



STAFF REPORT

City Council
Meeting Date: 9/10/2024
Staff Report Number: 24-163-CC

Informational Item: **Plan to establish an advisory committee to the governing body of the East Palo Alto Sanitary District Subsidiary District**

Recommendation

This is an informational item and does not require City Council action.

Policy Issues

There are no policy issues related to this informational item.

Background

On Nov. 10, 2022, the City of East Palo Alto (EPA) submitted a proposal application to the San Mateo Local Agency Formation Commission (LAFCo) to establish the East Palo Alto Sanitary District (EPASD) as a subsidiary of the City of East Palo Alto. On Nov. 15, 2023, LAFCo unanimously approved EPA's application over an alternative proposal submitted by EPASD, and included specific terms and conditions:

- Condition 2 – The City [EPA] must enter into an agreement with a private or public agency for the operation and maintenance of the sewer system.
- Condition 3 – If protest thresholds by landowners and registered voters are not met, the LAFCo Executive Officer will record a certificate of completion with the County Clerk-Recorder Office, following a protest hearing and evidence of compliance with Condition 2.
- Condition 6 – Within 90 days of the certificate of completion issuance, the City [EPA] must submit a plan for establishing an advisory committee for the subsidiary district. This committee will advise on various matters, and the plan must include at least one seat for a resident of the Menlo Park portion of the EPASD service area. The City of East Palo Alto must collaborate with Menlo Park on the advisory committee's composition and provide evidence of this correspondence to LAFCo.

EPASD requested a reconsideration of LAFCo's resolution, which LAFCo disapproved on Feb. 7. The protest period started on Feb. 12, with a protest hearing scheduled for May 22. Protest ballots were collected until the hearing's close at 2:59 pm on May 22.

On June 24, LAFCo Executive Officer Rob Bartoli announced in writing that the protest ballots did not meet the thresholds required to terminate the proceedings or to require an election. On July 16, the City of East Palo Alto (EPA) discussed a plan to establish an advisory committee to the governing body of the East Palo Alto Sanitary District Subsidiary District (Attachment A).

On July 17, after the protest period ended, LAFCo held a hearing certifying the results of the protest, concluding that opponents of the proposal had failed to garner enough protests from either voters or

landowners to either terminate the application or require an election. Accordingly, LAFCo certified those results.

Analysis

This agenda report focuses on Condition 6 (submission of a plan regarding an advisory committee to the EPASD's new governing body), which must be fulfilled within 90 days of the certificate of completion, anticipated around Oct. 15. Significantly, Condition 6 simply states that EPA, as the future governing body of EPASD, shall provide a reserved seat for a resident of the City of Menlo Park on the advisory committee. Condition 6 does not require that a Menlo Park resident serve on the committee at all times (it simply requires a reserved seat; a right to representation, not the obligation).

On June 26, Mayor Cecilia Taylor and City Manager Justin Murphy met with EPA Mayor Antonio Lopez, Vice Mayor Martha Barragan and City Manager Melvin Gaines to discuss this advisory committee's composition and other matters discussed in this agenda report. They agreed that Menlo Park should have a role in appointing the resident for its reserved seat on the committee, which will advise the EPA City Council on EPASD matters, including customer service, rates and costs.

According to EPA, the advisory committee general objective is to function as a subordinate body to EPASD's new governing body, including to advise the EPA City Council/EPASD Board on administrative, legal, operational maintenance, and financial matters, including operations and maintenance agreements, annual budgets, capital improvement planning, and service rates. It will be comprised of five members, and an alternate, who live within the EPASD boundaries and are at least 18 years old. The Menlo Park City Council will appoint one member from within EPASD boundaries in Menlo Park and the EPA City Council will appoint four members and an alternate from within EPASD boundaries, regardless of municipality. If no Menlo Park resident is found, the Menlo Park City Council may appoint a non-Menlo Park resident within EPASD boundaries.

