

**ACTION MINUTES OF THE  
LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JANUARY 15, 2014**

**REGULAR MEETING**

**9:00 A.M.**

**JANUARY 15, 2014**

**PRESENT:**

**COMMISSIONERS:** Jim Bagley  
James Curatalo, Chair  
Robert Lovingood  
Larry McCallon  
James Ramos  
Dawn Rowe, Alternate  
Janice Rutherford, 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  
Sunil Sethi, 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.

Kathleen Rollings-McDonald, Executive Officer, announces that the Commission will be implementing the changes to the Brown Act which were effective January 1, 2014 per SB 751, which requires all legislative bodies to publicly report any action taken in any meeting, and the vote or abstention on that action of each member present. In order to comply, San Bernardino LAFCO Clerk to the Commission will take the votes for all items by roll call and will continue to note the information regarding the votes in the action minutes.

**CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS:**

1. Approval of Minutes for Regular Meeting of November 20, 2013
2. Approval of Executive Officer's Expense Report

3. Ratify Payments as Reconciled for Months of November and December 2013 and Note Cash Receipts
4. Consideration of: (1) CEQA Statutory Exemption for Schedule of Fees, Deposits and Charges Revisions; and (2) Review and Adoption of Amended Schedule of Fees, Deposits and Charges for Fiscal Year 2013-14

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 and the staff report outlining the CEQA Statutory Exemption and Review and adoption of the schedule of fees and deposits for FY 2013-14. 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 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, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Smith voting in her stead), Ramos.

**PUBLIC HEARING ITEMS:**

**ITEM NO. 5.** No Items Deferred for Discussion

**DISCUSSION ITEMS:**

**ITEM NO. 6. CONSIDERATION OF REQUEST FOR EXEMPTION FROM GOVERNMENT CODE SECTION 56133 FOR LAFCO SC#383 – WASTEWATER COLLECTION AND TREATMENT SERVICE AGREEMENT BETWEEN THE CITY OF RIALTO AND COUNTY SERVICE AREA 70 ZONE BL (BLOOMINGTON SEWER)**

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 recommendation is outlined on page 1 of the staff report.

He states that on November 14, 2013, the City of Rialto (hereinafter the “City”) submitted a letter requesting that the Commission determine that the Out-of-Agency Service Agreement between the City and County Service Area 70 Zone BL (hereinafter “CSA 70 BL” or the “District”) is exempt from the provisions of Government Code Section 56133. The agreement allows for the City’s acceptance of wastewater collected from within the boundaries of CSA 70 BL for transportation and treatment at its facility.

He says that the City has cited the relevant exemption language within Government Code Section 56133 (e) for its request.

Mr. Martinez notes that on the basis of the determinations outlined in the staff report, LAFCO

staff recommends that the Commission determine that pursuant to Government Code Section 56133 Subsection (e), the Extraterritorial Agreement for Wastewater Conveyance and Treatment between the City of Rialto and County Service Area 70 Zone BL is exempt from further review and should be approved by the Commission.

Commissioner Williams moves approval of the request for exemption, second by Commissioner Bagley. 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, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Smith voting in her stead), Ramos.

**ITEM NO 7. CONSIDERATION OF CONTRACT WITH COUNTY OF SAN BERNARDINO AUDITOR-CONTROLLER/TREASURER/TAX COLLECTOR FOR CONTINUED PAYROLL AND ACCOUNTING SERVICES (CONTINUED FROM NOVEMBER 20, 2013 HEARING)**

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 In June 2013, the County notified LAFCO of changes in payroll reporting in the Internal Revenue Code as a result of the Affordable Care Act require the establishment of a payroll reporting relationship (in this case the relationship between the County and LAFCO). At the July hearing, the Commission directed the Executive Officer to negotiate a contract with the County for payroll reporting and accounting services and obtain its own federal and state identification numbers. By November the County had not finalized a draft contract for Commission review, and at the November hearing the Commission continued the consideration to the January 2014 hearing.

