

**ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF JULY 16, 2014**

REGULAR MEETING

9:00 A.M.

JULY 16, 2014

PRESENT:

COMMISSIONERS: Jim Bagley
James Curatalo, Chair
Steve Farrell, Alternate
Robert Lovingood
Larry McCallon
Janice Rutherford, Alternate
Sunil Sethi, Alternate
Acquanetta Warren, Alternate
Diane Williams

STAFF: Kathleen Rollings-McDonald, Executive Officer
Clark Alsop, LAFCO Legal Counsel
Samuel Martinez, Assistant Executive Officer
Rebecca Lowery, Clerk to the Commission

ABSENT:

COMMISSIONERS: Kimberly Cox, Vice-Chair
James Ramos

**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.

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.

SWEAR IN REGULAR CITY MEMBER

Ms. Rebecca Lowery, Clerk to the Commission, administers the Oath of Office to Larry McCallon, Regular City Member, whose term of office expires in May 2018.

1. PRESENTATION OF RESOLUTION OF APPRECIATION TO ROBERT SMITH

Chairman Curatalo reads and presents a resolution of appreciation to outgoing Commissioner Robert Smith.

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.

2. Approval of Minutes for Regular Meeting of June 18, 2014
3. Approval of Executive Officer's Expense Report
4. Unaudited Year-End Financial Report for Fiscal Year 2013-14
5. Approval of Fiscal Year 2005-06 Financial Records Destruction Pursuant to Commission Policy
6. Ratify Payments as Reconciled for Month of June 2014 and Note Cash Receipts
7. Consideration of: (1) Review of Mitigated Negative Declaration Prepared by the County of San Bernardino for Conditional Use Permit to Establish a 647,222 (MAX) Sq. Ft. Industrial Building with 12,000 sq. ft. of Office Area to be Used as a High Cube Warehouse Distribution Facility on 31.16 Acres as a CEQA Responsibility Agency for LAFCO SC#389; (2) Review and Approval of Addendum Prepared by LAFCO's Environmental Consultant that Provides Additional Information to Supplement the Mitigated Negative Declaration Adopted by the County on September 17, 2011 to address a Modification in Acreage and Parcel Configuration as a CEQA Lead Agency for LAFCO SC#389; and (3) LAFCO SC#389 – City of Fontana Pre-Annexation Agreement No. 13-00002 for Sewer Service (APNs 232-051-11, 12, 18, 26, 27, 35, 36, 37, 38, and 42)

LAFCO considered the items listed under its consent calendar, which includes a Visa Justification, the Executive Officer's expense report; the Unaudited Year-End Financial Report for FY 2013-14; Approval of FY 2005-06 Financial records Destruction; a staff report outlining the staff recommendations for the reconciled payments and the Consideration of LAFCO SC#389 – City of Fontana Pre-Annexation Agreement No. 13-00002 for Sewer Service. 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 Item No. 7 has been requested to be deferred for discussion.

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

PUBLIC HEARING ITEMS:

ITEM NO 8. CONSENT ITEMS DEFERRED FOR DISCUSSION

Executive Officer Kathleen Rollings-McDonald says that a correction to Attachment #4 for LAFCO SC#389 has been provided to the Commission at the dais. No other changes are requested for the item.

Commissioner Rutherford moves approval of LAFCO SC#389 – City of Fontana Pre-Annexation Agreement No. 13-00002 for Sewer Service, second by Commissioner McCallon. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, Farrell, Lovingood, McCallon, Rutherford, Williams. Noes: None. Abstain: None. Absent: Cox (Mr. Farrell voting in her stead), Ramos (Ms. Rutherford voting in his stead).

ITEM NO 9. CONTINUED FROM MAY 21, 2014 HEARING: CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3179; AND (2) LAFCO 3179 – SERVICE REVIEW AND SPHERE OF INFLUENCE EXPANSION FOR COUNTY SERVICE AREA 54 (STREETLIGHTS—MOUNTAIN REGION)

Chairman Curatalo opens the public hearing.

Assistant Executive Officer Samuel Martinez presents the report for LAFCO 3179, 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 this application was published in a newspaper of general circulation within the area, *The Sun*, and individual notice has been provided to registered voters and landowners within the area.

