

**DRAFT - ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF JULY 15, 2015**

REGULAR MEETING

9:00 A.M.

JULY 15, 2015

PRESENT:

COMMISSIONERS:	Jim Bagley	Larry McCallon
	Kimberly Cox, Vice-Chair	James Ramos
	James Curatalo, Chair	Sunil Sethi, Alternate
	Steve Farrell, Alternate	Acquanetta Warren,
	Robert Lovingood	Alternate
		Diane Williams

STAFF:

- Kathleen Rollings-McDonald, Executive Officer**
- Clark Alsop, LAFCO Legal Counsel**
- Samuel Martinez, Assistant Executive Officer**
- Michael Tuerpe, Project Manager**
- Joe Serrano, LAFCO Analyst**
- Rebecca Lowery, Clerk to the Commission**

ABSENT:

COMMISSIONER: Janice Rutherford, Alternate

**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.

ADJOURN TO CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION

Conference with legal counsel: Significant exposure to litigation (Government Code Section 54956.9(d)(2) – One case: Potential application for activation of latent power for wastewater treatment by the East Valley Water District

RECONVENE REGULAR SESSION AT 9:37 A.M.

ANNOUNCEMENT OF ACTION FROM CLOSED SESSION

Chairman Curatalo asks LAFCO Legal Counsel Clark Alsop to report on the closed session. Mr. Alsop states that no reportable actions were taken in closed session.

ANNOUNCEMENT OF CONTRIBUTIONS

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 was 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 20, 2015
2. Approval of Executive Officer's Expense Report
3. Unaudited Year-End Financial Report for Fiscal Year 2014-15
4. Approval of Fiscal Year 2006-07 Financial Records Destruction Pursuant to Commission Policy
5. Ratify Payments as Reconciled for Months of May and June 2015 and Note Cash Receipts
6. Consideration of Fee Reduction Requested by Phelan Pinion Hills Community Services District for its Reorganization Proposal (LAFCO 3194)

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 2014-15; Approval of FY 2006-07 Financial records Destruction; a staff report outlining the staff recommendations for the reconciled payments and the Consideration of the Fee Reduction by Phelan Pinion Hills CSD. 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 roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: None.

PUBLIC HEARING ITEMS:

ITEM 7. CONSENT ITEMS DEFERRED FOR DISCUSSION

No items deferred for discussion.

ITEM 8. CONSIDERATION OF: (1) MITIGATED NEGATIVE DECLARATION PREPARED BY THE CITY OF LOMA LINDA FOR GENERAL PLAN AMENDMENT (GPA 14-075), PRE-ZONE (ZMA 14-076), ANNEXATION (ANX 14-074), AND TENTATIVE TRACT MAP 18963 (TTM14-073), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3182; AND (2) LAFCO 3182 – REORGANIZATION TO INCLUDE CITY OF LOMA LINDA ANNEXATION AND DETACHMENT FROM SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE AND COUNTY SERVICE AREA 70

Chairman Curatalo opens the public hearing.

Assistant Executive Officer Samuel Martinez presents the staff report for LAFCO 3182, 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.

Assistant Executive Officer Samuel Martinez reviews the project area on the overhead and says that the proposal was initiated by landowner petition; is a reorganization proposal that includes annexation to the City of Loma Linda and detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, and County Service Area 70; includes four parcels and is generally located within the City of Loma Linda's eastern sphere of influence. He says that the overall reorganization is composed of two distinct areas, one area proposed for development. In order for the development to proceed, it requires receipt of water and sewer service from the City of Loma Linda. He says that the parcels are contiguous to the City's boundaries, and are required to annex to the City prior to receiving such services as required by the City's "Measure V."

Mr. Martinez presents information related to the four areas of review. With regard to boundaries, Mr. Martinez says that the application initially only included the parcels that were proposed for development as the Tentative Tract. At that time, LAFCO staff expressed its concern regarding the creation of an unincorporated peninsula between the proposed development and the existing boundaries of the City. The developer and the City worked with surrounding property owners to address a more logical and efficient boundary configuration for the proposed annexation. He says that it is staff's position that LAFCO 3182, as proposed, is a logical extension of the City and is an easily identifiable boundary for service delivery.

Mr. Martinez says that with regard to Land Use, the County's current land use designation for the reorganization area as a whole is Multiple Residential. The City's General Plan designates the entire reorganization area as Business Park. The City's approval of the Project included a General Plan Amendment to change the General Plan designation from Business Park to Low Density Residential for the northern half of the reorganization proposal while maintain the southern half as Business Park.

Mr. Martinez says that one of the main tenets of LAFCO Law is the preservation of open-space and prime agricultural lands. According to the California Department of Conservation, Division of Land Resources Protection, Farmland Mapping and Monitoring Program, the reorganization area is designated as Prime Farmland. Therefore, the proposed development within LAFCO 3182, Tentative Tract 18963, is anticipated to convert

a total of 9.5 acres of Prime Farmland to non-agricultural use. Mr. Martinez states that this conversion was addressed through mitigation measures in the environmental assessment prepared and adopted by the City of Loma Linda, that the surrounding areas are in the process of conversion, west and south.

Mr. Martinez says that with regard to service issues, the Plan identifies that wastewater collection service will be provided through the City; water service is already provided by the City to the existing development within the area; Law enforcement will transition to the City; solid waste services will continue to be provided by Republic Services of Southern California; and finally, fire protection and paramedic service will be provided by the City as they are currently through contract with the San Bernardino County Fire Protection District. Mr. Martinez says that as required by Commission policy and State law, the Plan for Service certified by the City shows that the extension of its services will maintain, and/or exceed, current service levels provided through the County.

Mr. Martinez says that with regard to environmental review, the City's environmental assessment has been reviewed by the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, who has determined that if the Commission chooses to approve LAFCO 3182, that the City's documents are adequate for Commission's use as a responsible agency under CEQA.

Mr. Martinez reviews staff's recommendations and says that the proposal was submitted in response to a development project within the reorganization area that requires urban type services, particularly water and sewer service, which are only available from the City of Loma Linda. The reorganization area has been expanded to support a jurisdictional change that provides for an efficient and effective boundary for service delivery. Finally, the City's "Measure V" clearly states that all projects that are contiguous to the City's boundaries must annex prior to receiving service and the application responds to this requirement. Mr. Martinez says that for these reasons, and those outlined throughout the staff report, the staff supports the approval of LAFCO 3182.

Commissioner Farrell asks for clarification of the replacement of prime agricultural land, to which Tom Dodson, the Commission's Environmental consultant, clarifies the State policy of prime land replacement known as the Williamson Act and that a mitigation measure has been identified in the documents.

Chairman Curatalo calls for those wishing to speak in reference to the proposal; there being no one closes the public hearing.

Commissioner Ramos moves approval of staff's recommendation for LAFCO 3182, second by Commissioner McCallon. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: None.

DISCUSSION ITEMS:

ITEM 9 CONSIDERATION OF LAFCO 3189 --SPECIAL STUDY OF MORONGO VALLEY COMMUNITY SERVICES DISTRICT

Michael Tuerpe, Project Manager, presents the staff report for LAFCO 3189, 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.

Mr. Tuerpe states that the Commission conducted a service review for the Morongo Valley Community Services District in 2012 and at that time made the required determinations outlined in Government Code Section 56430. Mr. Tuerpe notes that given the information provided by the District at that time, LAFCO staff identified no concern regarding the financial ability of the agency to provide its range of services. On August 18, 2014, LAFCO received a complaint from a director of the District regarding the District's increase in expenses and requesting assistance from LAFCO in reviewing the District's operations and the answer to the question of the District's ability to preserve fire protection service and avoid bankruptcy.

Mr. Tuerpe says that a special study was authorized by the Commission at the January 2015 hearing in response to that complaint and that the study is narrow in focus – determining the financial sustainability of the district to perform its range of services. He reviews the items the District did not reveal in the 2012 Service Review – previous misuse of grant funds, deferred capital and maintenance expenditures, whistle blower and hostile work environment lawsuits. Mr. Tuerpe says that the funds for some grants were not used for the intended purpose which resulted in the district being blacklisted from future grant applications. He says that this circumstance artificially inflated the fund balance and that to regain the eligibility for grant funding required the closing of the previous grants, which meant that the district had to spend other funds to comply with the original grant purpose. He also says that from 2009 through 2012, the District deferred capital and maintenance expenditures which artificially inflated the fund balance and over the past two years roughly \$34,500 has been spent on trimming trees and reroofing the maintenance shed, firehouse dorm and park pavilion.

Mr. Tuerpe says that the whistle blower and hostile work environment lawsuits, which included undisclosed settlements, has also contributed to the District's financial issues. He reviews the financial charts related to the District's activities including revenue detail, expenditure detail and fund balance. He says that revenues have experienced minor fluctuations; however, expenditures related to fire operations, particularly compensation, have increased significantly adding to that the paying of unbudgeted monies to rectify the proper closing of grants and OSHA issues. Mr. Tuerpe notes the change from prior year to show the increase in negative fund balance. He reviews the fiscal data, each showing a downward trend. He says that LAFCO staff reviewed the district's staffing levels and found that the Fire Department had been utilizing, in the staff's opinion, a top-heavy staffing model. He says that an increase in medical calls was noted as the rationale for these staffing changes, but no concrete reasoning for the increase was determined. Mr. Tuerpe says that the District board and the District General Manager are aware of the financial situation and have taken measures to reduce costs during the 2014-15 Fiscal Year.

Mr. Tuerpe says that cost cutting measures taken by the district which include the reorganization of the fire department staffing have staved off further declines in its fund balance and that the district has adopted what appears to be a sustainable budget. He

says that should the district desire to increase its current levels of service or expand the range of services, additional revenue sources would need to be obtained and that the district should consider placing a ballot measure to convert its current benefit assessment into a special tax with an annual inflation factor.

In conclusion, Mr. Tuerpe states that staff is recommending that the Commission continue to monitor the Morongo Valley CSD's financial position and sustainability and report to the Commission biannually for the next three years.

Commissioner Ramos asks if given the caveats presented in the report, if the continued monitoring will give the district and the Commission time to adjust finances and expenditures, if needed; to which Mr. Tuerpe responds that the Commission has the option of initiating a review of its sphere of influence and making changes promptly.

Executive Officer Kathleen Rollings-McDonald says that based on the determination of the special study and on the information already provided to the Commission, if there should be a downturn in the district, the Commission can initiate the dissolution of the district and transfer the responsibility of the services to another agency. She says that option is available to the Commission, however it is not an option that should be taken lightly and that the Commission is facing an issue similar to the one faced with the Rim of the World Park and Recreation district, where the district faced dissolution if they did not make the changes to become financially solvent.

Commissioner Bagley says that the staff report asks for continued monitoring of the district and that the next service review is scheduled to take place sometime in 2017-2018. He asks if the Commission can accelerate the timing of the review or if dissolution is the only option, if the district does not improve.

(It is noted that Commissioner Lovingood leaves the dais at 10:17 a.m.)

Ms. McDonald says that the Commission can ask for a service review as part of the discussion of a sphere of influence and that the service review would take approximately 3 or 4 months to complete.

Gayl Swarat, Board Member, Morongo Valley CSD, says that the board is working very hard to solve the financial issues of the district. She says that the community receives excellent service from the fire and paramedic departments due to their quick response times and that if the district was to be dissolved, the service that would be provided by the county fire district may not have the fast response times, due to their location. She says that the people of Morongo Valley want to keep local control.

(It is noted that Commissioner Lovingood returns to the dais at 10:19 a.m.)

Commissioner McCallon thanks the district board and its employees for recognizing the financial issues and working to solve the issues by reducing expenditures and urges the district to continue.

Commissioner Ramos moves approval of staff recommendations for LAFCO 3189, second by Commissioner Lovingood. There being no opposition, the motion passes unanimously

with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: None.

INFORMATION ITEMS:

ITEM 10 LEGISLATIVE UPDATE REPORT

Executive Officer Kathleen Rollings-McDonald presents the Legislative 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. Rollings-McDonald states that the report includes information regarding the current status of three significant bills relating to LAFCOs.

Ms. McDonald says that AB 851 (Mayes), the disincorporation bill, was heard by the Senate Government and Finance Committee which is chaired by Senator Hertzberg in June and that it passed out of the committee with a 7-0 vote. She says the bill has completed its process in the Senate, it will return to the Assembly for concurrence, and then to the Governor's office for signature. She says that she has served on the committee for this bill and continues to participate in meetings and discussion as it makes its way through the Legislature. She says that this is a very arduous process and that the Commission should commend the CALAFCO Executive Officer and Assembly Mayes for all the legislative work that they have done in processing this piece of legislation.

Ms. McDonald says that AB 402 (Dodd) has been amended in the Senate Government and Finance Committee to provide for a pilot program for Napa and San Bernardino Counties only. An amendment to the bill has been proposed by the California Water Association to add language which would clearly identify that this program will not impact the "law of parallel lines" contained in Section 1501 of the Public Utilities Code. She says that there was no objection to the inclusion of this language in the pilot program, but that any change to the body of Government Code Section 56133 would need to be vetted to the entire CALAFCO Legislative Committee.

Ms. McDonald says that SB 239 (Hertzberg) had been amended dated June 1, 2015 to eliminate the requirement of a union representative to sign off on a contract before LAFCO can receive the application for services. However it has included some additional language related to requirements for road or facility improvements that are confusing in this consideration of a contract. She says staff is recommending that the Commission change its position to one of support in concept and request that the new additions be removed.

Ms. McDonald says that two significant bills related to water were considered. The first SB 88 began as a budget trailer bill process for consideration and was "gut and amended" into SB 88 on June 17 with passage on June 19 and enrollment to the Governor. On June 24th this bill was signed by the Governor which will allow for the forced consolidated of water systems (public and/or private) if certain determinations are met. She says that CALAFCO participated in the review of this legislative directive, but questions and concerns expressed surrounding this consolidation effort were rebuffed by the legislative staff participants and that as chaptered there is an understanding that LAFCOs will step in to clear up the issues of governance; however, as written it specifically excludes LAFCO action in the process. It

is understood that clean up legislation will be coming in the next weeks or months on this process, but it is now law.

Ms. McDonald says that on July 7, SB 552 (Wolk) was gut and amended to reflect water system issues related to “disadvantaged communities” and the requirement to impose the extension of service in specific situations. CALAFCO staff is working with the legislative stakeholder group and the author’s staff to address questions and concerns.

Ms. McDonald says that AB 868 (Obernolte), which is addressing an impediment to the consolidation of the Big Bear Fire Authority, the retirement liability issue. She says that the bill will allow San Bernardino County, like Los Angeles and Kern to allow for a consolidation where the retirement liability will be consolidated under the new entity; this bill would allow for the unfunded liability to transition at the time of consolidation to the new consolidated agency without it being considered a new contract under the retirement provider. She says that this effort for Big Bear may have implications for other areas in the county and that AB 868 has been enrolled to the Governor and staff is suggesting that the Commission send a letter of support for signature.

Commissioner Farrell asks why sections 8 and 9 for SB 239 are an issue. Ms. McDonald says that the language in those sections duplicate language that would already exist in the contract and requests information pertinent to a jurisdictional change not a contract.

Commissioner Cox moves approval of staff recommendation to send letter of support in concept for AB 868, second by Commissioner Williams. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: None.

Chairman Curatalo says that CALAFCO Executive Director Pamela Miller and Executive Officer Kathleen Rollings-McDonald are to be commended on their work with the legislative items.

ITEM 11. EXECUTIVE OFFICER'S ORAL REPORT: a) NOMINATION FOR SOUTHERN REGION CALAFCO POSITIONS – SPECIAL DISTRICT AND COUNTY; b) UPDATE ON CURRENT PROPOSALS

Executive Officer Kathleen Rollings-McDonald says that the Commission must notify CALAFCO of the designated voting members for the CALAFCO Annual Business meeting and that typically the Chair is the first delegate with the Executive Officer as the alternate voting member. Ms. McDonald says that the seat for a County member of the Southern California Region is open. The Commission had already nominated Chairman Curatalo for the Special Districts position; and requests the Commission nominate Commissioner Lovingood for the County position.

Ms. McDonald says that the Commission will see heavy agendas going forward and that applications are coming into the LAFCO staff office for processing; some related to fire; annexations to cities, annexations to address exempt lands, and others. She says that staff is also actively processing the service reviews, which are being conducted by service designation and that the Commission has already heard the service review on water conservation and that water will be next followed by wastewater and others. She says that

at the next hearing the Commission will review its policy and procedure manual.

Ms. McDonald says that as of August 7, 2015, Joe Serrano will be leaving San Bernardino LAFCO to accept a position at San Diego LAFCO.

ITEM 12. COMMISSIONER COMMENTS

Chairman Curatalo thanks the Commission for the nomination and says that working with CALAFCO is a good experience.

ITEM 13. COMMENTS FROM THE PUBLIC

No Comments

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION
THE HEARING IS ADJOURNED AT 10:39 P.M.**

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman