

**ACTION MINUTES OF THE  
LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 20, 2013**

**REGULAR MEETING**

**9:00 A.M.**

**NOVEMBER 20, 2013**

**PRESENT:**

**COMMISSIONERS:** Jim Bagley  
James Curatalo, Chair  
Robert Lovingood  
Larry McCallon  
James Ramos  
Dawn Rowe, Alternate  
Sunil Sethi, Alternate  
Robert Smith, Alternate  
Diane Williams

**STAFF:** Kathleen Rollings-McDonald, Executive Officer  
Clark Alsop, LAFCO Legal Counsel  
Samuel Martinez, Assistant Executive Officer  
Michael Tuerpe, Project Manager  
Rebecca Lowery, Clerk to the Commission  
Joe Serrano, LAFCO Secretary

**ABSENT:**

**COMMISSIONERS:** Kimberly Cox, Vice-Chair  
Janice Rutherford, Alternate

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION  
COMMISSION – CALL TO ORDER – 9:05 A.M. – SAN BERNARDINO CITY COUNCIL  
CHAMBERS**

Chairman Curatalo calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

**CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS:**

1. Approval of Minutes for Regular Meeting of October 16, 2013
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Months of October 2013 and Note Cash Receipts

LAFCO considers the items listed under its consent calendar, which includes a Visa Justification and a staff report outlining the staff recommendations for the reconciled

payments. Copies of each report are on file in the LAFCO office and are made part of the record by their reference herein.

Executive Officer Kathleen Rollings-McDonald states that no items have been requested to be deferred for discussion.

Commissioner McCallon moves approval of the consent calendar, second by Commissioner Williams. Chairman Curatalo calls for opposition to the motion. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, McCallon, Ramos, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Smith voting in her stead), Lovingood.

**PUBLIC HEARING ITEM:**

**ITEM NO. 4.** No Items Deferred for Discussion

**DISCUSSION ITEMS:**

**ITEM NO. 5. CONSIDERATION OF CONTRACT WITH COUNTY OF SAN BERNARDINO AUDITOR-CONTROLLER/TREASURER/TAX COLLECTOR FOR CONTINUED PAYROLL AND ACCOUNTING SERVICES**

Project Manager Michael Tuerpe presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. The full recommendation is outlined on page 1 of the staff report.

Mr. Tuerpe states that LAFCO contracts with the County for payroll and payroll reporting and accounting services. He states that due to changes in payroll reporting in the Internal Revenue Code as a result of the Affordable Care Act, the County is required to establish a payroll reporting relationship. He says that it was determined during the July hearing that LAFCO would continue the relationship with the County to provide payroll reporting and accounting services and directed the Executive Officer to negotiate a contract with the County for these services. Staff continues to work with the Auditor staff on a contract for continuing service, but to date no draft has been provided by Auditor staff for consideration. Therefore, staff is recommending that the item be continued to the January 15, 2014 hearing for consideration.

Commissioner Smith moves approval of the continuation of the item to the January 15, 2014 hearing, second by Commissioner Ramos. Chairman Curatalo calls for opposition to the motion. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, McCallon, Ramos, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Smith voting in her stead), Lovingood.

**ITEM NO 6. CONSIDERATION OF AMENDMENT TO FEE SCHEDULE AND FEE WAIVER POLICY**

Assistant Executive Officer Samuel Martinez presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. The full recommendations are outlined on pages 1 and 2 of the staff report.

(It is noted that Commissioner Lovingood arrives at 9:11 a.m.)

Mr. Martinez states that at the October hearing the Commission raised questions concerning the need to change its policy regarding the LAFCO filing fee waiver/reduction provisions. He states that Government Code Section 56383(d) provides the ability for the Commission to address the issue of a reduction or waiver of a fee charge or deposit. The Commission utilized this section when adopting its fee waiver policy in 1981. He states that the current policy allows the Commission to review a request for a reduction of fees or a fee waiver and allows the flexibility for the Commission to make its determination on the merits of each request.

Mr. Martinez states that staff is proposing to slightly modify the language for Item C to include a provision that requires the applicant to provide a justification for the request and identify the fee or deposit it is requesting to be waived or specify the dollar amount of the fee, deposit or charge to be reduced and that the requests shall be placed on the Commission's consent calendar for consideration.

Mr. Martinez also states that staff is proposing another option for automatic waivers, which is to waive the sphere of influence fee for concurrent sphere amendment (expansion and/or reduction) and reorganization (annexation and/or detachment) proposals where the boundaries of the sphere of influence change and the annexation/detachment change are coterminous. However, staff is recommending a limitation on this automatic waiver which is based on location - 100 acres for proposals within the Valley and Mountain regions and 640 acres for proposals located in the Desert region.

Mr. Martinez states that as part of the overall discussion of the fee changes, staff is proposing to keep the current fee structure, applying it only to the valley and/or mountain regions, and have a separate fee structure for the desert region which includes north and south desert areas, which have larger parcel configurations. He says that these changes to the fee schedule will require legal advertisement in a newspaper of general circulation and that staff is recommending that the Commission signal its intent to approve the changes proposed by staff and add the item to the January 2014 hearing for final approval.

Marina West, General Manager, Bighorn-Desert View Water Agency, thanks the Commission for the policy update noting that the changes take into consideration the property differences in the many areas of the county. She states that she feels this will help further along progress in the desert regions. She asks how these changes will affect the government checker board lands or homestead lands in the area with regards to fee reductions.

Commissioner Bagley asks staff if the issue of annexing checkerboard lands has been taken into consideration during the process of amending the fee waiver policy.

Executive Officer Kathleen Rollings-McDonald states that staff has addressed these types of lands and that the fee waiver is based on the legal description of the area and that until a report of landowners is run, it is not clear which lands are publicly owned and that

sometimes lands which are owned federally or by the state are leased to private individuals or corporations which do pay property taxes.

Commissioner Bagley states that in areas where there are large amounts of vacant land, a resident or landowner looking for service or to annex to a service agency will benefit from the change to the fee waiver policy. He states that the Commission needs the flexibility in the policy.

Executive Officer Kathleen Rollings-McDonald states that there is a myriad of federal lands that need some type of municipal service from water to fire protection and that this policy change will help to facilitate to ease service provision and maintenance.

Commissioner Williams moves approval of the staff's recommendation for amendment to the Fee Schedule and Fee Waiver Policy, second by Commissioner Lovingood. Chairman Curatalo calls for opposition to the motion. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, Lovingood, McCallon, Ramos, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Smith voting in her stead).

## **INFORMATION ITEMS:**

### **ITEM NO 7. LEGISLATION UPDATE REPORT**

Executive Officer Kathleen Rollings-McDonald presents the report for the pending legislation, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here.

She states that the legislative report includes the two bills that were signed into law and supported by CALAFCO. The first is AB 1427 – the CALAFCO Omnibus bill and the second being AB 743 (Logue). She also notes that the Commission has taken the position that the passage of SB 89, which was effective July 1, 2012, has created a situation where island annexations do not appear to be sustainable in general; therefore, the Commission amended the Application Processing Policy #10 related to islands to include a new item that addresses removal of the motor vehicle in-lieu fees and the unsustainability of annexations.

She also states that SB 245 (Fuller) that addresses an update to the Special Act for the Bighorn-Desert View Water Agency was supported by the Commission and was signed by the Governor, will take effect January 1, 2014.

Ms. McDonald notes that she has provided to the Commission a copy of the "Debt Line" publication as an attachment to the staff report which provides a listing of legislation proposed related to Local Finance and Infrastructure and that many of the bills listed are attempts to fill the void left by the elimination of redevelopment agencies. She also notes that three bills of particular interest to staff with the potential for broad impact on funding streams are SB 33 (Wolk), AB 229 (Perez) and AB (243 Dickinson). Staff will continue to monitor these items and will keep the Commission apprised of any notable information or actions.

Ms. McDonald also states that she has been selected to maintain her seat on the CALAFCO Legislative Committee.

No action is required.

**ITEM NO. 8 EXECUTIVE OFFICER'S ORAL REPORT**

Executive Officer Kathleen Rollings-McDonald presents the Executive Officers oral report and presents the video created by Assistant Executive Officer Samuel Martinez and Emmanuel Abello, Commission Clerk, Santa Clara LAFCO for the CALAFCO Annual Conference.

Ms. McDonald introduces Pamela Miller, Executive Director of CALAFCO.

Ms. Miller states that she has come to express her appreciation and gratitude to Assistant Executive Officer Samuel Martinez for his exemplary dedication and hard work on the CALAFCO Annual Conference Planning Committee and that she is looking forward to continue her working relationship with him as he heads the committee for the CALAFCO Annual Conference that this Commission is hosting in 2014.

She also informs the Commission that due to the concurrent scheduling of the CSDA conference, the date of the Conference has been moved from September to October with no increase in hotel rates. She thanks the Commission for allowing staff to participate on the various CALAFCO committees and for the Commission's support of CALAFCO.

Executive Officer Kathleen Rollings-McDonald gives an update of the Fiscal Indicators Project and notes that the project is moving along.

Ms. McDonald provides an update on the Special Study for Newberry, Daggett and Yermo CSDs and notes that Mr. Tuerpe, Project Manager, is scheduled to conduct site visits to the three districts on Thursday, November 21, 2014.

(Commissioner Smith leaves the dais)

Bob Smith, President of the Board of Directors for Yermo CSD, states that the constituents of the Yermo CSD are not happy that their district has been perceived to have the same issues as those of the Newberry CSD; the constituents feel that by LAFCO's initiation of a special study for the three neighboring CSDs, as recommended by the Grand Jury's report, they are being corralled into the same category as Newberry CSD. He states that the residents of both Yermo and Daggett feel like the LAFCO Commission is punishing them for Newberry's shortcomings and no other apparent reason. Mr. Smith expresses the request that he would like for the Commission to help these small districts instead of criticizing them, as they feel the Commission is currently doing by virtue of the Special Study Service Review. Mr. Smith states that his district was informed of the items that staff was requesting for the review only a few day prior to the scheduled site visit and that the list was very comprehensive and that it would require time and resources that the district does not currently have to compile all the information.

Executive Officer Kathleen Rollings-McDonald states that staff's response to Mr. Smith's comments will be placed on the January 15, 2014 agenda.

Executive Officer Kathleen Rollings-McDonald gives an update of the Mapping Program and states that staff continues to work with the county's mapping division and that the maps should be available by the first part of January 2014.

Ms. McDonald notes that the Commission is dark the month of December and that the LAFCO staff office will be closed from December 20, 2013 until January 3, 2014 and will resume normal working hours on January 6, 2014.

Ms. McDonald informs that Commission that SCAG has put together a Technical Committee and that she has been confirmed to be a part of that working group.

No action is required.

**ITEM NO. 9 COMMISSIONER COMMENTS**

There are none.

**ITEM NO. 10 COMMENTS FROM THE PUBLIC**

There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION,  
THE HEARING IS ADJOURNED AT 10:20 A.M.**

**ATTEST:**

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**REBECCA LOWERY**  
Clerk to the Commission

**LOCAL AGENCY FORMATION COMMISSION**

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**JAMES CURATALO, Chairman**