LOCAL AGENCY FORMATION COMMISSION

Dave Braun, Executive Officer

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MINUTES

Madera County Government Center
205 West 4th Street
Madera, CA 93637

Regular LAFCO Meeting
Wednesday, August 28, 2019
6:00 p.m.

Commissioners Present:	J. Carol Graham, Chairman, Public Member Andrew Medellin, Chair Pro Tem, City Member Waseem Ahmed, City Member Max Rodriguez, County Member
Commissioners Absent:	Tom Wheeler, County Member
Others Present:	Dave Braun, Executive Officer Doug Nelson, Legal Counsel Candie Fleming, Clerk to the Commission

1. Call to Order

2. Pledge of Allegiance

3. Public Comments

There were no comments from the public.

CONSENT AGENDA

4. Minutes – Review and Approval of the April 24, 2019 Meeting

Commissioner Medellin moved to approve the April 24, 2019, Minutes as presented and Commissioner Ahmed seconded the motion. The motion was approved on a 4-0 vote with Commissioner Wheeler being absent.

PUBLIC HEARING

5. Clayton Water District – Municipal Service Review, Sphere of Influence Amendment, and Annexation (2018-001)

Executive Officer Braun presented staff's report and recommendations to adopt the MSR and approve the sphere amendment and annexation.

Julia Berry, representing the Clayton Water District, spoke in favor of the proposed sphere amendment and annexation and gave some history and background on their application that has been in process for a year. Ms. Berry said the District is involved in several different funding opportunities and have been attending the Integrated Regional Management groups in both Merced and Madera Counties and said there is Proposition 1 funding available right now but they are going for Proposition 2 funding, which is construction dollars. Ms. Berry said the landowners have decided to fund the CEQA work and the planning and design for construction on their own. Ms. Berry said the District has also been participating in the Sustainable Groundwater Management Act processes in both Counties. Ms. Berry said the District is anxious to get the annexation recorded because Groundwater Sustainability plans are due at the end of next January. She said that the District plans to fund themselves by requiring each landowner that's coming in to sign a contract stating they understand that once they become a member of the District, they will be assessed for infrastructure and groundwater sustainability activities. She said at the present, the District is being funded by two landowners and are looking forward to have additional landowners to help with the costs.

Commissioner Medellin said he understood that all of the landowners had consented to the annexation and that it sounded like the majority of the funding would come from the additional landowners. Ms. Berry said that was correct.

Sarah Wolfe, consultant to the Triangle T Water District, spoke on behalf of the District. She said she has worked with the Clayton Water District throughout the process and was impressed by the work they were doing. Ms. Wolfe said the Clayton Water District is proposing to annex a large swath of land and that Triangle T is working with them on multiple projects going forward for additional diversions along the eastside bypass. Ms. Wolfe said the two districts have been working together and want to continue to do so. Ms. Wolfe said Triangle T is also pursuing an annexation for additional lands outside of their original formation and that both Districts are trying to get all of the lands within Madera County into a district in order to better manage the land under SIGMA. She said their only issue was that some of the land Triangle T wants to annex is within the proposed Clayton SOI.

Ms. Wolfe said that she understood that if the Commission approved the Clayton Water District's application for a sphere amendment and annexation, the land that Triangle T would like to annex into their district would be in a precarious position because the landowners have infrastructure that they have invested in that is currently integrated with the Triangle T Water District and delivering a water supply to their land. She said the three landowners that Triangle T would like to annex into their district are opposed to having their land placed in Clayton's SOI because there is already infrastructure in place and they desire to work with Triangle T. They are uncertain if they could do so in the future.

Commissioner Ahmed said that when Triangle T was formed, there was a reason that the three parcels were not included and the goal was to try and consolidate the two districts.

Ms. Wolfe replied that the pipeline was already being constructed before those lands were taken out of the original water district formation. She said there are facilities in place and water is being delivered to those facilities through the pipeline. She said Triangle T accepts delivery of water and then distributes it to land that is not within their district. She said that delivery system will continue, but if those lands are forced to be a part of the Clayton Water District, it would be very difficult to decipher the deliverability of that water.

Ms. Wolfe said that the Hancocks did not own the property at the time the district was formed but the individuals that owned the property where the easement is located, Cross Creek Farms, were originally proposed to be part of the Triangle T Water District and the facilities were built and installed prior to the property being removed from the boundaries of the Triangle T Water District.

Commissioner Ahmed said with the development of the pipeline, those properties would still have the easement. Ms. Wolf responded that they do have the easement but if the property was in another water district, that district could determine what water supply comes onto their properties, which becomes a concern. Ms. Wolfe said that if Triangle T had water to deliver to Cross Creek, but Cross Creek was part of Clayton Water District, Clayton Water District would have to allow them to receive that water. Currently, Triangle T has the ability to deliver them water with just the landowners' approval, not the approval of the Clayton Water District.

