

Joe Serrano

From: Debra Means
Sent: Monday, August 31, 2020 9:38 AM
To: Joe Serrano
Subject: FW: Public Comment for September 2, 2020 LAFCO Agenda Items #4b and #6b

Debra Means

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*Now & then, it's good to pause in our pursuit of happiness, & just be happy.
Debra who Means well...*

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From: Becky Steinbruner <ki6tkb@yahoo.com>
Sent: Sunday, August 30, 2020 8:17 PM
To: LAFCO Info <info@santacruzlafco.org>
Cc: Becky Steinbruner <ki6tkb@yahoo.com>
Subject: Public Comment for September 2, 2020 LAFCO Agenda Items #4b and #6b

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Dear LAFCO,

I would like to submit the following questions and comment regarding Items #4b and #6b on the September 2, 2020 agenda.

ITEM #4b PROTEST PROCEEDING POLICY CHANGES

I respectfully request that LAFCO allow and encourage any and all agencies to hold a voter confirmation action, rather than a protest proceeding, to foster public participation and trust, as well as government transparency.

I am specifically concerned about how the revised Protest Proceedings established in Resolution 2020-25 could affect the impending consolidation of Aptos / La Selva and Central Fire Protection Districts.

I find the language and legislative statutes confusing about whether or not a voter confirmation is required, or could be requested.

The confusion for me is to what extent Govt. Codes 57077 and 56854 in various situations. It seems to matter greatly whether LAFCO or the affected agencies requested the merger.

Govt. Code 57077 states:

If a change of organization consists of an incorporation or disincorporation, or if a reorganization includes an incorporation or disincorporation, **the commission shall order the change of organization**

or reorganization subject to confirmation of the voters. **A protest proceeding shall not be conducted.**

<https://codes.findlaw.com/ca/government-code/gov-sect-57077.html>

While Mr. Serrano has let me know in correspondence that this applies only to city incorporations, the language in statutes seems to include consolidations and mergers in descriptions of actions.

In an effort to better understand this issue, I consulted a legal review by Best, Best & Kreiger on the matter: <https://www.yololafco.org/files/65d399529/The+Good%2C+the+Bad+and+the+Confusing-Protest+Requirements+Oct2009.pdf>

*"While typically a later enacted or amended statute (here, Section 57077) takes precedence over a previously adopted statute (Section 56854), the plain language of the statutes make harmonization of the statutes possible, albeit cumbersome. Whether this was the intent of the Legislature, is difficult to discern. On the one hand Section 56854 unequivocally provides that its provisions apply, **notwithstanding the provisions of 57077 or 57107 (requiring mergers or establishment of subsidiary districts be subject to confirmation of the voters unless the legislative body of the city and the board of directors of the district have consented by resolution)**. On the other hand, the fact that the Legislature, since 2000, has on several occasions enacted amendments to Section 57077, and enacted no amendments to Section 56854, imply that the Legislature intended the both sections to be harmonized simply because amendments were made. The following is an attempt at a harmonization.*

A. CHANGES OF ORGANIZATION CONSISTING SOLELY OF DISSOLUTIONS, DISINCORPORATIONS, ESTABLISHMENT OF A SUBSIDIARY DISTRICT, CONSOLIDATION OR MERGER

For changes of organization consisting solely of dissolutions, disincorporations, establishment of a subsidiary district, consolidation or merger, the protest provisions are set out in Section 57077, which requires the Commission to do one of the following: (a)(1) Order the change of organization subject to confirmation of the voters, or in the case of a landowner-voter district, subject to confirmation by the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district or otherwise authorized pursuant to Section 56854. (2) Order the change of organization without election if it is a change of organization that meets the requirements of Section 56854, 57081, 57102, or 57107; otherwise, the commission shall take the action specified in paragraph (1).

*...Additionally, for **mergers** or establishment of a subsidiary district only, **the Commission is required to order the change subject to an election unless the legislative body of the city and the board of directors of the subject district have consented to the change by resolution. (Gov. Code § 57107.)**"*

Therefore, I would appreciate a public discussion by LAFCO members on this matter, because it is confusing, and seems that voter confirmation, rather than protest proceeding is possible. Again, I feel that holding voter confirmation for consolidations is a preferred action because it fosters better public participation and trust in government transparency.

Additionally, I am requesting that the proposed Protest Proceedings revision also include information in Section 2.5(c) defining whether the vote would be a weighted vote and in Section 2.6, to define what is meant by the "value of written protest".

Finally, I would like clarification on Section 4.1(b) regarding the meaning of "uninhibited district".

ITEM 6B LAFCO RESPONSE TO GRAND JURY REPORT

1) Response to F23

The Santa Cruz County Planning Department is working with Dudek Consultants to update the 1994 County General Plan and incorporate a Sustainability Plan. That CEQA process is currently in the Scoping stage, with an extended public comment period closing September 4. LAFCO should submit comment requesting thorough Wildfire Risk analysis be included in the EIR.

On March 10, 2020, the Board of Supervisors approved portions of the updated Local Hazard Mitigation Plan (Item 14(i)) but the Public Safety Element did not include any language related to Fire Risk Management.

The Board of Supervisors recently approved major Santa Cruz County Code updates that were deemed "CEQA Exempt" and followed the 2015 County Planning Department 'Code Modernization Updates'. Many of these changes will, in my opinion, increase the fire risks and evacuation problems in the rural areas of the County. These issues could possibly be mitigated with careful evaluation by a comprehensive public group, such as the Emergency Management Council, as is

recommended by the Grand Jury. The County Fire Chiefs Association has not taken an active role at all in this matter, but could be a good partner with the Emergency Management Council.

The Board of Supervisors also recently approved a new full-time position for Ms. Morgan Bostic, Climate Action Plan Manager. The County pays Ms. Bostic \$60,000 and the City of Santa Cruz pays an additional \$60,000 to fund her position. It seems that including Ms. Bostic in developing a Countywide Fire Hazard Mitigation Plan that addresses climate change models for the area is prudent.

Clearly, as the Grand Jury recommends in R1, LAFCO needs to assist in this matter, especially given the horrible devastation now in Santa Cruz County. The County has applied for a \$125,000 grant to help update and implement such a hazard mitigation plan (Board approved application on January 28, 2020), but unless there is one focused effort to make the actual evaluation and implementation work happen, there will be no progress.

I am encouraged that the County Public Works Dept. recently shifted the County's use of the PG&E surcharge for utility undergrounding funds (\$17 million) from aesthetics to fire hazard mitigation along rural County roadways. I hope that LAFCO can broadly support these types of actions throughout the County and the cities.

2) Response to F26 and F28

I am glad that the future LAFCO Service and Sphere Review Reports will be more comprehensive than in the past, and will incorporate the recommendations of the 2020 Grand Jury Report into the LAFCO recommendations.

3) Recommendations R13 and R14

Will LAFCO staff be able to meet the June 2021 deadline that the Grand Jury recommends for reviewing all fire districts' risk reduction plans and achievements? It should be a priority, and may possibly be eligible for funding by FEMA and State funds, given the Local and State declarations of Emergency.

Please prioritize this work and investigate funding opportunity.

Thank you.

Sincerely,

Becky Steinbruner
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Aptos, CA 95003