

From: Measure O Oversight Committee
To: Rodeo Hercules Fire District (RHFD) Board of Directors
Date: March 9, 2021
Subject: RHFD Potential Consolidation with Contra Costa County Fire District (ConFire)

Due to the anticipated large impact to funds provided by voter approved local Measure O (a \$216 district parcel tax passed in 2016), and to be fully transparent to the citizens of both Hercules and Rodeo, the Measure O Oversight Committee has specific questions and concerns that must be addressed in any feasibility study, discussions, and negotiations regarding the potential consolidation of RHFD with ConFire. Our request is for complete open communication and transparency for all the citizens of Hercules and Rodeo, their governing agencies (e.g., Hercules City Council) and other interested bodies (e.g., Rodeo MAC, Voices of Rodeo). We want what is best for the citizens of Hercules and Rodeo, especially as the local area continues to develop and the need for improved and extended fire protection services grow.

Questions and Concerns from the Measure O Oversight Committee

Definition of Terms

The terms “consolidation, annexation and merger” seem to be used interchangeably in discussion and correspondence regarding this subject. What is the legal definition of the process being proposed? Any continued discussions and negotiations need to have the terms clearly defined. For purposes of this letter, we’ll only use the term “consolidation”.

Board of Directors

Will there still be a Board of Directors for RHFD? Or will the County Board of Supervisors, acting under County Ordinance 24-2.402 control the newly consolidated district like they do now with ConFire? If an RHFD “Board” is retained, will it have actual authority over Measure O funds (revenue & expenses) or simply be an “advisory” body? If retained, would an RHFD Board be elected or appointed (and by whom) since the RHFD District would be dissolved?

Vote of the People

Since Measure O was approved under the protections of Prop 218, with a Board resolution and ballot language indicating the funds to be used locally in the RHFD, wouldn’t approval for a consolidation with another district where Measure O funds are used jointly also require a vote by the citizens of Hercules and Rodeo? Any consolidation negotiated solely on the vote of the RHFD Board of Directors could be construed as “taxation without representation” and illegal. **We are requesting that the RHFD Board of Directors bring this item to a vote before the residents of the City of Hercules and Rodeo.**

What Happens to Measure O?

Legally, what happens to voter approved special taxes (e.g., Measure O) when a smaller district is consolidated into a larger district? If there is no RHFD in which to manage and apply Measure O funds, will Measure O be terminated? If Measure O funds are not included in the process will ConFire still pursue a consolidation with RHFD? What realistically happens to Measure O oversight? What **legal bases** apply here? (**Important note to the RHFD General Counsel:** Please cite code sections and/or other legal authority for your position rather than just opine).

Since Measure O has been consistently used for paying UAAL, how will the pension system be affected for both retirees and existing employees? How will the OPEB debt be addressed? The RHFD Fiscal Year 2020/21 Budget on page 7 shows that RHFD is currently not paying the “Unfunded Actuarial Accrued Liability” (UAAL) portion of the OPEB program (CalPERS CERBT), which is currently around \$3.8 million.

As Measure O represents approximately one third (1/3) of the funding for the RHFD, where will the other two-thirds (2/3) of the funding come from? Thus, the entire funding of the RHFD comes into question. Will the consolidation guarantee that there will not be a need for additional funds from the citizens of Rodeo and Hercules? **This is the problem with loss of local control.**

Recusal for Conflict of Interest

All appointees to the RHFD Board of Directors are required to comply with the Ralph M. Brown Act, Government Code 54950, which applies to all California city and county government agencies, boards, and councils. RHFD Board Chair Steve Hill, the Public Information Officer for ConFire, should recuse himself from any negotiations or votes in regard to consolidation due to primary and secondary conflicts of interest. Chairman Hill holds three positions that have direct affect in the proposed annexation. In addition to Chairmanship, in which he has full unfettered control of all discussions, he is a member of the Strategic Planning Ad Hoc Committee and the board's LAFCO representative. His continuance in any/all of these positions are a clear "conflict of interest" since he works for ConFire specifically as their Public Information Officer. Director Hill is a valuable member of the RHFD Board but in any positions that involve consolidation considerations he should recuse himself. Even the "appearance of impropriety" supports a recusal. The RHFD is obligated to look into this matter.

What a Future District Looks Like

What assurances are there that current RHFD stations will continue to fully operate? Please be clear as to the use of the Rodeo station as a full-service firehouse or is it to be used only as a training facility or other function, as has been discussed in the past? Or will it be closed a few years after the consolidation? What happens as Hercules continues to develop with waterfront expansion, transit station, multi-story buildings, hotel and more commercial and residential? There will be a definite need for another station and upgraded equipment to meet the growing and changing fire service requirements. What happens to the Pinole Fire Department? Are they part of this consolidation? Who decides in a large, consolidated district how resources are expended and where? Can and will this consolidation guarantee to the residents of Rodeo and Hercules that the existing stations will remain open and services will expand as needed?

Due to recent development by the City of Hercules on the San Pablo Avenue and I-80 corridor, traffic gridlock is now routine and will only continue due to the approved and future development projects in this area. One third of the City's population will live within a mile of this corridor, making it impossible for the RHFD to meet the current service levels. The residents of Rodeo will need Station 75 to meet their service needs. We cannot sacrifice our community or lives due to an ill planned consolidation. Given the diversity of the typography together with the various service needs of the RHFD, a third fire station is called for at the Hercules Waterfront. Loss of local control takes away from meeting the needs of Rodeo and Hercules citizens due to the over competing needs of an entity such as of ConFire. **This is the problem with loss of local control.**

Feasibility Study/Clifford Moss Proposal – Why the Rush?

What is the current status of the "Triton" feasibility study, which was not in the packet nor made available to the public, at the most recent RHFD Special Board meeting? One agenda item at the Special Board Meeting states, "Discuss proposal from Clifford Moss regarding public outreach for Annexation study (**Action Item**)". Who invited Clifford Moss to provide a proposal? And why were they the only firm selected to give a proposal? Clearly, there was an attempt to push the consolidation along. In public comment, Vince Wells, an Officer of the IAFF Local 1230 said, "Let's get on with this annexation, get married". With that being said, the Clifford Moss proposal seems to be premature. Based on information from their website and in their proposal to RHFD, Clifford Moss is a consultancy whose mission is to persuade citizens (and voters) to take specific positions on their client's issues. Who are their clients? What is their relationship with ConFire? How are they involved in the East County Fire negotiations?

Why weren't there other public relations firms considered? Why was this consultancy agreement sole sourced? RHFD should review procurement laws to ensure that this agreement was not entered into illegally. During the RHFD meeting of February 26, Chairman Steven Hill used the term "feasibility study" attempting to discount the terms "consolidation, annexation or merger". It appears Chairman Hill is attempting to soften the study's purpose as only a MAYBE as the term feasibility suggests vs. the stronger terms (consolidation, annexation, merger) that are used throughout discussions and in written documents. The use of these terms lead to the conclusion it's a **"DONE DEAL"**.

What's the big rush to consolidate? With assimilation into ConFire, the Rodeo Hercules Fire District will cease to exist. No district=No board. No district=No Measure O committee. This is all very short term and doesn't consider the long-term needs of the Rodeo and Hercules community. A consolidation might be worthwhile; but there are too many unanswered questions, all options have not been explored and concerns need to be addressed. **Citizens of Rodeo and Hercules have a right to vote on an issue as important as this one.**

We know we have provided the RHFD Board of Directors with a lot to think about regarding a potential consolidation of the district with ConFire. We respectfully request that by the next regular RHFD Board meeting in April, that the Board respond to the questions and concerns we pose here. Thank you for your consideration.

Sincerely,
Measure O Oversight Committee