In response to a statement by Commissioner Medellin, Ms. Wolf said there were two separate properties. She said the Cross Creek property was part of the original properties of the Triangle T Water District and that the pipeline that delivers water goes through their property and that pipeline was built before the Commission removed the Cross Creek property from the Triangle boundary. She said a second property that was originally intended to be part of the Clayton Water District was later purchased by the Hancock Corporation.

Molly Sasso, speaking on behalf of John Hancock, said the property that was purchased by John Hancock receives water from the Cross Creek property. Ms. Sasso said they had been in negotiations to try to build the pipeline through other landowners' property utilizing easements but that did not work out. She said the Hancocks then had to spend upwards of $3,000,000 to try to address the subsidence issues on their property. Ms. Sasso said she was there to ask that their property remain out of the Clayton Water District's SOI with the intention that their property would be annexed into the Triangle T Water District.

Commissioner Medellin said he recalled that Triangle T had a number of wells in the area and that there was a huge subsidence issue and asked how the issue was being addressed. Ms. Sasso responded that there was a subsidence mitigation agreement that landowners are required to enter into to stop pumping from the deep wells. She said that a substantial amount of work and money has been spent to reverse subsidence.

Sara Wolfe with the Triangle T Water District said regarding the subsidence issue, they brought in 6,000 acre feet of water through the pipeline in the first year it was built to deliver to the properties that are part of the mitigation agreement. In 2018, they brought in over

8,000 acre feet of water. Ms. Wolfe said that when they bring in the surface water, they turn off the deep wells. Ms. Wolfe said there has been satellite imagery done each year on what the subsidence numbers are and they have completely moved what was originally a red dot right over the Triangle T Water District, it has now gone to brown which is great and has moved much further to the East.

Commissioner Medellin asked what their concern was if, as she previously said, they worked well with the Clayton Water District. Ms. Wolfe said there are concerns when a landowner buys water from a district but has no voice in how the water is delivered. She said that if Cross Creek was the only user on this pipeline, it would be difficult for them to have the same leverage that they would if they were part of the Triangle T Water District.

Case Vlot, co-owner of the Cross Creek Ranch said they were opposed to being included in the Clayton Water District's SOI. He said they have been working on the Red Top pipeline that runs through their property for six years.

Darcy Vlot, co-owner of the Cross Creek Ranch said she is also opposed to being in Clayton's sphere and wanted to stay in Triangle T's SOI. She said that they had put their own resources together to bring a pipeline through their property to get surface water. She said it took years of meetings from 2012 to 2015 to obtain the infrastructure, construction and engineering in order to build the pipeline.

Commissioner Medellin asked Braun to clarify his recommendation regarding funding. Braun responded that he was recommending the District have some sort of mechanism in place to generate funding so that the District can fund the infrastructure.

Darcy Vlot said that in 2016, when the Clayton Water District opposed their property being included in the sphere of influence of the Triangle T Water District, LAFCo suggested that there be progress between the two districts toward consolidation. Darcy Vlot asked what that progress constituted, and if the progress that they put forth in delivering surface water to their property was what LAFCo had in mind.

Commissioner Waseem said getting consent from all of the landowners was "making progress" and felt that Clayton had accomplished almost all of the Commission's direction. Commissioner Medellin agreed that progress was being made, just not as quickly as they would like.

Julia Berry said Triangle T is nearly a 15,000-acre district with a lot more funding and financial support and that unless the Clayton Water District's annexation is complete, they are being funded by two landowners, and therefore, can only do so much.

Commissioner Medellin said they would love to see the two districts consolidated. He said the Commission had a huge discussion regarding land being contiguous and not contiguous and not having pieces of the puzzle missing, and that is not what LAFCo is about. Commissioner Medellin said that in this particular instance, it is not a logical boundary and not efficient by way of delivery, which are LAFCo's principles.

Darcy Vlot said there were three landowners that financed the Red Top Pipeline and the infrastructure, the Vlot Brothers and Triangle T Ranch who split the bill 50/50 and that they put a lot of money into the pipeline regardless of the acreage. Ms. Vlot said that they have paid over a million dollars for the pipeline and they will still have to pay for the surface water that gets delivered.

Molly Sasso said she understands LAFCo's goal of contiguity for efficiency of services, but the services are already there with pipelines running through the Cross Creek property and Madera One Ranch that Triangle T owns and operates. Ms. Sasso again asked that the Triangle T property remain out of Clayton's SOI so they could annex it to Triangle T.

Commissioner Ahmed asked if LAFCo law would allow Triangle T's parcels to be annexed to the Triangle T Water District. Braun responded that as of yet, there has been no application filed with LAFCo to annex those two parcels, but an application could be filed to remove them from the Clayton Water District SOI and be placed in the Triangle T Water District SOI.