Mr. Martinez gives an overview of the existing sphere of influence of County Service Area 54 (hereafter CSA 54). He says that this sphere of influence expansion proposal is part of a companion reorganization proposal that will consolidate the County's streetlighting services within the mountain region into a single county service area. He says that currently there are four County street lighting agencies in the mountain region; CSA 54, CSA SL-1, CSA 53A and CSA 73. He says that this sphere review is required by Government Code Section 56375.5, which indicates that a reorganization proposal must be consistent with the agency's sphere of influence. With the Commission's approval of LAFCO 3179, as modified, the Commission will be able to move forward to consider LAFCO 3180, the companion reorganization proposal. Mr. Martinez states that the County's proposal has been modified to exclude the areas of the City of Big Bear Lake and the Big Bear City Community Services District as they have not consented to the overlay of CSA 54 sphere.

Mr. Martinez states that the Commission's Environmental Consultant, Tom Dodson and Associates, has determined that LAFCO 3179 is statutorily exempt from CEQA and that Mr. Dodson's analysis is included as Attachment #4 to the staff report.

Mr. Martinez says that LAFCO 3179, as modified, represents a reasonable expansion of the sphere of influence for CSA 54; therefore, LAFCO staff recommends approval of the modified proposal as outlined on page 1 of the staff report.

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

Commissioner Lovingood moves approval of LAFCO 3179, as modified, second by Commissioner Farrell. There being no opposition, the motion passes unanimously with the

following vote: Ayes: Bagley, Curatalo, Farrell, Lovingood, McCallon, Rutherford, Williams. Noes: None. Abstain: None. Absent: Cox (Mr. Farrell voting in her stead), Ramos (Ms. Rutherford voting in his stead).

ITEM NO. 10. CONTINUED FROM MAY 21, 2014 HEARING: CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3180; AND (2) LAFCO 3180 – REORGANIZATION TO INCLUDE ANNEXATIONS TO COUNTY SERVICE AREA 54, DETACHMENT FROM COUNTY SERVICE AREA SL-1 AND DISSOLUTION OF COUNTY SERVICE AREA 73 AND ZONE A OF COUNTY SERVICE AREA 53 (STREETLIGHT REORGANIZATION FOR THE MOUNTAIN REGION)

Chairman Curatalo opens the public hearing.

Assistant Executive Officer Samuel Martinez presents the report for LAFCO 3180, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here.

Mr. Martinez says that LAFCO 3180 is the companion proposal to LAFCO 3179 and that staff is working with Southern California Edison and Bear Valley Electric to verify the street lighting information for the affected entities. He says that staff is recommending that the item be continued to allow staff more time to evaluate and verify the information received by both parties. Mr. Martinez indicated that originally it was anticipated that the matter be continued to August; however, staff is recommending that it be moved to the September hearing.

Commissioner McCallon moves approval of continuing LAFCO 3180 to the September 17, 2014 hearing, second by Commissioner Rutherford. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, Farrell, Lovingood, McCallon, Rutherford, Williams. Noes: None. Abstain: None. Absent: Cox (Mr. Farrell voting in her stead), Ramos (Ms. Rutherford voting in his stead).

Commissioner Rutherford states that she will recuse herself from Items 11 and 12 as leaves the dais at 9:32 a.m.

ITEM NO. 11. CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY THE COUNTY OF SAN BERNARDINO FOR GENERAL PLAN AMENDMENT TO CHANGE COUNTY LAND USE DISTRICT FROM EAST VALLEY/GENERAL COMMERCIAL TO EAST VALLEY/SPECIAL DEVELOPMENT AND TO ASSIGN A LAND USE DESIGNATION OF EAST VALLEY/SPECIAL DEVELOPMENT FOR TWO PARCELS WITHIN THE CITY OF REDLANDS AND A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A 777,260 SQUARE FOOT INDUSTRIAL BUILDING; AND A TENTATIVE PARCEL MAP 19500 FOR A ONE LOT SUBDIVISION ON 35.98 ACRES AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3171A AND (2) LAFCO 3171A -- REORGANIZATION TO INCLUDE DETACHMENT FROM THE CITY OF REDLANDS AND ANNEXATIONS TO SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND ITS VALLEY SERVICE ZONE AND COUNTY SERVICE AREA 70 AND ITS ZONE EV-1

Executive Officer Kathleen Rollings-McDonald presents the report for LAFCO 3171A, 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 this application was published in a newspaper of general circulation within the area, *The Sun*, and individual notice has been provided to affected and interested agencies.