Next steps

The City of Menlo Park City staff will conduct a recruitment, similar to city advisory bodies. This recruitment will involve an approximate four to eight week period of advertisements and announcements. Staff will utilize the following advertisement methods:

- City website
- Printed postcards at city facilities (English and Spanish)
- Announcements at:
 - City Council meetings
 - Menlo Park advisory body meetings
- Web banner ad on the Palo Alto Online Almanac
- Print ads (English and Spanish):
 - The Examiner
 - The Almanac
- TV ads at city facility
- Notice to former advisory body applicants

Following the close of the application period, and before the end of the 2024 calendar year, staff will return to the City Council with the applications received and request the City Council make an appointment to the EPASD advisory committee.

Impact on City Resources

The costs associated with recruitment are included in the fiscal year 2024-25 budget.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §§15378 and 15061(b)(3) as it is an organizational structure change that will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

A. EPA July 16 staff report

Report prepared by:

Judi A. Herren, Assistant to the City Manager/City Clerk



EAST PALO ALTO CITY COUNCIL STAFF REPORT

DATE: JULY 16, 2024

TO: Honorable Mayor and Members of the City Council

BY: Melvin E. Gaines, City Manager

SUBJECT: Plan to Establish an Advisory Committee to the Governing Body of the EPASD Subsidiary District.

Recommendation

By motion, authorize the City Manager to submit to LAFCo the proposed plan to establish an advisory committee to the governing body of the EPASD subsidiary district.

Alignment with City Council Strategic Plan

This recommendation is primarily aligned with:

Priority: Promote Housing, Economic and Workforce Development

Priority: Promote Health & Public Safety

Background

On November 10, 2022, the City submitted a proposal application to the San Mateo Local Formation Commission (LAFCo) to establish the East Palo Alto Sanitary District (EPASD) as a subsidiary of the City of East Palo Alto. At a public hearing on November 15, 2023, LAFCo unanimously approved the City's application over an alternative proposal submitted by EPASD.

LAFCo Resolution 1312 documents this approval and sets forth specific terms and conditions, including in relevant part:

- **Condition 2:** The City must enter into an agreement with a private or public agency for the operation and maintenance of the sewer system.
- **Condition 3:** If protest thresholds by landowners and registered voters are not met, the LAFCo Executive Officer will record a Certificate of Completion with the County Clerk-Recorder Office, following a protest hearing and evidence of compliance with Condition 2.



CONSENT ITEM 3.3

- **Condition 6:** Within 90 days of the Certificate of Completion issuance, the City must submit a plan for establishing an advisory committee for the subsidiary district. This committee will advise on various matters, and the plan must include at least one seat for a resident of the Menlo Park portion of the EPASD service area. The City of East Palo Alto must collaborate with Menlo Park on the advisory committee's composition and provide evidence of this correspondence to LAFCo.

EPASD requested a reconsideration of Resolution 1312, which LAFCo disapproved on February 7, 2024. The protest period started on February 12, 2024, with a protest hearing scheduled for May 22, 2024. Protest ballots were collected until the hearing's close at 2:59 pm on May 22, 2024.

On June 24, 2024, LAFCo Executive Officer Rob Bartoli announced in writing that the protest ballots did not meet the thresholds required to terminate the proceedings or to require an election. The LAFCo Commission is expected to confirm these results tomorrow at their July 17, 2024, meeting. If Condition 2 (final execution of an operation and maintenance agreement) is met, the LAFCo Executive Officer will then record the Certificate of Completion. EPASD will become a City subsidiary on the first day of the next month after the Certificate of Completion is recorded.

