

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NUMBER L-2011-06

Meeks Bay Fire Protection District Annexation of Rubicon Bay Parcels and Emerald Bay Tracts LAFCO Project No. 2010-04

WHEREAS, on February 25, 2009, the Meeks Bay Fire Protection District (“MEK”) adopted District Resolution 2009-02 (“petition”) requesting a reorganization of territory including the annexation and detachment of approximately 2,710 acres; and

WHEREAS, on April 2, 2009, the Meeks Bay Fire Protection District (“MEK”) submitted the petition to El Dorado Local Agency Formation Commission (“LAFCO”); and

WHEREAS, the petition designated the MEK Fire Chief as the authorized agent for the proceedings; and

WHEREAS, the petition was assigned LAFCO Project No. 2010-04 and is referred to as the “Meeks Bay Fire Protection District Reorganization”; and

WHEREAS, on November 3, 2010, the MEK Fire Chief requested in writing that the Commission use its discretionary authority to amend the boundaries of MEK’s petition to include only the annexation of APNs 016-600-07, 016-600-08, 016-600-10, 016-600-13, 016-600-19, 016-600-20, 016-600-21, 018-020-03, 018-020-04, 018-020-05, 018-020-06, 018-020-07, 018-020-08, 018-020-09, 018-020-10, 018-020-11, 018-030-01, 018-030-02, 018-030-03, 018-030-04, 018-030-05, 018-030-06, 018-030-07, 018-030-08, 018-030-09, 018-030-10, 018-030-11, 018-030-12, 018-030-13 and 018-030-14 (hereinafter referred to as the “amended petition”); and

WHEREAS, the amended petition continued to be designated LAFCO Project No. 2010-04 but was re-titled as the “Meeks Bay Fire Protection District Annexation of Rubicon Bay parcels and Emerald Bay Tracts”; and

WHEREAS, the amended petition consists of approximately 40.25 acres, shown in ‘Exhibit A’ (hereinafter referred to as the “subject territory”); and

WHEREAS, the amended petition requests the Annexation of the subject territory for the continued provision of structural fire protection and emergency services; and

WHEREAS, the amended petition is in conformance with Government Code §56650 et seq.; and

WHEREAS, Revenue and Taxation Code §99 requires an agreement for the exchange of property tax revenues in the event of a jurisdictional change of local agencies; and

WHEREAS, property tax exchange negotiations were completed and approved by the County of El Dorado (“the County”) on August 17, 2010 and by MEK on August 25, 2010; and

WHEREAS, pursuant to Government Code §56857(a) the informational hearing proceedings were not required; and

WHEREAS, on August 25, 2010 the Commission requested the informational hearing proceedings; and

WHEREAS, pursuant to Government Code §56857(a), the amended proposal was placed on the Commission agenda for the meeting of October 27, 2010 for informational purposes only, and a copy of the original submitted proposal and amended proposal was sent to MEK, as the applicant and the subject agency; and

WHEREAS, at the request made by the MEK Fire Chief, the Commission continued the public hearing until the December 1, 2010 meeting; and

WHEREAS, pursuant to Government Code §56857(a), the amended proposal was placed on the Commission agenda for the meeting of December 1, 2010 for informational purposes only, and a copy of the original submitted proposal and amended proposal was sent to MEK, as the applicant and the subject agency; and

WHEREAS, a Negative Declaration of Environmental Impact (ND) has been prepared for the project by the Meeks Bay Fire Protection District as outlined by the California Environmental Quality Act (“CEQA”); and

WHEREAS, the LAFCO has reviewed said ND, a copy of which is filed at the LAFCO office; and

WHEREAS, within the scope of this environmental review any potential environmental impacts of the project were considered and addressed; and

WHEREAS, the Executive Officer has examined the petition, certified that it is adequate and has accepted the petition for filing on March 29, 2011; and

WHEREAS, the Executive Officer set a public hearing for April 27, 2011 for consideration of the petition the environmental review and caused Notice thereof to be posted, published and mailed at the times and in the manner required by law at least twenty-one (21) days in advance of that date; and

WHEREAS, notice of the proposed change of organization was mailed to all registered voters and landowners within 300 feet of the subject territory at least 21 days prior to the hearing in accordance with Government Code §56157; and

WHEREAS, said Notice stated that the petition and environmental review would be considered by this Commission at the hearing; and

WHEREAS, the Executive Officer, pursuant to Government Code §56665, has reviewed this petition and prepared and distributed a report, including recommendations, and has furnished a copy of this report to each person entitled to a copy at least five (5) days prior to the April 27, 2011 meeting during which the petition was considered; and

WHEREAS, on April 27, 2011, the matter came on regularly for hearing before this Commission, at the time and place specified in the Notice of the Public Hearing; and

WHEREAS, at said hearing, the petition, environmental review and the Executive Officer's Report and Recommendations were reviewed and considered; and

WHEREAS, an opportunity was given to all interested persons, organizations, and agencies to present oral or written protests, objections, and any other information concerning the proposal and all related matters; and

WHEREAS, this Commission has received, heard, discussed and considered all oral and written testimony related to the petition, including, but not limited to, protests and objections, the Executive Officer's report and recommendations, the ND, plans for providing service, spheres of influence, applicable General and Specific Plans, each of the policies, priorities and functions set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including those set forth in Government Code §§56377, 56668 and 56668.3, LAFCO's Policies and Guidelines and all other materials presented as prescribed by law.

NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED, ORDERED AND FOUND by the El Dorado Local Agency Formation Commission as follows:

1. Each of the foregoing recitals is true and correct.
2. This resolution making determinations is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, California Government Code §56000 et seq.
3. The following agencies and districts were notified concerning this petition: CAL FIRE; California State Department of Parks and Recreation; California Tahoe Conservancy; El Dorado County Chief Administrative Office, Department of

Agriculture, Elections, Planning, Surveyor's Office; El Dorado County Emergency Services Authority; El Dorado County Office of Education; El Dorado County Representing CSAs 3, 3 Zone 1, 3 Zone 2, 3 Zone 3, 3 Zone 4, 3 West Shore Snow Removal, 5, 10, 10 Zone C and 10 Zone H; El Dorado County Sheriff's Department; El Dorado County Water Agency; Farm Bureau; Happy Homestead Cemetery District; Lake Tahoe Community College District; Lake Tahoe Unified School District; Los Rios Community College District; McKinney Water District; South Lake Tahoe Recreation Facilities Joint Powers Authority; Tahoe City Public Utility Water District; Tahoe Regional Planning Agency; Tahoe Resource Conservation District; Tahoe Truckee Unified School District; Tahoe-Truckee Sanitation Agency; United States Forest Service; and the United States Bureau of Land Management.

4. There are four registered voters in the subject territory; therefore, the subject territory is considered uninhabited per Government Code §56046.
5. There are eight separate landowners within the subject territory: Trette Family Revocable Trust, T. Madrigal Revocable Trust, James K. A. Guthrie, Elliott Revocable Trust, G. and J. Stein Revocable Trust, J. Hayes Revocable Trust, P. A. Nelson Family Trust and the United States Forest Service (USFS).
6. None of the landowners within the subject territory have given written consent to the annexation.
7. Written Notice of Commission proceedings was given to all registered voters and landowners within 300 feet of the affected territory and no written opposition from registered voters or landowners within the affected territory was received prior to the conclusion of the Commission meeting.
8. Pursuant to Government Code §57000 et seq. the Conducting Authority proceedings are necessary in conjunction with this application.
9. The subject territory is within the MEK sphere of influence.
10. The subject territory includes 29 private and public parcels, all of which contain existing structures.
11. The subject territory is within MEK's first response area for structural fire protection and emergency services.
12. MEK has been providing service to the subject territory for many years without receiving any property tax revenue or other compensation.
13. Annexation of the subject area would allow MEK to collect property tax revenue and possibly direct charge revenue from the subject area.

14. The subject territory contains two separate annexation areas: 7 private parcels in the Rubicon Bay area (“Rubicon Bay parcels”) and 22 public parcels near Emerald Bay (“Emerald Bay Tracts”).
15. The Rubicon Bay parcels are contiguous to MEK boundaries to the north, east and south.
16. Annexation of the Rubicon Bay parcels would create single-parcel island surrounded on all sides by MEK’s service area.
17. The creation of islands is inconsistent with the formation of orderly and logical boundaries and may be amended, modified or disapproved by LAFCO, per LAFCO Policies and Guidelines Section 3.9.4.
18. The single-parcel island would include APN 016-600-04, an undeveloped parcel owned by the USFS, less than ten acres in size with no existing structures.
19. APN 016-600-04 would remain the responsibility of the USFS for wildland fire suppression.
20. The Emerald Bay Tracts are owned by the USFS and contain existing private structures (cabins) which are leased to private parties.
21. The Emerald Bay Tracts are not contiguous with current MEK boundaries; the area is separated from the District’s southern boundary by approximately 2-3 miles.
22. The annexation of non-contiguous lands is discouraged by LAFCO Policies and Guidelines Sections 3.9.3 and 3.9.4.
23. Government Code Section §56119 reads, in part, “...Except as otherwise provided in this division, in any change of organization or reorganization the principal act shall govern as to any provisions in the principal act pertaining to boundaries, to contiguity or noncontiguity of territory, to the incorporated or unincorporated status of territory, and to the overlapping of territory of a district with the territory of another district or city...”
24. MEK is governed by Health and Safety Code §13800 et seq. and Health and Safety Code §13810 states that, “Any territory, whether incorporated or unincorporated, whether contiguous or noncontiguous, may be included in a district.”
25. The subject territory is within the Tahoe Adopted Plan per the 2004 County General Plan and is zoned One-Family Residential District (TR1) and Tahoe Agricultural District (TA).

26. The parcels within the subject territory are all currently developed with existing structures.
27. The subject territory is fully developed according to current zoning and is not proposed for any additional development of any kind; the future land use of the subject territory will not change upon annexation.
28. The current land use and amended petition is consistent with the County's 2004 General Plan.
29. The subject territory consists of two separate tax rate areas and is currently within TRAs 069-013 and 075-022.
30. The total assessed land value of the subject territory is \$10,753,516.
31. The petition will not assist the County's ability to meet its Regional Housing Needs Assessment allocations as determined by the Sacramento Area Council of Governments for any income groups.
32. Upon completion of the approval proceedings, MEK shall provide fire protection and emergency services to the subject area.
33. MEK has planned for the provision of fire protection and emergency services and has developed a fee schedule, bonding funds, and assessments to provide funding for that service.
34. The petition meets the intent, policies, and priorities of this Commission, and the laws and policies within its jurisdiction and authority, including but not limited to the MEK sphere of influence and the El Dorado LAFCO Policies and Guidelines.
35. This Commission has reviewed and considered the information contained in the ND, Initial Study and administrative record for the petition.
36. This Commission finds that the ND and Initial Study contain a complete, accurate and objective reporting of the environmental impacts associated with annexation of the business park and reflect the independent judgment of the Commission.
37. This Commission further finds that the ND and Initial Study have been completed in compliance with CEQA, the State CEQA Guidelines and the Commission's Local CEQA Guidelines as detailed in the El Dorado LAFCO Policies and Guidelines.
38. A full and fair public hearing was held on the ND for the annexation.

39. This Commission has considered all comments received thereon in response to the public circulation of the ND, and said ND is hereby approved and adopted as the ND for the petition.
40. The ND addressed, among other things, impacts to agricultural resources, hydrology and water quality, land use and planning, population and housing, public services, transportation and traffic, utilities and service systems, and recreation.
41. This Commission hereby finds on the basis of its review of the Initial Study and comments on the ND, and all other written and oral evidence presented to the Commission, there is no substantial evidence in the administrative record to support a fair argument that the proposed change of organization may result in a significant impact on the environment. This Commission further finds that the annexation will not cause any significant environmental impacts.
42. The Meeks Bay Fire Protection District, in accordance with the California Environmental Quality Act (CEQA) ultimately determined that the annexation would not have a significant impact on the environment.
43. The ND for the Meeks Bay Fire Protection District Annexation of Emerald Bay Tracts is hereby accepted as the appropriate environmental document for the amended petition in accordance with CEQA.
44. The County Surveyor has agreed that the submitted legal description and maps are mathematically correct.
45. The annexation will not result in negative impacts to the cost and adequacy of services otherwise provided in the area and it is in the best interests of the affected area and the total organization of local government agencies.
46. The area proposed for reorganization represents a justifiable extension of the MEK boundaries.
47. The proposal is assigned the following short form designation:

Meeks Bay Fire Protection District Annexation of
Rubicon Bay Parcels and Emerald Bay Tracts
LAFCO Project No. 2010-04
48. The Meeks Bay Fire Protection District Annexation of Rubicon Bay Parcels and Emerald Bay Tracts is hereby approved, subject to the following conditions:
 - (a) The subject territory shall be liable for any authorized or existing taxes, fees, service charges, assessments and any bonded indebtedness of MEK.

- (b) The applicant and the real party of interest, if different, shall agree to defend, indemnify, hold harmless and release the El Dorado Local Agency Formation Commission, its agents, officers, attorney and employees from any claim, action or proceeding brought against them or any of them, the purpose of which to attack, set aside, void, condition, challenge or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of, related to or in connection with the approval of this application, whether or not there is concurrent passive negligence of the part of the El Dorado Local Agency Formation Commission or its agents, officers, attorney or employees.
- (c) Proponents shall complete all map and legal description requirements for final recording and filing, including documents required by the State Board of Equalization, within 180 days of April 27, 2011.
49. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries and conditions set forth in the attachments and any terms and conditions specified in this resolution.
50. The Executive Officer is hereby authorized and directed to file with the Clerk of the County of El Dorado, a Notice of Determination for the annexation, pursuant to Title 14 California Code of Regulations §15075.
51. The Executive Officer is hereby instructed to set the Conducting Authority proceeding for this Proposal for May 26, 2011.
45. All interested parties, including without limitation the Meeks Bay Fire Protection District, agree that LAFCO retains in perpetuity the authority to enforce, through legal action or otherwise, all of the terms and conditions of the project approval.
46. The documents and materials which constitute the record of proceedings on which these findings are based are located at 550 Main Street, Suite E, Placerville, CA 95667. The custodian of these records is the Executive Officer.

PASSED AND ADOPTED by the El Dorado Local Agency Formation Commission at a regular meeting of said Commission, held April 27, 2011 by the following vote of said Commission.

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Interim Clerk to the Commission

Chairperson

DRAFT