Commissioner Lovingood states that he will recuse himself from Item 11 and leaves the dais at 9:39 a.m.

Ms. McDonald gives a review of the proposals background and says that LAFCO 3171A is a reorganization proposal to detach approximately 35 acres, all of which are in the City of Redlands and includes annexation to the San Bernardino County Fire Protection District. She says that the annexation area is located within the unincorporated area known as the "Donut Hole" in Redlands.

Ms. McDonald reviews the boundaries of the proposal and says that the area comprises approximately 35 acres and that LAFCO staff amended the proposal to move the boundary of the detachment to the centerline of the 210 Freeway to provide for more efficient and clearer boundary delineation. She reviews the Existing Land Uses and says that the City's General Plan land use designation for the reorganization area is Commercial and that the County has assigned the two parcels as East Valley/Special Development, which will become effective upon the completion of LAFCO 3171A. She says that the land use determination between the County and City for the reorganization area is generally compatible and is consistent with surrounding land uses.

Ms. McDonald reviews the service issues and effects and states that the City of Redlands is the current service provider and that detachment of the territory from the City of Redlands requires the placement of the properties into service providers associated with the unincorporated County area. She reviews the plan for service and notes that the City provides sewage collection and treatment, water services, fire protection and emergency response and law enforcement through its contracts with the County and that no change will occur to those services through the reorganization. She says that streetlighting service will shift from the City to the County through inclusion with CSA 70 Zone EV-1.

Ms. McDonald says that staff is recommending that as a condition of approval the amendment to Contract #03-856 and the new agreement for sharing of property tax revenues be executed and submitted to LAFCO prior to the issuance of the Certificate of Completion and says that Government Code Section 56885.5(b) allows for the holding the Certificate of Completion for completion of the condition for no more than six months.

Ms. McDonald says that Commission's environmental consultant Tom Dodson of Tom Dodson and Associates has reviewed the proposed project and has determined that the County's documents are adequate for Commission use and that the recommendations are included as part of Attachment #5 to the staff report.

Ms. McDonald says that staff is recommending that protest proceedings be waived for this project pursuant to Government Code Section 56662(d) and that the Executive Officer be directed to complete the action following completion of the 30-day reconsideration period and the completion of the conditions of approval.

Chairman Curatalo asks for comments from the Commission.

Commissioner Bagley asks if there is any indication of change with regard to the Donut Hole; to which Ms. McDonald says that no change is anticipated at this time.

Chairman Curatalo opens the public hearing.

Tom Robinson, TREH Partners, LLC, proponent, says that he is in agreement with all the conditions required by LAFCO staff.

Chairman Curatalo asks for any additional comments from the public; hearing none, he closes the public hearing.

Commissioner McCallon moves approval of LAFCO 3171A, second by Commissioner Williams. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, Farrell, McCallon, Williams. Noes: None. Abstain: None. Absent: Cox (Mr. Farrell voting in her stead), Ramos, Lovingood.

The Commission recesses from 9:55 a.m. to 10:00 a.m. Clark Alsop, Legal Counsel for the Commission, leaves the dais; John Ramirez, Special Counsel for the Commission, takes his place at the dais.

Commissioner Warren recuses herself from Item 12 and leaves the dais.

ITEM NO. 12 CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3177; AND (2) LAFCO 3177 – REORGANIZATION TO INCLUDE CITY OF FONTANA ANNEXATION NO. 91 AND DETACHMENTS FROM COUNTY SERVICE AREAS 70 AND SL-1 (SOUTHWEST INDUSTRIAL PLAN AREA)

Executive Officer Kathleen Rollings-McDonald presents the staff report for LAFCO 3177, 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 this application was published in a newspaper of general circulation within the area, *The Sun*, and individual notice has been provided to affected and interested agencies and registered voters and landowners within the area and surrounding it.

Ms. McDonald says that LAFCO 3177 is a reorganization proposal of a substantially surrounded unincorporated area which includes annexation to the City of Fontana and detachment from County Service Area (CSA) 70 and CSA SL-1. She states based upon this determination the proposal is a ministerial action for the Commission based upon Government Code Section 56375(a)(4) that requires the Commission to approve the annexation of unincorporated "substantially surrounded" territory, initiated by resolution of the City, if several determination are made as noted in the staff report. She says that the action does not remove the ability of registered voters and landowners within the area to protest during the required protest proceeding.