Darcy Vlot said the Clayton Water District did approach them and asked them to annex their property into their District but they were not interested and that is why the Clayton Water District went around them. Ms. Vlot asked that their property be left out of Clayton's SOI and then Clayton could annex all of the property to the north of their property.

Larkin Harmon, landowner and President of the Clayton Water District, said Clayton Water District does not plan on standing in the way of the Triangle T Water District and their water delivery to Cross Creek even though Cross Creek would be in Clayton's SOI.

Darcy Vlot said their property is not considered to be in a district but if their property were to be put in Clayton's SOI, the only option they would have is to be annexed to the Clayton Water District. Ms. Vlot said they worked very hard to develop the water infrastructure and develop the Triangle T Water District and said they would like to stay with the district they helped form.

Braun said that if Clayton's SOI proposal was approved, the owners of the Cross Creek property could file an application with LAFCo to be removed from Clayton's SOI.

Molly Sasso with Triangle T Ranch felt it was inefficient for their property to be put into the Clayton Water District when they have already filed an application with the Triangle T Ranch to be annexed into their district, which included signing Triangle T's subsidence agreement. She felt that there could be political and operational issues if the property were to be put in Clayton's sphere and then removed later and felt that it would be a solution to the problem if the Commission approved Clayton's annexations but not the entire sphere proposal.

Commissioner Medellin said he relies on LAFCo's policies and the State of California's laws to determine his role and responsibility as a LAFCo member. Commissioner Medellin said he didn't want to set a precedent for the future that if someone were to purchase property after a decision was made, that as long as you can put in some infrastructure, you are exempt from LAFCo policy.

Executive officer Braun said the three parcels south of Cross Creek were the parcels purchased by John Hancock after the Triangle T Water District was formed.

Molly Sasso representing John Hancock said the Hancocks purchased the properties to secure water from the Poso Canal because of feuding of neighbors and the inefficient delivery of water and because of the huge subsidence issue and SIGMA.

Darcy Vlot said that John Hancock has also furloughed a lot of land in order to help abate the subsidence issue because they wanted to be a good neighbor to the farmers in the area.

In response to a question from the Commission, Braun said that whether or not these properties are put in the Clayton Water District's SOI, the Triangle T Water District could file an application to annex the property and will have to do a municipal service review in order to bring those properties into their SOI. In that MSR, they will have to evaluate how the district can serve that area and look at the issues which would be important for the Commission to make a decision to allow the district to annex. Braun said just from a contiguous and orderly standpoint, putting those properties in Clayton's SOI makes the most sense.

Molly Sasso said she understood the contiguity of the properties but her fear is that they would come back in several weeks and have to go through a process where they had to remove the property from Clayton's SOI in order to annex into a different district.

Commissioner Medellin asked for clarification on staff's recommendation requiring a funding mechanism to be in place within two years. Braun responded that the recommendation was written subject to interpretation and that the Commission would have to evaluate whether the condition was met or of the District was moving forward in good faith. If not, the Commission could initiate an application to dissolve the district.

Commissioner Medellin said that when an MSR is prepared for a district, they really get into detail of the efficiencies of services that are being provided. He explained that as a member of LAFCo, when he sees a map that does not meet the Commission's goals for the efficient provision of services that is not what LAFCo is about.

Commissioner Medellin made a motion to approve the MSR, sphere of influence amendment, and annexation with conditions and stressed that within 24 months there has to be a funding mechanism for the District in place. Commissioner Rodriguez seconded the motion. The motion was passed on a 4-0 vote, with Commissioner Wheeler being absent.

6. Meeting Time Change

Executive Officer Braun reported that at the April Commission meeting, staff was directed to bring back a discussion regarding changing the meeting time to an earlier time or keeping the 6:00 p.m. time. Braun said that he looked at other LAFCos and their start times were all different; however, most of them met during the day.

Commissioner Graham said that her only concern was that most people work and would have to take time off to attend a meeting that was between 8:00 and 5:00, but she had no objection with evening meetings.

Commissioner Rodriguez said that when they first talked about a time change in April, he felt that since she lives in Oakhurst and Commissioner Wheeler lived in North Fork, it would be a little harder for them to attend. Commissioner Ahmed said that most of the other boards and commissions are held during the day and he felt LAFCo might have better attendance if the meetings were held during the day.

Braun said that it is easier to get public officials to attend meetings that are held during the day and that LAFCo could always hold a special evening meeting if necessary, but usually landowners will attend LAFCo meetings, if it affects their property.

Commissioner Medellin agreed that it would be more convenient for city staff, as well as LAFCo staff, to attend meetings during the day.

Commissioner Rodriguez made a motion to change the LAFCo meeting time from 6:00 p.m. to 3:00 p.m. Commissioner Ahmed seconded the motion. The motion was passed on a 4-0 vote.

7. Commissioner Reports

There were no reports from the Commission.

8. Executive Officer Reports

- 2019 Annual CALAFCO Conference

9. Adjournment

The meeting adjourned at 7:20 p.m.