

**ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF FEBRUARY 19, 2014**

REGULAR MEETING

9:00 A.M.

FEBRUARY 19, 2014

PRESENT:

COMMISSIONERS: Jim Bagley
Kimberly Cox, Vice-Chair
James Curatalo, Chair
Robert Lovingood
Larry McCallon

James Ramos
Dawn Rowe, Alternate
Janice Rutherford, Alternate
Sunil Sethi, 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: Robert Smith, Alternate

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION
COMMISSION – CALL TO ORDER – 9:03 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.

Chairman Curatalo requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS:

1. Approval of Minutes for Regular Meeting of January 15, 2014
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for the Month of January 2014 and Note Cash Receipts
4. Review and Accept Audit Report for Fiscal Year Ended June 30, 2013

LAFCO considers the items listed under its consent calendar, which includes a Visa Justification, the Executive Officer expense report and a staff report outlining the staff recommendations for the reconciled payments. Also included is the Audit Report for Fiscal Year Ended June 30, 2013. 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 an update to her expense report has been placed at each Commissioner's place. She says that no items have been requested to be deferred for discussion.

Commissioner McCallon moves approval of the consent calendar, second by Commissioner Ramos. Vice-Chair Cox states that she will abstain from item 1. The clerk conducts a roll call vote as follows: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: Cox on Item 1. Absent: None. The item passes.

PUBLIC HEARING ITEMS:

ITEM NO. 5. No Items Deferred for Discussion

ITEM NO. 6. CONSIDERATION OF NOTICE OF INTENT TO ADOPT MITIGATED NEGATIVE DECLARATION FOR LAFCO 3157 – SPHERE OF INFLUENCE ESTABLISHMENT FOR COUNTY SERVICE AREA 120 (HABITAT PRESERVATION AND HISTORICAL RESOURCES -- NORTH ETIWANDA)

(It is noted that LAFCO Legal Counsel Clark Alsop leaves the dais at 9:06 a.m.)

Executive Officer Kathleen Rollings-McDonald informs the Commission that there is an attorney conflict with LAFCO 3157 and that Legal Counsel Clark Alsop has recused himself for this item. She states that LAFCO will be requesting special counsel for this proposal at the March hearing. She also notes that two items have been placed at the Commissioners' places that were received after the mailing of the staff report. One is a letter from Supervisor Rutherford revising the County's application request proposing that the sphere of influence for CSA 120 be coterminous with boundaries (minus the portion of the Fontana Multiple Species Habitat Conservation Plan that is within its boundaries); the second is a letter from Andrew Hartzell of O'Neil LLP, representing Lytle Development, indicating the reassertion of their comments.

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. Notice was provided to environmental assessment commenters as well as affected and interested agencies, county departments and those individuals and agencies having requested such notification. The full recommendation is outlined on page 1 of the staff report.

Ms. McDonald states that the Commission's environmental consultant has prepared an initial study, a proposed Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program for LAFCO 3157 which is the sphere of influence establishment for CSA 120, a single purpose board-governed County Service Area for open space and habitat conservation.

She notes that the Commission is the lead agency for environmental review and reviews the alternatives identified during the processing of the environmental assessment as noted on page 2 of the staff report. She states that the document was advertised and circulated for review pursuant to the requirements of the California Environmental Quality Act and the Commission's Environmental Policies. She lists those agencies and individuals who provided comment as noted on page 3 of the staff report.

Ms. Rollings-McDonald reviews the staff recommendations as listed in the staff report.

The following members of the public spoke in support of the proposal:

Lynn Boshart, representing Save Lytle Creek Wash and Endangered Habitats League;
Steve Loe, Biologist & Citizen from Yucaipa

The following member of the public spoke in opposition of the proposal:

Albert Kelly, retired teacher

Commissioner Ramos moves approval of the item as presented, second by Commissioner Lovingood. The clerk conducts a roll call vote as follows: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: None. The item passes.

(It is noted that LAFCO Legal Counsel Clark Alsop returns to the dais at 9:20 a.m.)

ITEM NO 7. CONSIDERATION OF RECOMMENDATION TO REQUIRE PREPARATION OF ENVIRONMENTAL IMPACT REPORT FOR LAFCO 3172 – REORGANIZATION TO INCLUDE FORMATION OF THE BALDWIN LAKE FIRE PROTECTION DISTRICT AND DETACHMENTS FROM SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND ITS MOUNTAIN SERVICE ZONE

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 recommendation is outlined on page 1 of the staff report.

