

**ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF JUNE 18, 2014**

REGULAR MEETING

9:00 A.M.

JUNE 18, 2014

PRESENT:

COMMISSIONERS: Jim Bagley
James Curatalo, Chair
Steve Farrell, Alternate
Robert Lovingood
James Ramos
Acquanetta Warren, 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 Analyst

ABSENT:

COMMISSIONERS: Kimberly Cox, Vice-Chair
Larry McCallon
Sunil Sethi, Alternate
Janice Rutherford, Alternate

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION –
CALL TO ORDER – 9:02 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 RECOMMENDATION:

The following consent items are expected to be routine and non-controversial and will be acted upon by the Commission at one time without discussion, unless a request has been received prior to the hearing to discuss the matter.

1. Approval of Minutes for Regular Meeting of May 21, 2014
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Months of May 2014 and Note Cash Receipts

LAFCO considers the items listed under its consent calendar, which includes a Visa Justification, the Executive Officer's expense report 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 notes that no items have been requested to be deferred for discussion.

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

PUBLIC HEARING ITEMS:

ITEM NO 4. CONSENT ITEMS DEFERRED FOR DISCUSSION

No items deferred for discussion

ITEM NO 5. CONSIDERATION OF: (1) NOTICE OF INTENT TO ADOPT MITIGATED NEGATIVE DECLARATION FOR LAFCO 3172; AND (2) ALTERNATIVE #1 -- REORGANIZATION TO INCLUDE ANNEXATION TO THE BIG BEAR CITY COMMUNITY SERVICES DISTRICT, FORMATION OF AN IMPROVEMENT DISTRICT, AND DETACHMENT FROM SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND ITS MOUNTAIN SERVICE ZONE AND ALTERNATIVE #2 – REORGANIZATION TO INCLUDE FORMATION OF THE BALDWIN LAKE FIRE PROTECTION DISTRICT AND DETACHMENT FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND ITS MOUNTAIN SERVICE ZONE (COMMUNITY OF BALDWIN LAKE)

Chairman Curatalo opens the public 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. Notice of the Commission's consideration of these applications was published in a newspaper of general circulation within the area (*The Sun*), as required by law and individual notice has been provided to registered voters and landowners within the area as requested by the Commission.

Executive Officer Kathleen Rollings-McDonald states that this item was previously discussed by the Commission in February 2014. She states that at that time the Commission modified the proposal to include the alternative for annexation to the Big Bear City Community Services District (CSD), which by necessity includes the creation of an improvement district to the Big Bear City CSD to isolate the service delivery. She notes that this option was available to the Commission since in 2011, the area of consideration was included in the sphere of influence of the Big Bear City CSD as a function of the service review/sphere of influence update for the Bear Valley community. Ms. McDonald provides a flyover of the project area.

She says that the Commission's approval at the February hearing to modify LAFO 3172 also directed staff to undertake numerous actions within the community. In the interim, LAFCO staff requested that the Big Bear City CSD staff prepare a Plan for Service and Fiscal Impact Analysis

for assuming the role of fire protection and emergency medical response provider for the area. In addition, LAFCO staff conducted a community meeting in which all registered voters and landowners were notified and invited to a meeting held at the Big Bear Area Regional Wastewater Authority. The meeting was conducted in the evening of May 7 with approximately 60 people in attendance.

She says that LAFCO circulated a simple survey of the Baldwin Lake community during the meeting, a copy of which is on file in the LAFCO office. She reviews the summary of the survey as noted on page 4 of the staff report noting that it was inconclusive as to annexation or the status quo for the area. She also notes that staff has received a second survey, circulated in the community of Fawnskin, by parties unknown to LAFCO staff. The results of that survey are noted on page 5 of the staff report, opposing the annexation and the creation of a single fire provider for the Bear Valley community.

Ms. McDonald reviews the evaluations related to Boundaries, Land Use, Financial and Service Considerations, and Environmental as noted in the staff report. She reviews the boundary map on page 6 of the staff report and states that the map provides a definite and certain boundary for LAFCO 3172 as required by LAFCO law. She notes that for Land use either alternative will have no direct effect on the land use designations assigned by the County. She reviews the service considerations and financial effects of the proposal noting a correction on page 8 of the staff report in Item 1. She notes that the report reflects 2% annual increase and the correct number is 5%. She reminds the Commission of its purposes according to State law contained Government Code Section 56301 to provide for an efficient and effective service delivery pattern.

Ms. McDonald reviews the CONFIRE chart on page 9 of the staff report and the standard response time noted on the map on page 11 of the staff report. She says that based on the service information developed, it is staff's position that the alternative for annexation of the Baldwin Lake community to the Big Bear City CSD provides the best alternative for the delivery of fire protection and emergency medical response based upon the parameters identified in the plan for service that maintains a station within the Baldwin Lake community.

