

AGENDA

ITEM

NO. 8.a.

LAFCO of Monterey County

LOCAL AGENCY FORMATION COMMISSION
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KATE McKENNA, AICP
Executive Officer

DATE: August 21, 2008

TO: Chair and Members of the Formation Commission

FROM: Kate McKenna, AICP, Executive Officer

SUBJECT: STATUS REPORT ON THE PROPOSAL SUBMITTED BY PETITION OF REGISTERED VOTERS FOR THE INCORPORATION OF CARMEL VALLEY. (LAFCO FILE NO. 03-10)

SUMMARY OF RECOMMENDATIONS:

This report is for information only. It is recommended that the Commission accept the report.

EXECUTIVE OFFICER'S REPORT:

Background

On July 3, the Formation Commission approved: (1) a litigation settlement agreement; (2) a work program and schedule to process the incorporation proposal through to a hearing and action on December 1; (3) a contract with a consultant to update the comprehensive fiscal study, and (4) related budget amendments.

The litigation settlement agreement was executed on July 9. The Court filed a final Order Granting Peremptory Writ of Mandate on July 24 and issued a final Notice of Entry of Judgment on July 29. The Writ requires LAFCO to file, in September, an outline of the actions LAFCO has taken to comply with the Writ.

Schedule

Attached is an updated schedule to process the incorporation proposal through to a LAFCO hearing and decision. As directed by the Commission, the schedule now includes time for the County of Monterey and Carmel Valley Forum to negotiate any necessary amendments to the

Revenue Neutrality Agreement approved in 2006. The schedule sets a Commission hearing and action date of December 1.

Status

Work is proceeding according to the approved work program and schedule.

The Comprehensive Fiscal Analysis update is underway. The County of Monterey and other affected agencies have been requested to provide data by mid-August. An Administrative Draft will be available for review by affected agencies in early September. A Public Review Draft will be available on or near September 23. That draft will be revised and re-issued as a Public Hearing Draft by November 24, and will include any amendments made this fall to the Revenue Neutrality Agreement.

County and Forum representatives met on July 25 to discuss the Revenue Neutrality Agreement between the County of Monterey and the proposed Town of Carmel Valley. In early August, the County notified the Forum's attorney (see attached letter) that the County intends to commence negotiations with the Forum as to any necessary amendments to that Agreement, and that negotiations should commence no later than LAFCO's release of the "Public Hearing Draft" comprehensive fiscal analysis. The County has subsequently clarified that it plans to initiate negotiations soon after the September 23 release of a "Public Review Draft" of the CFA Update. The negotiation process is expected to be complete by November.

The Public Review Draft of the fiscal analysis update will be revised and re-issued as a Public Hearing Draft by November 24. The revisions will reflect any amendments made to the Revenue Neutrality Agreement by the County and Forum.

LAFCO staff is currently updating the Plan for Services for the proposed Town, and has started on the Executive Officer's report for the December 1 meeting. The Executive Officer's report, together with the Public Hearing Draft of the Comprehensive Fiscal Analysis Update and the Draft Service Plan Update, will be distributed one week before the December 1 hearing.

Respectfully submitted,



Kate McKenna, AICP
Executive Officer

cc: LAFCO File 03-10
Max Chaplin, President, Carmel Valley Forum
Nick Chiulos, County Administrative Office
Richard Berkson, EPS
Rich Egger, Best Best & Krieger

Attachments: Carmel Valley Incorporation Schedule (Updated August 15, 2008)
Letter from Nicholas E. Chiulos to Michael W. Stamp (undated)

**Carmel Valley Incorporation Draft Work Program and Schedule
Updated August 15, 2008**

Following is a summary of the proposed work program and schedule through the Commission's hearing and action on the proposal. This schedule is based on a number of timing and procedural assumptions which are outside of LAFCO's control. These include the timely receipt of appropriate data and an absence of further litigation or procedural delays and disputes between the respective parties.

DATE	TASKS	STATUS
July 3, 2008	Approve work program. Authorize contract for update of 2006 Draft Comprehensive Fiscal Analysis (CFA).	DONE
July - Sept. 2008	Review and update Service Plan. Begin preparation of Executive Officer's report for December 1 hearing.	IN PROCESS
July 18, 2008	Forward data requests for CFA update to County.	DONE
Aug. 15, 2008	County provides CFA data to consultant.	IN PROCESS
September 2, 2008	Complete the Administrative Draft of 2008 Comprehensive Fiscal Analysis update, and send it to County and Affected Agencies for review and comments.	IN PROCESS
September 15, 2008	Receive comments on Administrative Draft of 2008 CFA update from County and Affected Agencies.	PROJECTED
Sept. 23, 2008	Public release of Public Review Draft of 2008 CFA update.	PROJECTED
Sept. - Nov. 2008	County and Forum conduct negotiations regarding any necessary amendments to the Revenue Neutrality Agreement, and approve any amendments. LAFCO revises the Public Review Draft of the CFA update to include the amended Revenue Neutrality Agreement.	PROJECTED
Nov. 10, 2008	Publish and distribute a public notice of LAFCO December 1 public hearing.	PROJECTED
November 24, 2008	Public release of the Executive Officer's Report for December 1 hearing, including the Public Hearing Draft of the CFA Update and the Draft Service Plan Update. The Public Hearing Draft of the fiscal analysis will include any amendments made to the Revenue Neutrality Agreement.	PROJECTED
December 1, 2008	Commission hearing and action to approve, disapprove or approve the incorporation proposal with conditions, and if approved to request that the County Board of Supervisors direct the elections official to conduct the necessary election.	PROJECTED

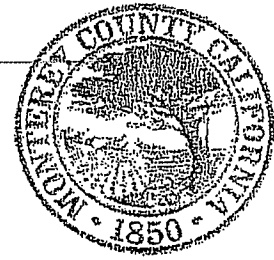
A separate schedule for post-hearing tasks, assuming Commission approval or approval with conditions, will be prepared at a later date. These activities would include the reconsideration process (Government Code Section 56895), submittal of the proposal to the U.S. Department of Justice, the preparation of an impartial analysis of the proposed incorporation for the election ballot, action of the County Board of Supervisors to set the election, submission of the proposal to the voters, and an estimated effective date of incorporation if approved by the electorate.

MONTEREY COUNTY

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Michael W. Stamp
Attorney at Law
470 Pacific Street, Suite 1
Monterey CA 93940

Re: Carmel Valley Incorporation Revenue Neutrality Agreement

Dear Michael:

It was a pleasure meeting with you and representatives of the Carmel Valley Forum on July 25, 2008. As we discussed at our meeting, the Revenue Neutrality Agreement By and Between the County of Monterey and the Town of Carmel Valley ("Revenue Neutrality Agreement") provides in Section 1.10 that in the event the Comprehensive Fiscal Analysis (CFA) upon which the Revenue Neutrality Agreement is based, is modified or revised, the parties agree to amend the Revenue Neutrality Agreement based on the modified or revised CFA. Section 7.0 of the Revenue Neutrality Agreement requires that written notice be given of the right to amend the agreement.

It is our understanding that LAFCO is currently in the process of having their consultant prepare an update and revisions to the CFA prepared by Economic and Planning Systems dated September 29, 2006. This step is included in the terms of the Settlement Agreement dated July 9, 2008, and entered into between LAFCO and the Carmel Valley Forum, Inc. This letter serves as notice that the County intends to commence negotiations with the Carmel Valley Forum, Inc., as to any necessary amendments to the Revenue Neutrality Agreement and that negotiations should commence no later than LAFCO's release of the Public Hearing Draft CFA*. Our office is currently working on a proposed schedule of dates for negotiation meetings involving members of the Carmel Valley Forum, the Board of Supervisors' Ad Hoc Committee on Carmel Valley Incorporation (Supervisors Potter and Calcagno), and staff.

Please contact Kathy Kretchmer, special Counsel on this matter, or me, should you have any questions. Kathy can be reached at (408) 299-5920. Thank you for taking the first step and requesting the July 25th meeting to facilitate discussions on this matter.

Very truly yours,

A handwritten signature in black ink that reads "Nicholas E. Chiulos".

Nicholas E. Chiulos
Intergovernmental and Legislative Affairs Director

* [Subsequent to this letter, the County has clarified that it plans to initiate negotiations soon after the September 23 release of a "Public Review Draft" of the CFA Update. A "Public Hearing Draft" of the CFA update will be released by November 24 and will include any amendments to the Revenue Neutrality Agreement.]

Letter - Michael Stamp, Esq.
Re: Carmel Valley Incorporation Revenue Neutrality Agreement

Cc: Members of the Board of Supervisors
Lew Bauman, County Administrative Officer
Charles McKee, County Counsel
Rosie Pando, Assistant County Administrative Office
Patty Maitland, Principal Administrative Analyst
Kate McKenna, LAFCO Executive Office
Kathy Kretchmer, Deputy County Counsel
County of Santa Clara