Ms. Rollings-McDonald reviews the background of the proposal and volunteer fire department, as detailed in the staff report. She adds that throughout the processing of the proposal, LAFCO staff has identified that consolidation of services, rather than a fragmentation, is the direction of LAFCO law and Commission policy. She states that the Commission's policies clearly state the other alternatives should be evaluated before moving forward to consider the formation of a new entity to provide related or existing services. .

Ms. Rollings-McDonald notes that staff is concerned with the long term financial sustainability of the proposed District and notes that Baldwin Lake Fire Department currently uses an all-volunteer model for provision of fire protection and emergency medical response. She notes that staff concerns have been increased by the recommendation of the Commission's environmental consultant. She states that in response to the ongoing concerns noted in the staff report, staff is recommending that the Commission modify the current application to remove the formation and replace it with the annexation of the same territory to the Big Bear City CSD.

Ms. McDonald reviews the environmental considerations as noted in the staff report and states that the Commission is the lead agency in this proposal. She says the Commission's environmental consultant, Tom Dodson, has raised concerns regarding the possible reduction of service and has recommended that the necessary environmental assessment for LAFCO 3172 would be the preparation of an EIR, as detailed in his letter listed as Attachment 6 to the staff report.

Ms. McDonald states that LAFCO staff is having a difficult time requiring the submission of a \$20,000 deposit from a community group to prepare an environmental document for a proposal which staff cannot support under current Commission policy. She notes that staff is recommending a modification to LAFCO 3172 to eliminate the formation of a new fire protection district and replace it with the annexation of the same territory to the Big Bear City CSD for fire and emergency response.

Commissioner Ramos asks if community outreach has been conducted. Ms. McDonald states that the chief proponent has conducted community outreach with the residents in Baldwin Lake and notes that LAFCO staff has not at this point, engaged in a community outreach meeting for this proposal.

Commissioner Ramos clarifies that a community meeting, with the residents of Baldwin Lake, to inform them of what the financial implications of this modification to the proposal will entail is what is being recommended by LAFCO staff.

Ms. McDonald notes that the proponent of LAFCO 3172 has indicated support for the modification with the caveat that if any impediments to the completion of the annexation to the Big Bear City CSD occur that the item be returned to the Commission for consideration of the formation of the Baldwin Lake Fire Protection District.

Commissioner Bagley states that he recently visited that area and that this area has extraordinary circumstance and that services need to be provided by local resources. He states that due to the area, local knowledge is important. He states that he does have concerns regarding the cost of the EIR and asks if there is an estimate of the total cost for the EIR.

Tom Dodson, environmental consultant for LAFCO, states that the starting number would be at the minimum \$20,000. Mr. Dodson reviews the process for assembling an EIR.

Commissioner Bagley states that it is a complicated process and a decision that the residents of the community will have to make.

Commissioner McCallon asks who the individuals were that were conferred with on this issue.

Mr. Dodson notes that Chief Hartwig, Chief Winslow and staff were consulted. Commissioner McCallon asks why no one without a vested financial interest in the proposal was consulted.

Ms. McDonald states that Chief Willis, of the Big Bear Fire Authority, a joint powers authority, was also consulted.

Commissioner McCallon states that as a personal public outreach, he has spoken to the City of Big Bear Lake and that no opposition was indicated.

Chief Winslow, proponent discusses the growth issue of the area and makes note of the process he has undertaken with the proposal along with a description of the nature of the fire and medical services in the proposal area. He states that he supports staff recommendation with one amendment. He asks that the recommendation be amended to include in an item #4 that would bring the item back to the Commission for consideration of a fire district should the annexation fail.

Commissioner Cox asks if the community is in support of the proposal; to which Chief Winslow indicates that the community is in support.

Commissioner Cox asks what the new annual assessment will be.

Chief Winslow notes the new assessment at \$150 annually.

The following members of the public spoke in support of the proposal: Quincy Sloan, Firefighter; Robbie Bos, registered voter; Paul Stockwell, property owner; Cheryl Butcher; David Higgins; Lee Gaitan, volunteer fire fighter; Baslve Cacanakis; Gene Campbell; Clarissa Winslow; Austin Rucker, volunteer firefighter.

The following members of the public passed on the opportunity to speak but indicated support of the proposal: Cody Sevedge; Morgan Kizanis; Bryan Melka; Louie Garcia.

Mark Hartwig, Fire Chief, San Bernardino County Fire Protection District, notes how the services are provided in Baldwin Lake and notes that it is currently a volunteer fire company formed under the auspices of the San Bernardino County Fire Protection District. He gives an outline of how response is coordinated in the County Fire District. He notes that the community should decide how they want to receive their fire service.

Commissioner Bagley asks if the district becomes part of the Big Bear City CSD will it become a paid call station.

Chief Hartwig comments that the county has different ways of manning a station and gives the explanation. He notes that the county could provide a paid call station.

Commissioner Bagley notes that it is important to look at not only what is best for Baldwin Lake but also what is best for the entire mountain community.

Commission Ramos asks if the amendment requested by the proponent is acceptable.

Ms. McDonald states that the recommendations provided by staff can be modified or amended to include an item #4 that states that if impediments to completion of the annexation to the Big Bear City Community Service District occur, the matter will be returned to the Commission for evaluation of the formation of the Baldwin Lake Fire Protection District and that at that time the issue of a need of an environmental review can be discussed.

Tom Dodson states that some form of environmental analysis will need to be adopted once the process goes forward and advises and lists the Commission's environmental options.

Commissioner Ramos requests the amendment to staff recommendations as discussed.

Commissioner Cox states that it is important to move the process along so that the project is not too much delayed, that the community should determine what they feel is best for their needs and that a costly EIR may not be in the best interest of the people.

Commissioner Williams states that she agrees that the people should determine what they want.

Commissioner McCallon states that he also supports the idea that the community should determine what they feel is best for them and that a costly EIR would not be in the best interest of the people.

Commissioner Ramos moves approval of the item as amended to include an item #4, second by Commissioner Cox. The clerk conducts a roll call vote as follows: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: None. The item passes.

DISCUSSION ITEMS:

ITEM NO 8. MID-YEAR BUDGET REVIEW FOR FISCAL YEAR 2013-14: FINANCIAL REPORT FOR PERIOD JULY 1 THROUGH DECEMBER 31, 2013 ; DISCUSSION OF WRITE-OFF OF UNCOLLECTIBLE DEBT FOR BAKER COMMUNITY MUNICIPAL SERVICE REVIEW IN THE AMOUNT OF \$1,728

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 discusses the mid-year financial review and notes that LAFCO has seen an increase in proposals this fiscal year. She points out the outstanding balance due to LAFCO by the Baker Community Services District for the service review.

She informs the Commission of the training for the special districts on governance has been scheduled for March 25, 2014 from 1pm to 4pm at the Mojave Water Agency.

The Commission asks that staff continue to attempt recovery of the outstanding Baker Community Services District service review costs.

Consensus on item – staff recommendation approved as modified; staff to continue to attempt recovery of outstanding costs from Baker CSD.

ITEM NO 9. CONSIDERATION OF CONTRACT WITH COUNTY OF SAN BERNARDINO AUDITOR-CONTROLLER/TREASURER/TAX COLLECTOR FOR CONTINUED PAYROLL AND ACCOUNTING SERVICES (CONTINUED FROM JANUARY 15, 2014 HEARING)

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.

She informs the Commission that no further information has been provided by the auditor-controller's office regarding this contract since the last hearing and that staff is recommending removal of the item from the Commission's calendar.

Commissioner McCallon moves approval staff recommendation, second by Commissioner Williams. The clerk conducts a roll call vote as follows: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: None. The item passes.

INFORMATION ITEMS:

ITEM NO 10. LEGISLATIVE UPDATE REPORT

Executive Officer Kathleen Rollings-McDonald presents the oral report for the pending legislation. She informs the Commission that the CALAFO Legislative Committee met to discuss priorities in the pending legislation which includes a strong subcommittee on disincorporation, which she states that she will chair; she reviews CALAFCO interest in 2 bills, SB56 and AB1521.

ITEM NO 11. EXECUTIVE OFFICER'S ORAL REPORT

Executive Officer Kathleen Rollings-McDonald presents the Executive Officer's oral report. She informs the Commission that two proposals will require contracting with an outside legal firm as staff has been made aware that conflicts exist. This will come before the Commission at the March hearing.

ITEM NO 12. COMMISSIONER COMMENTS

There are none.

ITEM NO 13. COMMENTS FROM THE PUBLIC

There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION,
THE HEARING IS ADJOURNED AT 11:23 A.M.**

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman

DRAFT