Ms. McDonald reviews the financial effects of the proposal as outlined on page 13 of the staff report. She notes that the Big Bear City CSD was requested to provide a Plan for Service along with a fiscal impact analysis identifying the costs and revenues for provided this service for the annexation alternative. She notes that the annexation to the District would include the maintenance of the District's fire special tax which for FY 2014-15 is set at \$123.61 per developed parcel, \$59.31 per undeveloped parcel.

Ms. McDonald reviews the Fawnskin/Baldwin Lake Area Revenue and Expense Summary shown on page 18 of the staff report and notes that the documents show a shortfall of \$547,394 which is an increase of about 16% from the prior year and notes that this escalating deficit has been occurring since the County Fire Reorganization in 2008. She reviews staff's preliminary calculations based upon the number of parcels and the costs provided for Fiscal Year 2013-14 for County Fire's operation of Station #96 in Fawnskin. She notes that these are intended only to illustrate a possible means to address the funding shortfall for service delivery.

Ms. McDonald notes that the final element of consideration relates to those services currently authorized and provided by the Big Bear City CSD but not anticipated to be extended to the Baldwin Lake community. She says that the services include water, sewer, streetlights, park and recreation and solid waste (trash collection). She says that none of these services will be

extended to the area; therefore, no additional funding is anticipated. In addition it is noted that through the annexation to the Big Bear City CSD, the territory and franchise for solid waste collection for County Franchise Area 17 shall transfer to the District with no change in provider.

Ms. McDonald reviews the environmental considerations as noted on pages 21-22 of the staff report recommending a Mitigated Negative Declaration for either alternative as the appropriate environmental document. She says that only one comment was received and that the response to the comment has been provided as an attachment to the staff report.

Ms. McDonald says that it has been conveyed to staff that the residents of Baldwin Lake knew what they were getting when they moved to the community – a rural lifestyle with limited services and the imposition of restrictions on water and wastewater systems. However, the 276 registered voters in this area did not determine the method for fire service directly; it was an overlay of different types of providers spanning many years and many different agencies. She says that today the Commission will give the community of Baldwin Lake an official voice in deciding the mechanism for providing this service. She says that staff believes that the materials provided in the staff report and other presentations show that approval of Alternative #1, for annexation to the Big Bear City Community Service District, will be cost effective and sustainable, that it represents a comprehensive service boundary which makes sense both for current residents and for the future, and that the level and range of services for the community will be maintained.

Commissioner Ramos asks a question regarding the agreement for medical response. Ms. McDonald states that there were existing contracts that County Fire succeeded to, one of which was a contract with the Big Bear City CSD to provide first response in the area.

Commissioner Ramos asks a question regarding the financial transfer. Ms. McDonald says that revenue is attributable to only those tax rate areas within the boundary of LAFCO 3172.

Commissioner Ramos asks who circulated the Fawnskin Survey. Ms. McDonald says that staff does not know who generated and circulated the survey. The forms were received in the LAFCO office with no preface and since a number were received, staff calculated the survey responses as an indication of the opinions of those in the Fawnskin area.

Commissioner Farrell asks how the Commission responds to the residents of Fawnskin. Ms. McDonald says that the Commission can acknowledge the impact, however, the Commission has no ability to correct the shortfall in funding for Fawnskin.

Commissioner Farrell asks for clarification on assessment as to improved lots. Ms. McDonald responds that the financial projection of sustainability is based on currently developed parcels. She says that during staff's evaluation of the project the Land Use Services Department was asked about pending developments in the area. As outlined in the staff report, due to the size of some of the vacant parcels, it will require a merger in order to develop in the future.

Commissioner Bagley asks about the Tent Lots and notes concern over property tax revenue loss due to foreclosures. Ms. McDonald says that there is still a significant amount of foreclosed houses in San Bernardino County and that property taxes are still low, post the recession.

Commissioner Bagley asks about the acquisition of assets in the 5-year budget document. Ms. McDonald says that it does not include the transfer of the facility; the facility is on a lease.

Larry Winslow, Fire Chief, Baldwin Lake Volunteer Fire Department, proponent, addresses the Commission and asks that the Commission keep the people in the mountain area in mind when considering their decision on this project. He says that he is concern over what the next step would be if the proposal fails.

Commissioner Farrell asks if Chief Winslow is in support of the staff recommendation. Chief Winslow says that he is in support of staff's recommendation with two conditions; (1) if there is an impediment to the annexation that the Commission will readdress the creation of a fire protection district; and, (2) that section 2c of the recommendation be amended to remove the language regarding the franchise revenues.

Executive Officer Kathleen Rollings-McDonald says that the Commission can revise the language of section 2c if it so desires, however, a contract between county solid waste and the district will need to be addressed since the county will be providing services inside the boundaries of another solid waste authority. She continues that the Commission does not have the ability to guarantee a fail-safe if the annexation should fail, however, the Commission can make the statement that should the annexation fail, the Commission will authorize the waiver of the one year filing restriction on a substantially similar proposal and will accept the materials submitted to date as the application filing for one year following the date of the issuance of the certificate of termination.

Chief Jeff Willis, Fire Chief, Big Bear Lake Fire Protection District, provides a PowerPoint presentation, a copy of which is available in the LAFCO office, in support of the annexation alternative. He states his opinion that one Fire Protection District makes sense for the communities within the Bear Valley community.

Commissioner Ramos questions the current ambulance service, who responds to calls an EMT or a Paramedic? Chief Willis says that an EMT is a basic provider (BLS) and a paramedic is an advanced provider (ALS) and that ALS providers respond to calls. Commissioner Ramos asks if they respond in Fawnskin; Chief Willis says that they do.

Commissioner Bagley says that the community needs to be engaged and that it is a challenge in the mountain area and should be addressed so a solution can be found.

Chief Mark Hartwig, Fire Chief, San Bernardino County Fire Protection District (County Fire), provides a PowerPoint presentation, a copy of which is available in the LAFCO office, and says that the Commission should form agencies that work best for the community and that a single fire district is a good idea and that the people should decide what they want. He asks that the proposal area mirror the hospital district boundary.

Ms. McDonald says that the Commission doesn't have the legal authority at this time, to make the change that County Fire is requesting. She further states that County Fire had the opportunity to submit an alternative proposal to the formation proposal during the review process of the application. She also says that a sphere expansion and service review would be required in order to include the area in County Fire's sphere of influence; she says that to annex all the area to the county fire district would also require the dissolution of the Big Bear Fire district and the removal of fire protection powers of the Big Bear CSD (which the Commission cannot initiate). In addition, the changes requested by Chief Hartwig would also require the discussion

regarding retirement contracts and the financial responsibilities for unfunded liability that would be required in the event that County Fire were to annex the areas for service.

Commissioner Bagley says that he likes the Inland Counties Emergency Medical Agency (ICEMA) map and sees the mountain communities as one large united area.

Bill Jahn, Council Member, City of Big Bear Lake, makes comments in support of staff recommendations. He says that the city is not interested in being served by County Fire.

Dennis Wilson, member of the public makes comments in opposition to staff recommendations.

David Higgins, member of the Baldwin Lake Fire Protection Preservation Committee, says that LAFCO needs to take the lead in consolidating fire service in the mountain areas and he asks if new fees will be required in the event the annexation fails and the application is resubmitted.

Ms. McDonald states that the Commission can make the determination to waive or reduce fees on a case-by-case basis during a public hearing when the need arises.

Chairman Curatalo calls for further comments; there being none closes the public hearing.

Commissioner Ramos clarifies staff's recommendation to include the modification of the language in Section 2c regarding franchise fees and to include language related to the waiver of the one year restriction on resubmittal of the formation proposal, reduction of fees and acceptance of existing submitted documents and submission of petition if the annexation should fail. This waiver would apply for up to one year after the issuance of the certificate of termination.

Commissioner Ramos moves approval of staff recommendation, as amended, second by Commissioner Warren. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, Farrell, Lovingood, Ramos, Warren, Williams. Noes: None. Abstain: None. Absent: Cox (Mr. Farrell voting in her stead), McCallon (Ms. Warren voting in his stead).

DISCUSSION ITEMS:

None

INFORMATION ITEMS:

ITEM NO. 6 LEGISLATIVE UPDATE REPORT

Executive Officer Kathleen Rollings-McDonald presents the report of pending legislation. She reviews the four bills of interest to CALAFCO and/or San Bernardino LAFCO. She asks the Commission to adopt a position of opposition for SB 614 and AB 1739. She requests that the Commission authorize the Chairman to sign the letters identifying these positions.

Commissioner Williams moves approval of staff recommendation, second by Commissioner Lovingood. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, Farrell, Lovingood, Ramos, Warren, Williams. Noes: None. Abstain: None. Absent: Cox (Mr. Farrell voting in her stead), McCallon (Ms. Warren voting in his stead).

ITEM NO. 7 EXECUTIVE OFFICER'S REPORT:

Executive Officer Kathleen Rollings-McDonald presents an oral report.

ITEM NO 8. COMMISSIONER COMMENTS

There are none.

ITEM NO 9 COMMENTS FROM THE PUBLIC

There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION,
THE HEARING IS ADJOURNED AT 11:40 A.M.**

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman