LaHue answers that the "zero influence" will happen only after any project is approved.

Mr. McCormick adds that staff has prepared a Notice of Exemption. Every sphere review project that this Commission does is subject to environmental review. This sphere review project is the lowest level of environmental review. As part of the public hearing notice, he noticed that he believes that an exemption is the proper action to comply. If anyone disagrees, they can address this Commission. If there were significant environmental issues in adopting or reviewing a sphere of influence, it could trigger something as large as an EIR. Since LAFCO is confirming an existing sphere of influence, it does not trigger much environmental review.

Kay Archer Bowden represents the Pajaro Dunes Homeowners Association. A couple years ago, the Reclamation District drained the lake rapidly. Pajaro Dunes has a lagoon near Beach Road. Flooding occurs onto Beach Road almost every year and blocks access from Pajaro Dunes. Sometimes, it floods south of Pajaro Dunes. When College Lake is drained too rapidly, it floods. Last time, it flooded when there was no rain, and they could not figure out where the water came from.

Now that there is a new Reclamation District board, she hopes the board will notify Zone 7 and Pajaro Dunes when they are going to drain the lake.

MOTION AND ACTION

Motion: J. Anderson Second: Leopold	To continue the matter to the next meeting, as recommended by staff. Motion carries with a unanimous voice vote.
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SCHEDULE OF FEES AND DEPOSITS FOR PROCESSING APPLICATIONS

Mr. McCormick reports that the Commission adopts a schedule of fees and deposits to recover the costs of processing applications.

He took the previous methodology for calculating billable hours and incorporated it into a spreadsheet to make it easier to figure out billable hourly rates and revise fees in the future.

MOTION AND ACTION

<p>Motion: Leopold Second: J. Anderson</p>	<p>To approve Resolution 2017-12 revising the Fee Schedule, effective December 11, 2107. Motion carries with a unanimous voice vote.</p>
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OTHER BUSINESS

STATUS OF PROPOSALS

Mr. McCormick notes that the Formation of Huckleberry Island CSA was recorded. They passed an assessment of more than \$10,000 per year per property owner to build a new bridge.

CITY OF WATSONVILLE PREZONING AND INITIATION OF ANNEXATION FOR PIPPIN ORCHARDS APARTMENTS

Mr. McCormick reports that after several years of trying, Watsonville’s City Council voted 5 to 2 to initiate annexing 26 units of the Pippin Apartments, which is currently under construction. Half of this project is currently in the City and half of it is in the unincorporated County. It is a minor clean up to get all of the project under one jurisdiction for administrative simplicity and to empower the residents to be full citizens of Watsonville. Watsonville will be filing an annexation application with LAFCO.

Chairperson LaHue adds that Watsonville’s sphere of influence and service review will be prioritized on LAFCO’s work program.

Commissioner Bottorff asks why the vote was 5 to 2.

Mr. McCormick replies that the newspaper article in the packet is accurate and answers how the Council voted.

Commissioner Leopold adds that, not only did the County contribute much more money, this Commission gave the City two years to follow through with an annexation and they failed to do so. The Affordable Housing developer paid all of the fees. He agrees that this will be good government.

Mr. McCormick thinks the majority of the Council did get the City Manager’s thesis that this is a minor project, it is being built no matter what, the City is providing the services, and the boundaries should be cleaned up.

MEETING SCHEDULE FOR 2018

MOTION AND ACTION

Motion: Leopold Second: J. Anderson	To adopt the meeting schedule for 2018, as recommended by staff. Motion carries with a unanimous voice vote.
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APPOINTMENT OF A PERSONNEL COMMITTEE

Chairperson LaHue appoints Commissioners Leopold and Jim Anderson to the Personnel Committee.

2017 FINAL REPORT FROM THE LITTLE HOOVER COMMISSION

Commissioner Leopold reports CALAFCO’s work did change the Little Hoover Commission’s negativity toward LAFCO to a positive outlook, namely the legislation that tries to work around LAFCOs. The Little Hoover Commission is also in support of a one-time funding for LAFCO special studies. He was in Sacramento last week trying to figure out a strategy to get \$3 million.

Meeting is adjourned at 11:43 a.m. The next LAFCO meeting is scheduled for 10:00 a.m. on Wednesday, January 3, 2018.

CHAIRPERSON THOMAS R. LAHUE

Attest:

Patrick M. McCormick, Executive Officer