



Sonoma County EMS Workgroup Meeting Minutes

May 21, 2018 – 9:30-11:00 AM

Sonoma County Water Agency Redwood Conference Rooms
404 Aviation Blvd, Santa Rosa CA 95403

Project Goal: To create a safe, effective system that delivers high-quality field care medicine that is responsive to the community needs of Sonoma County as supported by qualified, committed and accountable EMS caregivers.

Goal for this meeting: To complete the broad stakeholder input on what works/doesn't work in today's EMS system, look to the future and to begin the focus group process to address the identified topics

Meeting Minutes

Facilitator Chris Thomas opened the meeting with introductions around the room and from those on the phone.

Chris asked for any corrections to the previous meeting's minutes; none were requested at that time.

Chris reported on the receipt of the EMSA response to the CVEMSA request for approval of an extension of the Exclusive Operating Area agreement with AMR. EMSA's letter granted approval to continue the current exclusive area agreement for 4 months, with a new expiration date of October 31, 2019.

Tim Aboudara (Santa Rosa Firefighters) indicated he was unaware the letter from CVEMSA to EMSA requesting the extension was sent to the State. He asked if it had gone on the date shown on the letter, May 7th. Tim said he thought the letter would be sent informed by the conversations occurring in the meetings; why was letter sent before the Sonoma County Board of Supervisors had a chance on 5/8 to support the official request?

Chris Thomas explained the timing was intentional. In the view of EMSA, the LEMSA must be the requesting entity for an EOA extension, and sending the letter ahead of the BOS letter of support reinforced the LEMSA as the requestor rather than the BOS. The ask of the BOS was to provide support for the LEMSA letter, which was done the following day via a BOS letter sent to CA EMSA and copied to the Sonoma County Legislative Delegation. While at the CSAC Legislative Conference later in the week, Supervisor Hopkins worked to get the Legislative Delegation to send a joint letter of support for the request to the CA EMSA. Chris pointed out staff were surprised by the speed of the EMSA response since on the telephone conference call earlier this year, the EMSA staff indicated that it would probably take 30 days to respond. The Board of Supervisors letter was likely delivered to CA EMSA before they made the decision but it is unlikely that the Legislative Delegation's support letter was delivered before CA EMSA responded to the extension request.

Kurt Henke (AP Triton, Cal Chief's Sonoma County Fire Chiefs' Association) asked about the requested term extension duration. When advised CVEMSA had requested one year. Kurt stated he felt it important to ask for the additional 8 months, because we are still in recovery from the October fires. Wants to argue for full one year,

Mark Andrews (EMCC District 4) asked if an additional 4 months is enough, without a cushion, if we get off track.

Discussion followed on the need to march out a timeline to understand if an additional four months was practical as a timeframe to finish the ordinance work, inform the creation of an RFP based on any changed stakeholders wanted to make and to conduct a procurement process, award a new provider contract and implement the new system.

When considering the length of time needed from RFP release to bid, a number of six months was proposed, Bob Norrbom (SVFRA) asked Dean Anderson (AMR) if six months represented sufficient time to evaluate an RFP. Dean responded that 6 months would be a long timeframe for that part of the process; more commonly about 3 months is allotted for review and response.

Steve Akre (SVFRA) commented on the advisability of requesting a year length of extension, asked AMR if a shorter-term extension would be problematic to get leases for buildings, rather than a more standard time period of a year.

Steve Herzberg (EMCC Dist. 5, BBFPD) questioned whether the draft of ordinance and RFP can be done in this time. Steve recalled the previous unsuccessful ordinance development process requiring a significant amount of time; we don't have enough time to go through that process.

Jason Clopton, (RRFPD) questioned the what is that motivation behind EMSA's action to only grant 4 months extension to the EOA agreement when the county has asked for 1 year.

Kurt Henke and Ray Ramirez, Chief Counsel for Cal Chiefs, talked about the current Orange County case. When state EMSA rejects EMS plans that include exclusivity, EMSA is saying that the local County is violating antitrust laws. The Orange County case decision is due out October or November of 2018. If the 9th district upholds the lower court, then CA EMSA's power in these areas will be greatly diminished.

James Salvante (CVEMSA) responded to Steve Herzberg's response about Ordinance process prior to this project. James pointed out the earlier ordinance development had a lot of internal activity unseen by stakeholders, because it was part of the DHS process that was needed before a stakeholder release could occur. DHS just works that way. DHS' careful process-based vetting looked a lot like non-transparency to our stakeholders, but in fact CVEMSA wanted to bring in stakeholders early. CVEMSA wants to be able to work with stakeholders, and we are there now. James feels we have the folks in the room now to get it done. If the previous meeting was any indication of our ability to work together, James thinks we can make it with the 4 month extension from EMSA.

Discussion about a potential appeals process to address EMSA's decision. May have appeal through EMS Commission but this could take several months to more than a year.

Tim Aboudara felt there was also a statutory process available via the Office of Administrative Hearings (OAH) it is 3 -6 months before we can get on that agenda. Getting

before an Administrative Law Judge could take up to a year. The implication was that we need a two-track effort; 1) utilize local representatives to go to State Legislature and have them direct EMSA to grant the longer extension. It was pointed out that the legislators would need to have additional information about why a four month extension would be insufficient and why a full year would be. 2) The other track would be to seek a Writ of Mandate in local court. Or other local legal actions. In addition, the options of the County negotiating a longer extension to the agreement without EMSA's approval and of operating without a formal extension of the agreement and thus no guarantee of exclusivity were also possibilities.

Raymond Ramirez talked about the provisions of the EMS act relative to Counties' powers to define service areas, including the EMSA perspective that the EMS Act (HSC Div. 2.5) supersedes municipal "police powers" to operate ambulance service within their area. Ray stated that the EMSA Deputy Director, Dan Smiley has this opinion but that there are other completed cases that suggest otherwise.

Chris Thomas stated Sonoma County Counsel should weigh in on this issue due to the legal ramifications that are part of whatever path the county will take. Chris also suggested staff schedule a time with Kurt, Ray, and county counsel to discuss the legal details of any appeal action.

Chris felt it was important to also to have CVEMSA give EMSA the reasons why it is important to have more time, expanding on what was provided in the request letter, but with additional specific information that would inform EMSA on why the 4 months are insufficient to do what needs doing. Chris pointed out the letter indicated that EMSA made their decision based on the available information and that special reasons are being considered on a case by case basis. LEMSA has to work with the CA EMSA and should also communicate more information so that the relationship is maintained.

Jason Clopton stated he felt EMSA is being disingenuous, but if we are held to this time line, we need to meet more and work through to get the work done.

Steve Herzberg proposed an RFP for a limited, short term contract of one year to allow process to conclude prior to a longer contract. Another suggestion was for contracts in general to have shorter terms with more frequent opportunities to revisit the system. Limited time and limited RFP time for EOA then a longer one later.

Chris moved the group to look to the previous discussion on service zones particularly since Mark Bramfitt, LAFCO Executive Director, was present today for the portion of the ambulance provider discussion that involved LAFCO. The group would return to the extension discussion at the end of the meeting.

Chris also noted that the other portion of the ambulance service provider topic would be to review the additional pieces added to the CVEMSA proposal for a process to determine how ambulance service providers get changed from what they are currently, as described in the updated white paper issued last week. To wit: what happens when there is a disagreement between public agencies and what if a public agency is not responsive in taking a position?

But first, the group discussed the way the Sonoma County Local Area Formation Commission (LAFCO) would take part in any process involving public provider agencies. Mark Bramfitt, LAFCO Executive Director was asked what the ordinance needs to say to facilitate LAFCOs mandates. He said he looked at it from the perspective of some likely upcoming scenarios: what if --

Bodega Bay FPD annexes the town of Bodega, Russian River FPD annexes another zone and provides ambulance services there, and Valley of Moon FPD, which is currently contracting with other areas to provide fire services as SVFRA, may take Kenwood in the district, or serve it under contracts, SVFRA could also consolidate with Glen Ellen or serve the community under contract.

Mark noted that fire districts and the community services districts providing fire services already have the ability to provide ambulance services among their district powers. 1st response, and transport services have no differentiation in the LAFCO view and nothing further need be done by LAFCO for one of these agencies to begin providing ambulance services. He also pointed out just because a district may provide ambulance services does not mean they must. Kenwood is within the current EOA, if considering annexation into SVFRA fire zone, then ambulance service can also be provided by SVFRA. Kenwood has no fire volunteers and SVFRA may need ambulance as well to make it more worthwhile to take over fire service. But it was also noted that in the case of a potential change to the ambulance service provider for the Kenwood FPD area, there is a current contract (the EOA ambulance service agreement) as an additional issue to deal with.

Jenn Sloan (Knights Valley Volunteer Fire Department), brought up the situation in the Knight's Valley community. Knights Valley is very close to Calistoga, yet still in Sonoma County, and therefore served by the Sonoma County system for fire and transport services, Bell's Healdsburg Ambulance Service is the current ALS ambulance service provider. Under the proposed CVEMSA service provider change process, the Knights Valley residents may go to the Sonoma County BOS to allow a Calistoga entity to provide ambulance service response. Sonoma County is responsible to provide services (and medical control) but may allow contracting with another entity to serve part of the county. Under the proposed process, BOS makes request of LEMSA. With no other public service provider or governing body then LEMSA can go through and change zone on map and then a contract can be drawn up with Calistoga to provide ambulance services, assuming the change in provider will not result in a decrease in medical care or patient safety.

Ray Ramirez talked about the County responsibility to provide medical care to indigent residents, citing two court cases ("Lomita I and Lomita II") Ray stated these cases had gone to state appeals court and had those decisions sent to the California Supreme Court but were denied review, and therefore upheld. Ray stated the County is responsible for indigents' ambulance and medical care. Per California court rulings, the County has the duty to provide services for patients to get to hospital, receive medical care and pre-hospital care. The County has a duty to provide care not based on the ability of the patient to pay.

Ray went on to talk about the contrast between 1797.224 grandfathered EOA holders and those 1797.224 EOA holders who obtained the EOA via a competitive process. The grandfathered providers may lose the status and have no ability to recover through a legal process. EOAs awarded via a competitive process come with some property rights and loss of the status is subject to a legal defense in the courts.

Steve Herzberg wanted to be clear that no one was proposing anything that conflicted with existing contracts but talked about letting contracts expire over time; and thus having no conflicting contractual obligations in regards to potential consolidation areas for fire and 1st responders.

There were potential situations, acknowledged as likely to be rare, where coordination in timing would be needed between the LAFCO and proposed LEMSA processes. One would be where the LEMSA couldn't make a change to a zone until LAFCO completed an action that would be necessary financially before a public provider could extend services to that area. The other might be a situation where LAFCO determined that an action made sense only if the resulting agency could provide ambulance services in an area. In that situation, LAFCO may not want to take action until the LEMSA had completed its process. In both cases, the implication for the proposed ordinance is that the LEMSA may need to, and will in those cases, coordinate timing with LAFCO with respect to proposed changes in ambulance service providers that involve LAFCO.

Stakeholders then pointed out that one real need for the extension is because of the coming consolidation of fire agencies and how 1st responders serve the areas. One suggestion was for the RFP to consider three-year intervals for extensions instead of five-year extensions to better accommodate changes in service boundaries while the consolidation process is happening.

Chris suggested we move discussing agreements to the next meeting and return to the boundary/ambulance provider change issue, particularly on whether the boundary of current EOA may change before the issuance of a new RFP or perhaps certain parts are identified with the potential to change during the term of the next agreement. With that, and recognizing the meeting was coming up to its end, the discussion returned to the topic of the extension request.

Chris asked the group to gather "ammunition" to press EMSA for a longer time period, such as: The underlying public agency map will change within this year, and how do we need to change the contract. EOA boundary to bid and 3 other areas, may come up with your contract year, and may come in our out of EOA.

Brief discussion on the advisability of using system redesign language in any communication with the State since they seemed to regard system redesign as not a valid reason for the extension. James felt the LEMSA can't do an RFP without looking at the system, and how it has worked for the last ten years so we can improve. EMSA may call that system design but it is part of every RFP process. There was sentiment not to exclude system redesign as a reason for the extension to be a year, but to embrace it and provide more detail as to why.

Ray pointed out EMSA has the rules but has never been made those into regulations, they are rules and the EMSA makes those rules. That's the problem.

Steve Akre mentioned the Fires have catalyzed the people in looking at redesign for 1st responders and fire services. Finish the 1st responder boundaries. The attitude of the community is different now because of the fires.

Mark Heine (Windsor, Rincon Valley Fire) suggested we get in the weeds for the explanation to make the points for the longer extension. For example, LAFCO is currently conducting municipal service reviews and evaluation on boundaries, and the findings may have impact on the EOA.

Meanwhile, we need to let the Board of Supervisors know that we are working on additional information to support the longer extension, as well as the other legal options.

Chris closed the meeting with an assignment to participants. Assignment: putting details down to show what we need the extension for and why.

A final suggestion was to give an estimate of what we could do in four months and show the things we could not address in that time frame. What would be the consequences?

James pointed out the EMSA viewpoint may be that the system design work is possible without an EOA... they may say, "go ahead and design your system and then talk to us about an EOA". EMSA is looking at the EOA as only part of the EMS system. Need to show why loss of the EOA is problematic.

A check on the phone participation revealed that it worked for those who used it so this method (webex invitation to meeting) will be continued for future meetings.

Project Website:

<https://www.coastalvalleysems.org/about-us/committees/sonoma-county-ems-systems-workgroup.html>