

**ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 21, 2015**

REGULAR MEETING

9:00 A.M.

JANUARY 21, 2015

PRESENT:

COMMISSIONERS: Jim Bagley
Kimberly Cox, Vice-Chair
Steve Farrell, Alternate
Robert Lovingood

Larry McCallon
James Ramos
Acquanetta Warren, Alternate
Diane Williams

STAFF: Kathleen Rollings-McDonald, Executive Officer
Paula de Sousa, LAFCO Legal Counsel
Samuel Martinez, Assistant Executive Officer
Michael Tuerpe, Project Manager
Rebecca Lowery, Clerk to the Commission
Joe Serrano, LAFCO Analyst

ABSENT:

COMMISSIONERS: James Curatalo, Chair
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**

Vice-Chair Cox calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Vice-Chair Cox 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 October 22, 2014
2. Approval of Executive Officer's Expense Report

3. Ratify Payments as Reconciled for Months of October, November and December 2014 and Note Cash Receipts
4. Review and Accept Audit Report for Fiscal Year Ended June 30, 2014
5. Consideration of Fee Reduction Requested by Crest Forest Fire Protection District for its Sphere of Influence Amendment Application (LAFCO 3185) and Reorganization Proposal (LAFCO 3186)

LAFCO considered the items listed under its consent calendar, which includes a Visa Justification, the Executive Officer expense report and staff report outlining the staff recommendations for the reconciled payments. Also included is the Audit Report for Fiscal Year Ended June 30, 2014 and the consideration of fee reduction requested by Crest Forest Fire Protection District for LAFCO 3185 and LAFCO 3186. Copies of each report are on file in the LAFCO office and are made part of the record by their reference herein.

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

It is noted that Paula de Sousa is at the dais as the Commission's legal counsel in Clark Alsop's absence and will be his temporary replacement.

PUBLIC HEARING ITEMS:

ITEM 6. CONSENT ITEMS DEFERRED FOR DISCUSSION

No items deferred for discussion.

ITEM 7. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3181; AND (2) LAFCO 3181 – REORGANIZATION TO INCLUDE ANNEXATIONS TO THE BIGHORN-DESERT VIEW WATER AGENCY; DISSOLUTION OF ZONE W-1 OF COUNTY SERVICE AREA 70 AND FORMATION OF AN IMPROVEMENT DISTRICT OF THE BIGHORN-DESERT VIEW WATER AGENCY

Executive Officer Kathleen Rollings-McDonald presents the staff report for LAFCO 3181, 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 item has been advertised in a newspaper of general circulation as required by law and individual notice has been provided at the request of the Bighorn-Desert View Water Agency.

Ms. McDonald states that in April 2014 the Bighorn-Desert View Water Agency (hereafter shown as "Agency") submitted an application to annex the territory encompassing County Service Area 70 Zone W-1. She says that the proposal contemplates the dissolution of CSA 70 Zone W-1 and the transfer of its assets, liabilities, reserves, and properties to the Agency for operating the domestic water delivery to the community identified as Goat Mountain in the larger Landers community.

She says that Agency, in its application, identified that the approval of the reorganization would provide for local control and governance participation, and the ability to respond to periodic problems or issues in a timelier manner. She says that the Agency identifies that the successful completion of the application would provide for a lower and more stable water rate based on the Agency's history of water service within its community. She says that the proposal provides for the Homestead community to be served by a single retail water entity.

Ms. McDonald says that staff has reviewed the proposal based on the following four factors for an area; boundaries, land use, financial and service considerations and environmental issues as detailed in the staff report.

With regard to boundaries, she says that staff is recommending a modification to the proposal to include a specific condition for the formation of an improvement district of the Agency which will provide for the isolation and segregation of revenue received from and debts incurred by the former CSA 70 Zone W-1. This improvement district will be formed as a successor district and shall be required to maintain separate accounts for the purpose of keeping the existing assets and liabilities separate.

Ms. McDonald says that for land use, approval of LAFCO 3181 will have no direct effect on the land use designations assigned by the County and will assist in implementing the goals established by the County General Plan Update.