He says that as of the date of this report, the County still has not finalized a draft contract. Therefore, LAFCO staff cannot provide a draft contract for Commission review. The Assistant Auditor has assured LAFCO staff that payroll services will continue in the same manner as before and it will continue to deposit and pay LAFCO's payroll taxes as LAFCO's "reporting agent", using LAFCO's separate Federal and State Employer Identification Numbers. He asks for the item to be continued to the February 19, 2014 hearing.

Commissioner McCallon moves approval of the request to continue the item, second by Commissioner Smith. 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, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Smith voting in her stead), Ramos.

(It is noted that Commissioner Ramos arrives at 9:15 a.m.)

**ITEM NO 8. STATUS REPORT ON LAFCO 3176 – SERVICE REVIEWS FOR THE DAGGETT, NEWBERRY AND YERMO COMMUNITY SERVICES DISTRICTS**

Executive Officer Kathleen Rollings-McDonald 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 page 1 of the staff report.

Ms. McDonald states that at the November 20 hearing, as a part of the Executive Officer's Report, the Commission heard public comment from the president of the Yermo Community Services District regarding the off-cycle service review of the Newberry, Daggett, and Yermo CSDs. In response to those comments, the LAFCO Executive Officer stated that information regarding the questions raised would be provided as a part of the January 15 agenda. Ms. McDonald informs the commission that staff's responses are detailed in the staff report; she further notes that it is important to work with the districts and the agencies that are required to provide information for the completion of the service review.

Ms. McDonald states that at the October Hearing, the commission requested that staff explore the possibility of providing educational training to help inform new and existing district board of directors and their staff of their responsibilities and of the laws that govern their operations.

She says that in December, LAFCO staff contacted SDRMA about the possibility of conducting a special training session in the community on board governance. This would provide training and access to resources that the districts may not have otherwise. The intent would be to offer this training to all districts in the county. SDRMA has identified that training can be tailored primarily for CSDs (relevant for this service review), with parallel dialogue regarding other types of districts (i.e. public cemetery districts) worked into the training.

Ms. McDonald states that staff recommends that the Commission provide direction to staff to review the options in more detail with SDRMA for a special training session and authorize the Executive Officer to negotiate with SDRMA for this training. At this time, SDRMA has identified that there would be no cost for any CSD that attends. There may be a cost for those districts not a member of SDRMA and not a CSD, which would be borne by the Commission.

Commissioner Smith thanks the commission for moving forward in educating the districts and providing an opportunity for training in governance. He also notes that the county fire district had closed the Harvard fire station and that the area was being served by Newberry and Helendale, which are a considerable distance to Yermo. He also comments that the county is trying to reopen the Harvard fire station with volunteer fire fighters.

Commissioner Lovingood states that the U.S. Marines and Army provide excellent outreach and safety services in that area and that the Yermo CSD also provides good services to the area and that it has not been completely abandoned.

Commissioner Smith states that his concern is that if new leadership is assigned to either the Marine or Army bases, it could possibly change the district's ability to call on them for assistance.

Commissioner Bagley states that he is pleased to hear that SDRMA has been called in to help with the education process for the district board of directors and their staff. He also states that he would like to see training materials for items like the Brown Act and others linked to LAFCO website for the districts to refer to as needed.

Commissioner Ramos moves approval of staff recommendations, 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).

Chairman Curatalo calls a 10 minutes recess at 9:26 a.m.

Chairman Curatalo reconvenes the hearing at 9:36 a.m.

**ITEM NO 9. WORKSHOP PRESENTATION ON THE MECHANISMS TO PROVIDE FOR MANAGEMENT OF OPEN SPACE AND HABITAT PRESERVATION LANDS – PARTICIPANTS ANTICIPATED TO INCLUDE REPRESENTATIVES FROM THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE, FEDERAL DEPARTMENT OF FISH AND WILDLIFE, ARMY CORPS OF ENGINEERS, SANTA ANA REGIONAL WATER CONTROL BOARD**

Executive Officer Kathleen Rollings-McDonald 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.

Ms. McDonald states that the staff report gives a history of LAFCO 3157 – Sphere of Influence Establishment for CSA 120. She says that staff has invited State and Federal agencies to present information regarding their process and requirements to the commission. She notes that this is a workshop session and that no discussion of the proposal will take place and that there are no actions to be taken at this hearing.

Ms. McDonald introduces Jeff Brandt, Senior Environmental Scientist, CA Department of Fish and Wildlife.

Mr. Brandt presents a brief introduction to California's Department of Fish and Wildlife's (CDFW) environmental review programs and mitigation relative to CDFW permits, a copy of which is available on the LAFCO website and in the LAFCO office.

(It is noted that Commissioner Rutherford arrives at 9:54 a.m.)

The commission engages in a brief question and answer period with Mr. Brandt.

Ms. McDonald introduces Mark Adelson, Senior Environmental Scientist, CA Regional Water Quality Control Board, Santa Ana Region.

Mr. Adelson presents "Mitigation Guidelines for impacts to waters of the State in the Santa Ana Region", a copy of which is available on the LAFCO website and in the LAFCO office.

The commission engages in a brief question and answer period with Mr. Adelson.

Executive Officer Kathleen Rollings-McDonald states that she hopes that the presentations have shed some light on the detailed and sometimes complicated management process of open space and habitat preservation that staff encounters when processing these types of sphere proposals and service reviews.

(It is noted that Commissioner Lovingood leaves the dais at 11:04 a.m.)

Candyce Burnett, Planning Manager, City of Rancho Cucamonga, states the City's concerns over the county special districts ability to manage the vast area in CSA 120 and that the City feels that the Inland Empire Resource Conservation District is better qualified to manage this area.

(It is noted that Commissioner Lovingood returns to the dais at 11:06 a.m.)

Executive Officer Kathleen Rollings-McDonald states that if the commission has questions or further direction for staff as a result of the workshop, that they can be forwarded to staff at any time so that the information can be included in the staff report.

Commissioner Bagley asks for clarification as to the Inland Empire Resource Conservation District.

Executive Officer Kathleen Rollings-McDonald states that the Inland Empire Resource Conservation District overlays the entirety of the valley and extends into Riverside County. It is an agency that holds mitigation lands, performs the services required and works in conjunction with the national resource entities. She further states that staff will be providing the list of mitigation lands and their holders during the discussion on CSA 120.

No action required on this item.

### **INFORMATION ITEMS:**

#### **ITEM NO 10. LEGISLATIVE UPDATE REPORT**

Executive Officer Kathleen Rollings-McDonald presents the oral report for the pending legislation noting that legislature was in recess during the holiday. She states that she has been elected chair of the disincorporation subcommittee for CALAFCO's legislative committee. The committee has representatives from the south, central and northern LAFCOs and that they will work on updating the statutes regarding disincorporation. She says that if the commission has any items that they would like to see move forward in the legislative committee to inform staff.

#### **ITEM NO 11. EXECUTIVE OFFICER'S REPORT**

Executive Officer Kathleen Rollings-McDonald presents the Executive Officer's oral report. She states that six of the commission's terms of office will be expiring in May and that staff has begun the process for nomination for those seats.

Ms. McDonald says that the commission has been provided with an updated copy of “50 Years of LAFCOs – A guide to LAFCOs”, a copy of an article in the press enterprise regarding a tax dispute with tribal lands in Riverside County, a legal alert from Best Best and Krieger regarding Prop. 26, improvement and tourism marketing district assessments; a memo from Best Best & Krieger regarding the new FPPC rules on travel, and the listing of classes available through SDRMA.

Ms. McDonald asks if any member of the commission wishes to participate in the host committee for the annual conference to inform staff. She says that the commission will be hosting the annual conference in October and that staff would like to show case the county and the region.

Ms. McDonald request that the commission adjourn in memory of former commissioner Jon Mikels, former County Supervisor and former member of the Commission.

**ITEM NO 12. COMMISSIONER COMMENTS**

There are none.

**ITEM NO 13. COMMENTS FROM THE PUBLIC**

There are none.

Commissioner Smith moves adjournment of the hearing in memory of former commissioner Jon Mikels, 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).

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED IN MEMORY OF FORMER COMMISSIONER JON MIKELS AT 11:21 A.M.**

**ATTEST:**

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**REBECCA LOWERY**  
Clerk to the Commission

**LOCAL AGENCY FORMATION COMMISSION**

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**JAMES CURATALO, Chairman**