This agenda report concerns Condition 6 (submission of a plan regarding an advisory committee to the EPASD's new governing body), which must be fulfilled within 90 days of the Certificate of Completion, anticipated around October 15, 2024. Significantly, Condition 6 simply states that the City of East Palo Alto, as the future governing body of EPASD, shall provide a reserved seat for a resident of the City of Menlo Park on the advisory committee. Condition 6 does not require that a Menlo Park resident serve on the committee at all times (it simply requires a reserved seat; a right to representation, not the obligation). Similarly, as is true of all advisory committees, it does not require the Council, acting in its capacity as the governing board of EPASD, to receive a recommendation prior to taking action on behalf of ratepayers. If the City Council agrees with the proposed plan for the advisory committee, Condition 6 can be met earlier. Staff recommends establishing the advisory committee for the EPASD Subsidiary District, as set forth in this staff report, which shall constitute the plan.

Analysis

On June 26, 2024, Mayor Antonio Lopez, Vice Mayor Martha Barragan, and City Manager Melvin Gaines met with Menlo Park's Mayor Cecilia Taylor and City Manager Justin Murphy to discuss the advisory committee's composition and other matters discussed in this agenda report. They agreed that Menlo Park should have a role in appointing the resident for its reserved seat on the committee. The advisory committee will advise the East Palo Alto City Council on EPASD matters, including customer service, rates, and costs.

Advisory Committee General Objectives

The Committee's main role is to function as a subordinate body to EPASD's new governing body, including to advise the City Council/EPASD Board on administrative, legal, operational,

maintenance, and financial matters, including operations and maintenance agreements, annual budgets, capital improvement planning, and service rates.

Advisory Committee Composition and Qualification of Members

The Committee will consist of five members, and an alternate, who live within the EPASD boundaries and are at least 18 years old. The alternate would be appointed by the Council and would be elevated to a voting member in the event of the absence of any member of the Committee. Although most East Palo Alto boards have at least seven members, this committee is proposed to have five due to past difficulties in filling positions and establishment of quorum to consistently conduct committee business.

Advisory Committee Members Appointment

The Menlo Park City Council will appoint one member from within EPASD boundaries in Menlo Park, while the East Palo Alto City Council will appoint four members and an alternate from within EPASD boundaries, regardless of municipality. If no suitable Menlo Park resident is found, the Menlo Park Council may appoint a non-Menlo Park resident within EPASD boundaries. Again, because Condition 6 simply requires a reserved seat for a Menlo Park resident, the Menlo Park City Council may appoint a non-resident if they are unable to appoint a resident. Condition 6 permits this flexibility, which will allow EPASD business to not be unduly impacted by issues arising out of appointment. Members will serve three-year terms, with the inaugural Committee having staggered terms to ensure continuity.

Table 1: Example of Terms

Appointing Body	Initial Term	Subsequent Term
City of Menlo Park 1	2024-27	2027-2030
City of East Palo Alto 2	2024-27	2027-2030
City of East Palo Alto 3	2024-27	2027-2030
City of East Palo Alto 4	2024-26	2026-2029
City of East Palo Alto 5	2024-26	2026-2029
City of East Palo Alto Alternate	2024-27	2027-2030

Advisory Committee Member Recruitment

The City of East Palo Alto will advertise the advisory committee openings through its website, e-newsletter, social media, and in collaboration with Menlo Park. Notices will be sent to all EPASD property owners informing them of the governance change and the opportunity to join the advisory committee.

Next Steps

Once the certificate of completion is issued, staff will return to Council with a resolution or ordinance formalizing the plan set forth in this staff report.

Fiscal Impact

There is no fiscal impact for this item.

Public Notice

The public was provided notice by making the agenda and report available on the City's website and on a bulletin board located at City Hall: 2415 University Avenue, East Palo Alto.

Environmental

The action being considered does not constitute a "Project" within the meaning of the California Environmental Quality Act (CEQA), pursuant to CEQA Guideline section 15378 (b)(5), in that it is a government administrative activity that will not result in direct or indirect changes in the environment.

Government Code § 84308

Applicability of Levine Act: No, as the proposed action does not involve an entitlement.

Analysis of Levine Act Compliance: Not applicable.