Ms. McDonald reviews the service consideration and financial effects of the proposal and says that it is staff's view, and that of Local Government Reorganization law, that the Commission has a responsibility to determine whether or not a proposal will provide for an efficient and effective delivery of retail water service and will that delivery system be sustainable, and can it continue to provide for the level of service contemplated. She says that the Agency has submitted a plan for service along with a fiscal impact analysis identifying the expenditures and revenues for assuming the responsibility for providing service to the CSA 70 Zone W-1 territory. She says that staff has evaluated and identified some issues related to the financial data for CSA 70 Zone W-1. First is that CSA 70 Zone W-1 receives approximately \$23,000 in ad valorem property taxes annually; while the amount shown in the Audit for FY 2013-14 is \$115,521. This was identified as a transparency issue in the service review conducted by the Commission in 2012 and the response from the Special District Department was that it would look into methods to deposit the revenues in appropriate accounts to provide for a clearer understanding. She says that this has not occurred and at this time it is unclear how much revenue is received from the zone's stand-by charges.

Ms. McDonald says that secondly, the information in the audit identifies payments for employees, but CSA 70 Zone W-1 has no employees. She says that the materials identify that in five out of the last six years expenses for operating the system exceeded revenues from operations, requiring non-operating revenues to balance. In addition, no grant revenues for system improvements are shown for this operation.

Ms. McDonald reviews a display of the area map and reviews the determinations and conditions as noted in the staff report.

(It is noted the Commissioner Warren arrives at 9:20 a.m.)

Ms. McDonald says that the proposal has been reviewed by the Commission's environmental consultant and he recommends a statutory exemption from the California Environmental Quality Act (CEQA). She says that the approval of the proposal will give the people a voice and they will be able to participate in the November election.

Vice-Chair Cox calls for questions from the Commission. Commissioner Bagley asks for clarification of the two accounts referenced in the resolution. Ms. McDonald says that the two accounts will allow for the successor district to segregate the finances to isolate the reserve accounts.

Commissioner Ramos asks when staff will conduct a follow-up review to ensure that the agency is on track. Ms. McDonald says that the Commission can request that a status report be conducted to ensure that the conditions are being followed. Commissioner Ramos asks for clarification on the debt obligation transfer. Ms. McDonald says that the existing debt will be transferred to the Agency once the LAFCO Certificate of Completion is issued.

Commissioner Lovingood asks if the transfer of outstanding liability and litigation will transfer to the Agency and noting that he would like an update of the transition details of the proposal in July. Ms. McDonald says that no existing litigation has been identified and that the district would succeed to any existing or possible liability. In addition, she notes that staff would return in July with an update of the transition of the project and any outstanding issues if the Commission wishes an update.

Commissioner Bagley questions the map areas and asks if the Gubler properties are outside the project area. Ms. McDonald says that the Gubler properties are outside of the project area.

Commissioner Farrell asks for clarification of the dates for the proposal. Ms. McDonald says that the effective date of the transition will be July 1, 2015.

Vice Chair Cox opens the public hearing.

Jeff Rigney, Special Districts Director, San Bernardino County Special Districts, says that he would like to thank staff for their professionalism in this process. He says that the report was very straight forward and that the district is in support of the proposal. He says that with regard to the history of the rate structure, the district in 2012 conducted a study and took an aggressive approach to the structure and implemented it.

Commissioner Bagley asks if the employees currently employed by the district will remain employed. Mr. Rigney says that currently there is only one employee in that zone and that Special Districts Department has no intention of terminating that employee. Mr. Rigney notes that the proposal will not have a huge impact on the Special Districts Department operations and that the employee will be placed in an open position within the department.

Marina West, General Manager, Bighorn Desert View Water Agency, states that the Agency is happy to return with the audits once completed for presentation to the Commission and says that she will be presenting to her board for approval the request

for two positions at the Agency. She introduces members of the Agency's board of directors and says that the board is in support the proposal. She introduces landowners in the community and says that they are also in support of the proposal. She says that the conditions noted in the staff report have been reviewed and that the Agency has no objection to those conditions. She says that the Agency is looking forward to being the water provider for the area and thanks the Commission for the opportunity to speak.

Commissioner Bagley congratulates Ms. West and the Bighorn Desert View Water Agency for their work in this proposal.

Dennis Wilson, member of the public, says that he would like the stand-by-fee to be \$10 a parcel per year for landowners not using water. Executive Officer McDonald says that it is up to the Agency to set the rates.

Vice Chair Cox calls for further comment; there being none closes the public hearing.

Commissioner Ramos moves approval of staff recommendations for LAFCO 3181, to include a status report after the audit is completed, second by Commissioner Bagley. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Cox, Farrell, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: Curatalo (Mr. Farrell voting in his stead).

ITEM 8. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3176; AND (2) LAFCO 3176 -- SPECIAL STUDY OF THE DAGGETT, NEWBERRY, AND YERMO COMMUNITY SERVICES DISTRICTS INCLUDING A PLAN FOR SERVICE AND SERVICE REVIEW

Executive Officer Kathleen Rollings-McDonald presents the staff report for LAFCO 3176, 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 says that the 2012-13 San Bernardino County Grand Jury report investigated the Newberry Community Service District and identified numerous issues and challenges related to governance, accounting and financial management and internal controls. One of the recommendations made by the Grand Jury was for LAFCO to conduct a more robust analysis of the governance and reorganization options during the next cycle of service reviews of the District, scheduled for 2014. She says that at the September 2013 hearing, the Commission initiated a special study for the Newberry CSD and the bordering Daggett and Yermo CSDs based upon the recommendations within the 2012-13 Grand Jury report.

Ms. McDonald says that among the possible reorganization scenarios presented in LAFCO's 2009 report, the Grand Jury identified that the two scenarios merited further review. The first was removing the Newberry CSD fire protection powers with concurrent annexation of the Newberry area by the San Bernardino County Fire Protection District; the second was to consolidate the Newberry CSD with the two adjacent community services districts, to allow for economies of scale and provide the opportunity for streamlined governance and compliance with CSD law.

Ms. McDonald says that staff prepared a plan for service that looked at the structure for the districts should the community choose to consider a consolidation; the plan for service also

included a fiscal impact analysis. She reviews the pros and cons of consolidation and says that the consolidation of the districts will gain no new revenue and will cause some loss of local control for each community, however she says that staff did see a benefit in consolidation such as cost savings, shared resources for emergency response, improvement of management efficiency.

Ms. McDonald says that staff also looked at the possibility of a Joint Powers Authority and that after reviewing this option it was determined that it would not benefit the community and is not supported by LAFCO staff.

Ms. McDonald says that the plan for service also looked at the cost of providing full time fire service and paramedic service to the districts and found that it would be a high cost to the community at \$400,000 and \$957,000 per year respectively. She says that the plan for service also looked at the possibility of the districts forming a municipal advisory council ("MAC") to help advocate the formation of a community plan for the districts.

Ms. McDonald says that staff conducted a Community meeting to receive input and comment from the community. She says that individual notice of this meeting was provided and she says that staff provided a survey at the meeting and on the website. The results of the survey indicate a majority of the community is in favor of retaining the existing special districts as they currently function.

Ms. McDonald says that staff had identified in the original staff review that there are issues that need to be monitored such as recommending that all districts annually review its reserve policies; forward a copy of the final budget to the County Auditor; and adopt an annual appropriations limit. She says that for the Daggett CSD, staff recommends that the district continue to work with the County to address and formalize the lease arrangements for the Daggett Community Center land and improvements; provide LAFCO with a copy of all future water quality information, including water quality control reports, occurrences of contamination and boil water orders; adopt an annual budget that conforms to generally accepted account and budgeting procedures by September 1 of each year.

Ms. McDonald says that for Newberry CSD, staff recommends that the district update the Grand Jury on their development of a basic accounting manual for the district.

Ms. McDonald says that during this review the Commission directed staff to provide education on the responsibility and requirements for operating an independent special district. As part of the special study, staff contacted the Special Districts Risk Management Authority (SDRMA) to conduct local training on board governance. The training was held in March 2014 and was attended by 50 representatives throughout the region. She says that staff is recommending that the Commission build upon this educational pursuit and continue to provide governance training for the special districts within the County.

Ms. McDonald reviews the Commission's options as noted in the staff report and she asks for approval of staff recommendations including approval of the environmental review and approval of continued monitoring of the districts.

Vice-Chair Cox asks if the issue in Newberry regarding fire engine that was sold has been resolved. Ms. McDonald says that the monies from that sale went to the liquidators and they have since declared bankruptcy.

Commissioner Lovingood asks if the Newberry CSD is on track now that they have a new General Manager. Ms. McDonald says that the new general manager is experienced in special districts and is making great strides to improve conditions in the district.

Robert Smith, Yermo CSD Board Member, says that the Grand Jury Report brought attention to issues that needed to be addressed and that the LAFCO service reviews help to evaluate how the district business is run. Mr. Smith says that the Yermo community wants to continue to be separate and that the district is doing the best they can to make the recommended improvements. He says that he appreciates the work LAFCO staff has done on this project.

Joseph Morris, Daggett CSD Board President, says that the district will comply with the deficiencies pointed out by LAFCO and that the district will continue to cooperate with the LAFCO requests. He says that the community is not interested in consolidation.

Vice-Chair Cox says that LAFCO staff is available as a resource to help the district comply with their requirements.

Vice-Chair Cox closes the public hearing.

Commissioner Lovingood moves approval of staff recommendations for LAFCO 3176, second by Commissioner Ramos. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Cox, Farrell, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: Curatalo (Mr. Farrell voting in his stead).

ITEM 9. MID-YEAR BUDGET REVIEW FOR FISCAL YEAR 2014-15:

- **FINANCIAL REPORT FOR PERIOD JULY 1 THROUGH DECEMBER 31, 2014**
- **RESCIND ACTION TAKEN BY COMMISSION AT OCTOBER 22, 2014 HEARING TO ESTABLISH SEPARATE TRUST ACCOUNTS WITHIN THE COUNTY CHART OF ACCOUNTS**
- **AUTHORIZATION OF FUND TRANSFER OF \$20,000: ADD ACCOUNT 2040 (RELOCATION CHARGES) WITH \$10,000 APPROPRIATION; INCREASE ACCOUNT 2125 INVENTORIABLE EQUIPMENT BY \$5,000 AND ACCOUNT 2041 PHONE SERVICE/OUTSIDE COMPANY BY \$5,000 TO ADDRESS IT EQUIPMENT FOLLOWING RELOCATION OF COUNTY DEPARTMENT FROM 215 NORTH "D" STREET**

Executive Officer Kathleen Rollings-McDonald presents the staff report for the Mid-Year Budget Review, 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 says that activities have increased and staff has presented a review of the mid-year financial activities including expenditures and revenues through December 31, 2014. The spreadsheet also provides a forecast of anticipated expenditures and revenues through the end of the fiscal year.

Ms. McDonald says that in the salaries and benefits series expenditures are at 49%; Services and Supplies are at 36% noting that some of the budgeted activities have not taken place to

date. She says that it is projected that remaining activity for services and supplies to the end of the fiscal year will be at 91% of budget authority. She says that the activities for the second half include significant expenditures that includes anticipated costs, the payments for the feasibility study for Rim of the World, subscription to the County Street Network and Google Earth, COWCAP, equipment purchase, and publication costs for the Valley service reviews.

She says that staff is asking to rescind the actions taken at the October 2014 hearing to establish a separate reserve fund within the County Treasury. This is in response to a determination by the County to not allow the creation of additional funds for such a purpose.

Ms. McDonald says that the final County department that resides at the LAFCO office building is moving out. She says that this will affect LAFCO because its telephone, internet, email, county internal databases extends from that Department's infrastructure. The infrastructure burden will now be placed wholly on the Commission. She says that LAFCO will have to purchase and lease equipment and pay directly for these services which will cost upwards of \$20,000. She says that staff is asking for an increase in funds in order to accommodate these expenditures and reviews staff's recommendations.

Vice-Chair Cox asks for the end date for the current LAFCO office lease and says that she is in support of the LAFCO office being relocated closer to other county offices in order to improve public access. Ms. McDonald says that the current lease is effective until June 30, 2017 and that the lease has no termination clause. She says that staff has researched some possible locations for relocating the LAFCO office, and that the Historic Harvey House which is by the train station and the SANBAG offices is a good place to relocate. Commissioner McCallon says that staff should review the budget and put together the fund for the relocation of the office.

Ms. McDonald says that an initial estimate of \$200,000, which would be amortized, would be needed since improvements and conference room space would be required.

Commissioner Williams says that she would recommend that the budget include the finances for the relocation and that staff put in a reservation so that the opportunity for the space is not lost.

Ms. McDonald says that the staff will work with the county real estate office on this relocation process. Commissioner Bagley asks if parking will be a problem if the office is located at the train station area. Ms. McDonald says that parking will not be an issue. Commissioner Bagley says that staff should look into the possibility of moving sooner and possibly buying out the current lease. Commissioner Williams asks if the Commission will be able to use facilities at the new location for the Hearings. Ms. McDonald says that those offices do not have video recording abilities, which are required for the LAFCO Hearings.

Vice-Chair Cox opens the public hearing.

There are no comments from the public.

Vice-Chair Cox closes the public hearing.

Commissioner Bagley moves approval of staff recommendations for the FY 2014-15 Mid-Year Budget Review and to begin the footwork for the relocation of the LAFCO staff offices, second by Commissioner McCallon. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Cox, Farrell, Lovingood,

McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: Curatalo (Mr. Farrell voting in his stead).

(It is noted that Commissioner Lovingood leaves the dais.)

DISCUSSION ITEMS:

ITEM 10. REQUEST FOR AUTHORIZATION FOR SPECIAL STUDY OF THE MORONGO COMMUNITY SERVICES DISTRICT

Executive Officer Kathleen Rollings-McDonald presents the staff report for the Special Study of the Morongo Community Service District, 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 says that in August, LAFCO staff received a complaint from a director of the Morongo Valley Community Services District that states that since the LAFCO service review in 2012, the district's expenses have increased dramatically. The director requested LAFCO's assistance to review their operations and determine the District's ability to preserve fire protection services and avoid bankruptcy. She says that staff has conducted a site visit and that based on staff's preliminary review of materials and information obtained during the site visit, that a special study of the Morongo CSD is recommended. She says that staff is asking for authorization to conduct a special study of the Morongo Valley CSD.

Commissioner McCallon moves approval of staff recommendations for the Authorization of the Special Study of the Morongo CSD, second by Commissioner Ramos. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Cox, Farrell, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: Curatalo (Mr. Farrell voting in his stead), Lovingood.

INFORMATION ITEMS:

ITEM 11. LEGISLATIVE UPDATE REPORT

Executive Officer Kathleen Rollings-McDonald provides the Commission with the oral Legislative Update.

Ms. McDonald says that the legislative session has started and that at this time there are no items that are of interest to LAFCOs. She says that SB 25, Roth, has been initiated to again attempt to return motor vehicle in-lieu fees to newly incorporated cities. She states that she will keep the Commission as information is available. She says that she has been appointed chair of the CALAFCO subcommittee for disincorporation and that the committee will be looking at rewriting the disincorporation statute. CALAFCO is looking for a sponsor and that Chad Mayes may be interested and they will also look at a co-sponsorship by Mr. Roth. She says that a written report will be provided once disincorporation questions are addressed.

She says that the committee also discussed amendments to 56133 and other items and that they are currently waiting before going forward.

Commissioner Farrell asks about groundwater management issues. Ms. McDonald says that the issue has been addressed.

Commissioner Bagley asks which cities are considering disincorporation in San Bernardino.

Ms. McDonald says that Upland, Montclair, Grand Terrace, and Adelanto are currently in jeopardy.

Commissioner Ramos asks if the county is automatically accountable for the services when a city disincorporates. Ms. McDonald says that the action requires a vote of the people and that the county is not necessarily responsible for all city functions if it disincorporates.

Vice-Chair Cox says that a workshop regarding disincorporation would be timely for the Commission. Commissioner Bagley says that the topic would be a good topic for a CALAFCO Conference.

Ms. McDonald asks that the report be received and filed.

ITEM 12. EXECUTIVE OFFICER'S REPORT:

Executive Officer Kathleen Rollings-McDonald presents the oral executive officers report. She says that the Commission will be dark in February.

ITEM 13. COMMISSIONER COMMENTS

Commissioner McCallon says that the East Valley Water district is pursuing the provision of service that they are not authorized to provide. He asks what the Commission can do on this issue. Ms. McDonald says that a letter will be sent addressing the issue as part of the Service Review process.

ITEM 14. COMMENTS FROM THE PUBLIC

No Comments

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION
THE HEARING IS ADJOURNED AT 11:20 A.M.**

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

KIMBERLY COX, Vice- Chair