Ms. McDonald reviews the boundaries of the proposal and states that no boundary issue has been identified. Assistant Executive Officer Samuel Martinez reviews current land uses within the area noting that the City's General Plan and County General Plan are generally compatible. He reviews the City's pre-zone designations adopted as a part of the Southwest Industrial Specific Plan and noting a correction to the staff report that one of the pre-zone designations

identified is incorrect - instead of Jurupa South Industrial District (JSD), it should be Jurupa North Research and Development District (JND) and says that the City has drafted a set of policies related to the transfer of land use applications/entitlements and code enforcement actions that has been agreed upon by both the County and City to become effective upon the completion of the annexation.

Mr. Martinez says that with regards to environmental considerations, it is staff's position that LAFCO 3177 is a ministerial action – one which the commission has no discretion but to approve – therefore, is exempt from environmental review. He says staff is recommending approval of LAFCO 3177 with the terms and conditions as outlined in the staff report.

Chairman Curatalo asks for comments from the Commission.

No comments provided.

Chairman Curatalo opens the public hearing and calls upon the proponents for a presentation.

Debbie Brazill, City of Fontana, says that the City of Fontana is in support of the proposal.

Rick Harman, Government Contracting Consulting Services, presents comments regarding entitlements of development projects currently in the County Land Use process.

Chairman Curatalo asks for any additional comments from the public; hearing none, he closes the public hearing.

Commissioner McCallon moves approval of LAFCO 3177, second by Commissioner Williams. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, Farrell, McCallon, Williams. Noes: None. Abstain: None. Absent: Cox (Mr. Farrell voting in her stead), Ramos, Lovingood.

It is noted that Commissioners Lovingood, Rutherford and Warren and Legal Counsel Alsop return to the dais at 10:20 a.m.

DISCUSSION ITEMS:

ITEM 13. CONSIDERATION OF REQUEST FROM SECOND DISTRICT SUPERVISOR FOR LAFCO TO CONTRACT WITH THE DISTRICT TO PREPARE A PRELIMINARY FEASIBILITY STUDY FOR INCORPORATION OF THE RIM OF THE WORLD SCHOOL DISTRICT BOUNDARY

Executive Officer Kathleen Rollings-McDonald presents the report for item #13, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here.

Commissioner McCallon moves approval of item # 13, second by Commissioner Rutherford. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, Farrell, Lovingood, McCallon, Rutherford, Williams. Noes: None. Abstain: None. Absent: Cox (Mr. Farrell voting in her stead), Ramos, (Ms. Rutherford voting in his stead).

ITEM 14. CONSIDERATION OF CONTRACT EXTENSION #5 WITH THE EXECUTIVE OFFICER EXTENDING TERM THROUGH FISCAL YEAR 2017-18 WITH AN ANNUAL INCREASE COMMENSURATE WITH THE ANNUAL CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS IN THE LOS ANGELES-ANAHEIM-RIVERSIDE AREA

Executive Officer Kathleen Rollings-McDonald presents the report for Item #14, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here.

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

INFORMATION ITEMS:

ITEM NO. 15 LEGISLATIVE UPDATE REPORT

Executive Officer Kathleen Rollings-McDonald presents the report of pending legislation. She reviews SB 614 Wolk and asks the Commission to take a neutral position on this if the current amendments are approved. She reviews AB 1739 Dickinson and says that a change in position is not recommended at this time.

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

ITEM NO. 16 EXECUTIVE OFFICER'S REPORT:

Executive Officer Kathleen Rollings-McDonald presents an oral report. She says that the Commission will be dark in August. She says that the CALAFCO Annual Conference is scheduled for October 13-17 and that the Hearing for October will be moved to the 22nd.

She says that the nominations for the CALAFCO Board of Directors will be forthcoming and that the Commission has been provided with the letter of engagement for the Commission's Annual Audit. She says that staff has received a response from SBCERA regarding the Commission's unfunded liability and that the information will be presented in detail during the first quarterly report. She says that the County Grand Jury has completed their report and that it includes the prior items related to LAFCO - Barstow Cemetery District, the City of Adelanto and Newberry CSD; the report states that LAFCO is and has complied with the Grand Jury's requirements.

ITEM NO 17. COMMISSIONER COMMENTS

Comments Provided

ITEM NO 18. COMMENTS FROM THE PUBLIC

There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION,
THE HEARING IS ADJOURNED AT 10:47 A.M.**

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman