

**ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF MARCH 18, 2015**

REGULAR MEETING

9:00 A.M.

MARCH 18, 2015

PRESENT:

COMMISSIONERS: Jim Bagley
Kimberly Cox, Vice-Chair
James Curatalo, Chair
Steve Farrell, Alternate
Robert Lovingood
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: Larry McCallon
James Ramos
Janice Rutherford, Alternate
Sunil Sethi, Alternate

STAFF: Clark Alsop, Legal Counsel

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION
COMMISSION – CALL TO ORDER – 9:06 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 January 21, 2015

2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Months of January and February 2015 and Note Cash Receipts

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. 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.

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

PUBLIC HEARING ITEMS:

ITEM 4. CONSENT ITEMS DEFERRED FOR DISCUSSION

No items deferred for discussion.

ITEM 5. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3185 AND (2) LAFCO 3185 – SPHERE OF INFLUENCE EXPANSION FOR THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND REDUCTION FOR THE CREST FOREST FIRE PROTECTION DISTRICT

Chairman Curatalo opens the public hearing for LAFCO 3185.

Executive Officer Kathleen Rollings-McDonald presents the staff report for LAFCO 3185, 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.

Ms. McDonald says that the sphere of influence expansion is part of a two-step process to provide for the continuing fire protection, emergency response and ambulance services to the Crestline community. She says that the Board of Directors of the Crest Forest Fire Protection District adopted a resolution initiating an application to expand the sphere of influence for the San Bernardino County Fire Protection District to include the territory of the independent Crest Forest Fire Protection District.

Ms. McDonald says that staff is requesting that the Commission determine that the proposal presented for sphere of influence amendment does not require a service review as provided for in Government Code Section 56430 as the review in LAFCO 3127 completed in December 2010 has not substantially changed.

Ms. McDonald says that staff has reviewed the factors of consideration as required for any sphere of influence change and says that the approval of the sphere of influence expansion will move forward existing County General Plan goals related to fire protection and emergency response. She says for present and probable need for public facilities and service in the area, that staff has reviewed the documents and that through the completion of the companion annexation proposal, the community will continue to receive the fire protection and emergency response services they have received in the past; for present capacity of public facilities and adequacy of public services that the agency provides, the sphere of influence amendment will allow for the fire protection and emergency response services to continue through the completion of the reorganization process and that the final factor, the existence of any social or economic communities of interest, the retention of fire protection and emergency response services will assure the critical long term economic viability of the area.

Ms. McDonald says the Commission is the lead agency on this item and that the Commission's environmental consultant has reviewed the proposal and has determined that the reorganization is statutorily exempt from CEQA.

Ms. McDonald reviews staff recommendation and asks for approval of the proposal.

Chairman Curatalo asks for comments from the public; there are no comments. Chairman Curatalo closes the public hearing.

Commissioner Lovingood moves approval of staff recommendations for LAFCO 3185, second by Commissioner Cox. There being no opposition, the motion passes unanimously with the following vote Ayes: Bagley, Cox, Curatalo, Lovingood, Warren, Williams. Noes: None. Abstain: None. Absent: McCallon (Ms. Warren voting in his stead), Ramos.

ITEM 6. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3186 AND (2) LAFCO 3186 – REORGANIZATION TO INCLUDE DISSOLUTION OF THE CREST FOREST FIRE PROTECTION DISTRICT AND ITS SERVICE ZONE PM-A, ANNEXATION TO THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS MOUNTAIN SERVICE ZONE, AND SERVICE ZONE PM-1 AND FORMATION OF FIRE SERVICE ZONE PM-4

Chairman Curatalo opens the public hearing for LAFCO 3186.

Executive Officer Kathleen Rollings-McDonald presents the staff report for LAFCO 3186, 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.

Ms. McDonald gives a historical background of the Fire District and says that in 2010 the Commission conducted its state-mandated service review for the Crest Forest community of the Mountain region which included a discussion of the Crest Forest Fire Protection District. The report included a discussion of the financial constraints being experienced by the District such as revenue reductions and cost increases which were placing the agency in deficit spending. LAFCO staff at that time questioned the District's

long-term ability to fund its services without an increase in revenue. She says that in response to the analysis of the District's financial position, in 2012 the Board of Directors determined that the District needed to ask its voters to approve a special parcel tax district-wide to maintain service levels and allow for the hiring of a Fire Chief as required by law. The special tax failed and the district looked at other options and chose to contract with County Fire for fire services in the district. At the May 2013 hearing, the Commission determined that the contract for service between County Fire and the Crest Forest FPD was exempt from the provisions of Government Code Section 56133 (SC#376) since the area was outside the sphere of influence of County Fire. This allowed for the two agencies to finalize the contract agreement which was signed by the District in June 2013 and by County Fire in July 2013.

Ms. McDonald says that at the close of the first fiscal year of operation, the District began to look at the potential service reductions that would be necessary pursuant to the contract as the cost for contract administration and the payment schedule agreed to in the contract for supplemental retirement payments were affecting the boots on the ground aspect of the contract. In discussion with County Fire Administration, the County Administrative Office, and the District it was determined that the best course of action was to annex the territory to County Fire and dissolve the Crest Forest FPD. She reviews the maps of the area on the overhead.

Ms. McDonald says that in discussion with LAFCO staff regarding filing the application, it was determined that the reorganization would require several elements in order to complete the changes necessary for transition. First, the District service area would be annexed to the County Fire and its Mountain Service Zone, Next the formation of a new Service Zone to reflect the area of the Crest Forest FPD Service Zone PM-A to allow for transfer of the special tax to supplement paramedic funding. Finally, the area of the Crest Forest FPD Service Zone PM-1 was to be annexed to the existing County Fire Service Zone PM-1.

Ms. McDonald says that at the time the application was submitted, LAFCO staff was of the understanding that there was an existing contract between the Crest Forest FPD and the San Bernardino County Employees Retirement Association (SBCERA) to repay the retirement obligations of the transferred Crest Forest FPD employees. Based upon this understanding, the proposal was circulated for review and comment with the formation of a new Service Zone FP-7 as an element of the consideration to isolate this debt. She says that during the processing of the application it was learned that the contractual relationship related to the supplemental payments outlined in the service contract for unfunded retirement purposes was between County Fire and the District, not the SBCERA. Therefore, there is no requirement to create the Zone since there is no contractual obligation to be addressed with SBCERA.

Ms. McDonald reviews the Commission's determination related to boundaries, Land Use, Financial and Service Considerations and Environmental. She says that for the boundaries, based upon the review of this proposal, it is staff's position that LAFCO 3186 provides for a definite and certain boundary as required by LAFCO law for all the affected successor agencies and newly formed Service Zone.

Ms. McDonald says that for Land Use, the review and approval of the proposal will have no direct effect on the land use designation assigned by the County and that SCAG has

adopted a Regional Transportation Plan and Sustainable Community Strategy pursuant to the provisions of Government Code Section 65352.5 and that approval of this proposal will have no direct impact on those determinations.

Ms. McDonald says that for Service Considerations, the approval of the reorganization will provide for a continuing delivery of fire protection, emergency medical response and ambulance serve to the Crest Forest community at or close to levels delivered in the past and that staff supports the reorganization as modified in the report.

Ms. McDonald says that for environmental considerations, that staff has provided the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, with the application materials and responses provided by the Crest Forest Fire Protection District and the San Bernardino County Fire Protection District. She says that Mr. Dodson has reviewed this proposal and has indicated that it is his recommendation that the reorganization is statutorily exempt from the California Environmental Quality Act (CEQA)

Ms. McDonald says that the Commission will need to address the terms and conditions that are required to effectuate the change, specifically, the terms and conditions that will address the transition of service, transfer of obligations, discussion of assignment of special taxes and more. She says that staff is recommending that the effective date be set as no earlier than July 1, 2015 to allow for a clean break in financial and contractual operations and allow for a clean audit trail.

Ms. McDonald says that conditions will need to be applied to transfer operations, facilities, and debt to the Mountain Service Zone for continued operation and that approval of the transfer of debt will need to be conditioned in a manner to protect the bond holders as required by State law and to address questions discovered regarding transferability of the Certificate of Participation contract and for the Station 30 special permit with the U.S. Forest Service.

Ms. McDonald says that a condition of approval is proposed that will defer completion of the change of organization until the signed documents are submitted to LAFCO and that the assignment of appropriation limit amounts (Gann Limit) have been reviewed and that staff has determined that the separate appropriation limit for the PM-A special tax approved by vote in 1991 has not been separately set each year as required by law. She says that staff has developed the calculation necessary to determine the rate to be assigned to the newly formed SBCFPD Service Zone PM-4.

Ms. McDonald says that a number of specific conditions are needed to accommodate the dissolutions, annexations and assumption of service. She reviews the full range of conditions and staff recommendations, as noted in the staff report and says that the Certificate of Completion shall be held in abeyance until all conditions have been met. She asks that the commission also approve staff's request to provide individual notice to the registered voters in the proposal area.

Ms. McDonald says that approval of the set of actions outlined in the report by the Commission will place the matter in the hands of the registered voters of the Crest Forest community to determine the success or failure of this proposal.

Chairman Curatalo says that Crest Forest Fire is a dedicated agency.

Commissioner Bagley asks for the number of registered voters in the proposal area. Ms. McDonald says that the number is approximately 6,000. Commissioner Bagley questions County Fire's ability to pay for the unfunded liability assumed, to which Ms. McDonald says that County Fire has other means to help offset the unfunded liability and help with costs.

Commissioner Bagley says that the Commission has a responsibility to the people with regard to the unfunded liability. Ms. McDonald says that the recent changes in PEPR and the two tier level plan will affect the unfunded liability issues as well.

Commissioner Cox says she is pleased that the district is taking the best course of action for the community.

Commissioner Lovingood says that the district's liability has been well addressed and that the recommendations presented are the best solution.

Commissioner Farrell asks about EOA 10; Ms. McDonald says that EOAs cannot be changed by LAFCO and that the sphere of influence for Crest Forest will be eliminated, but EOA 10 will be covered.

Chairman Curatalo asks for comments from the public; there are no comments. Chairman Curatalo closes the public hearing.

Commissioner Cox moves approval of staff recommendations for LAFCO 3186, amended to include the individual noticing of registered voters in the proposal area, second by Commissioner Williams. There being no opposition, the motion passes unanimously with the following vote Ayes: Bagley, Cox, Curatalo, Lovingood, Warren, Williams. Noes: None. Abstain: None. Absent: McCallon (Ms. Warren voting in his stead), Ramos.

DISCUSSION ITEMS:

ITEM 7. STATUS REPORT ON RIM OF THE WORLD RECREATION AND PARK DISTRICT COMPLIANCE WITH CONDITIONS IMPOSED BY LAFCO ON ITS SERVICE REVIEW/SPHERE OF INFLUENCE UPDATE

(It is noted that Commissioner Lovingood and LAFCO Legal Counsel de Sousa leave the dais.)

Michael Tuerpe, Project Manager presents the staff report for the status on the Rim of the World Recreation and Park 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.

Mr. Tuerpe says that at the July 2010 hearing the Commission completed its service review for the Rim of the World Recreation and Park District and that the Commission identified a number of financial issues which prompted it to question the District's financial solvency at that time. He says that as part of the resolution the Commission made determinations on the service review, which included four conditions that require ongoing monitoring of the District.

He says that three of the four conditions have been met previously leaving a single item for ongoing monitoring, that of the monitoring of the District's finances and governance.

Mr. Tuerpe that the District's revenues are steady and that the expenditures are rising. He reviews the budgets and audits of the District and says that the District continues to work toward resolving its financial reporting and management issues and that staff believes that many of the questions and concerns identified by the Commission are being addressed.

(It is noted that Commissioner Lovingood returns to the dais.)

Mr. Tuerpe says that staff is asking the Commission extend the monitoring of the District for one additional year.

Karen Reams, General Manager, Rim of the World District, says that the District has improved and that they are currently looking at joint use contracts. She says that new staff and board members are aware of the District's goal to comply with the Commission's recommendations.

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

(It is noted that LAFCO Legal Counsel de Sousa returns to the dais.)

ITEM 8. STATUS REPORT ON CONDITIONS IMPOSED ON LAFCO 3157 -- SPHERE OF INFLUENCE ESTABLISHMENT FOR COUNTY SERVICE AREA 120

Executive Officer Kathleen Rollings-McDonald presents the staff report for LAFCO 3157, 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 at the October 22, 2014 LAFCO hearing, the Commission adopted its resolution, Resolution No 3190, related to the sphere of influence establishment for County Service Area (CSA) 120 and that included within that resolution were conditions imposed on its sphere establishment.

She states that in anticipation of the Commission's consideration of this status report, staff requested that the County Special Districts Department submit an outline of progress on the conditions imposed. In response to that request a letter, dated March 6, 2015, was received by LAFCO staff just days before the staff report needed to be published and distributed to the public. She says that in order to provide LAFCO staff and its Special Legal Counsel the ability to fully evaluate the positions now taken by the County and its Special Districts Department as outlined in its letter, staff is recommending that the status report be continued to the April 15, 2015 hearing.

Commissioner Williams asks if the County had agreed to the recommendations prior to its adoption. Ms. McDonald responds that staff held discussions with the County, and a question was raised regarding the implementation of the conditions, but no formal request for changes was received prior to its adoption.

Commissioner Williams moves approval of staff recommendation to continue the item to the April 15, 2015 Hearing, second by Commissioner Lovingood. There being no opposition, the motion passes unanimously with the following vote Ayes: Bagley, Cox, Curatalo, Lovingood, Warren, Williams. Noes: None. Abstain: None. Absent: McCallon (Ms. Warren voting in his stead), Ramos.

ITEM 9. LEGISLATIVE UPDATE REPORT

Executive Officer Kathleen Rollings-McDonald presents the Legislative 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 says that she has been participating as the Chair of the subcommittee of the CALAFCO Legislative Committee, to rewrite the statues related to disincorporation within the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and that Assemblyman Chad Mayes agreed to sponsor the bill. She says that she, along with CALAFCO, members of the Assemblyman's staff and representatives from CSAC, League of Cities, Urban Counties Caucus, CSDA and RCRC (Rural Counties Representatives of California) have been meeting as a stakeholders group to work through questions on the bill, address amendments, and to better understand the process which has not been used since 1972.

Ms. McDonald says that questions still remain about final language for the bill, however, support for the concept and updating the process has been received from all the participants. It is anticipated that the bill will be heard in the Assembly Local Government Committee in early April after the Legislature returns from its spring recess. She says that staff recommends that the Commission adopt a support position for AB 851 and direct staff to forward a letter outlining this position to CALAFCO, the Assemblyman and to the San Bernardino County Legislative Delegation.

Ms. McDonald says that there are two bills in the Legislature related to revisions to Government Code Section 56133 -- AB 402 (Dodd) and SB 239 (Hertzberg). She says that SB 239 is currently considered a spot bill referring to this section of LAFCO law, but it is understood that the sponsorship of this change is from the Professional Firefighters Association seeking union representation during these contract negotiations. Staff is recommending that the Commission take a watch position on this bill. Staff will keep the Commission apprised of any changes to the language during the processing.

Ms. McDonald says that AB 402 proposes to make changes in the out-of-agency service contract provisions contained within Government Code Section 56133 to provide for a mechanism to authorize service outside the sphere of influence of an agency when deemed appropriate. She says that this question has been one which San Bernardino LAFCO has sought clarification for more than 9 years due to the condemnation of private utilities by public agencies. She says that she has been involved in the drafting efforts in order to provide a mechanism to address local issues. She says that Assemblyman Dodd, from Napa, has introduced a bill taking its direction from the last set of revisions from 2013 for Government Code Section 56133, but excluding some of the language which was included to provide safeguards in the process in keeping with the Commission's directives.

Ms. McDonald says that staff recommends that the Commission take the position to support AB 402 if amended to include the specific discussion of language addressing the condemnation of private utilities, such as private or mutual water companies or electric utilities.

Ms. McDonald says that with regard to AB 448 (Brown) and SB 25 (Roth) – Local Government Finance: Vehicle License Fee (VLF) Adjustments; SB 25 again attempts to restore the VLF funding for newly incorporated cities post 2004 which addresses only those four cities in Riverside County which incorporated between 2004 and July 1, 2011 leaving unresolved the loss of funding for a future incorporation. She says AB 448 is intended to address the loss of funding for those inhabited annexations which occurred between 2004 and the future. This directly affects the City of Fontana (32 islands) as well as the Cities of Upland, Montclair, San Bernardino, Loma Linda and Victorville and is the same language as last year's AB 1521 (Fox).

She says that staff is recommending that the Commission adopt a support position for both AB 448 and SB 25 and direct staff to forward a letter outlining this position.

Ms. McDonald says that the CALAFCO sponsored omnibus bill has not yet been published as it is being prepared and presented to the Assembly Local Government Committee. Staff will provide information on that bill as soon as it is received.

Commissioner Lovingood moves approval of staff recommendation to take recommend positions on AB 851, AB 402, AB 448 and SB 25, second by Commissioner Warren. There being no opposition, the motion passes unanimously with the following vote Ayes: Bagley, Cox, Curatalo, Lovingood, Warren, Williams. Noes: None. Abstain: None. Absent: McCallon (Ms. Warren voting in his stead), Ramos.

ITEM 10. EXECUTIVE OFFICER'S REPORT:

Executive Officer Kathleen Rollings-McDonald presents the oral executive officer's report. She says that on March 2, 2015 staff, members of the Commission, and others participated in a tour of the Chino Basin Water Conservation District, the College Heights Basin, and the spreading grounds the San Bernardino Valley Water Conservation District. She says that the tour was very informational and that the attendees were able to view operations of both Districts and was well worth the time and effort.

Ms. McDonald says the City of Adelanto is without a City Manager and Finance Manager, and it has been reported that at the end of June will have no money and will start July 1, 2015 with a deficit of 5 million dollars. She says that this issue is of great concern to staff but there is nothing that can be done other than to wait and see what develops and be ready to address the issue. She says that the County is also aware and staff has discussed the fact that in the event of a disincorporation, the Commission is required to guarantee the bond holders and creditors.

Ms. McDonald says that at each Commissioner's seat is a copy of a letter submitted to staff from the Pioneer Town Property Owners Association in Pioneertown requesting the Commissions help to review their concerns with San Bernardino County Special Districts Department and County Service Area 70, Zone W-4 regarding the delivery of

supplemental water.

Commissioner Williams says that the tour of the Conservation Districts was very informative, the presentations were great and very useful.

Commissioner Bagley says that the tour of the Conservation Districts was a good opportunity and that he would like to see more such tours going forward. Ms. McDonald says that as staff moves forward in the Service Reviews, more opportunities will be made available to the Commission to participate in similar tours.

Commissioner Lovingood asks for information regarding specifics on the Districts; Ms. McDonald says that those details and information will be provided to the Commission during the Service Review presentations later in the year.

ITEM 11. COMMISSIONER COMMENTS

Commissioner Farrell asks about the status of the Incorporation Study for Rim of the World; Ms. McDonald says that Staff is moving forward in collecting information and will begin its discussions and review to complete a preliminary feasibility report and present it to the Commission and Second District.

ITEM 12. COMMENTS FROM THE PUBLIC

No Comments

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION
THE HEARING IS ADJOURNED AT 10:45 A.M.**

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman