

**DRAFT - ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 19, 2015**

REGULAR MEETING

9:00 A.M.

AUGUST 19, 2015

PRESENT:

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

STAFF:

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

ABSENT:

COMMISSIONERS:	Janice Rutherford, Alternate	Sunil Sethi, Alternate
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9:06 A.M. – CALL TO ORDER – FLAG SALUTE

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 July 15, 2015
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Month of July 2015 and Note Cash Receipts **(TO BE CONTINUED TO THE SEPTEMBER 16, 2015 HEARING)**
4. Consideration of Fee Reduction Request by the City of Big Bear Lake for its Reorganization Proposal to Annex its Non-Contiguous Municipally Owned Parcels

LAFCO considered the items listed under its consent calendar, which includes a Visa Justification, the Executive Officer's expense report; the continuation of the ratification of payments as reconciled for the month of July, and the Consideration of the Fee Reduction

Request by the City of Big Bear Lake. 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 Ramos. 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.

(it is noted that Commissioner Warren arrives at the dais.)

PUBLIC HEARING ITEMS:

ITEM 5. CONSENT ITEMS DEFERRED FOR DISCUSSION

No items deferred for discussion.

ITEM 6. CONSIDERATION OF : (1) CEQA STATUTORY EXEMPTION FOR AMENDMENTS TO POLICY AND PROCEDURE MANUAL; AND (2) REVIEW AND ADOPTION OF AMENDMENTS TO LAFCO POLICY AND PROCEDURE MANUAL INCLUDING, BUT NOT LIMITED TO: a.) MISSION STATEMENT AND COMMISSION OPERATIONS; b.) ACCOUNTING AND FINANCIAL POLICIES – CHANGES RELATED TO COUNTY CODE CHANGES; c.) HUMAN RESOURCES POLICIES AND PROCEDURES -- CHANGES RELATED TO COUNTY CODE CHANGES AND TITLES; d.) APPLICATION/PROJECT PROCESSING; e.) ENVIRONMENTAL GUIDELINES, POLICIES, AND PROCEDURES; f.) SPECIAL DISTRICT REPRESENTATION RULES AND REGULATIONS; g.) FORMS

Executive Officer Kathleen Rollings-McDonald presents the staff report for the proposed amendments to the LAFCO Policy and Procedure Manual, 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 at the June 2012 Commission hearing, the LAFCO Policy and Procedure Manual was reorganized and updated and established an annual review of the Manual be conducted in August or September. She says that staff has prepared a report with the Manual items for update and amendment.

Ms. McDonald says that the Introduction of the Manual has been updated to reflect the proposed changes in this report. She notes that the Introduction does not contain any policies and is a general description of the Manual's history and contents.

Ms. McDonald says that in the Mission Statement and Commission Operations section, Chapter 2, Organization, is amended to clearly identify the policy of the Commission for the Recruitment of the public member. She says that Chapter 3, Rule of Order is amended to designate "Chair" and "Vice-Chair" throughout the rules; Rule 2 is amended to eliminate the term limit provision and Rule 12 is amended to include language to clarify that all members of the Commission are encouraged to participate in the closed section, as per current Commission practice.

Ms. McDonald says that in the Accounting and Financial section, Chapter 1, Internal Operations, the annual audit policy is amended to read that the independent auditor shall be changed every

five years rather than three years. She says that expense reimbursement and travel policy is amended to reflect the changes approved by the County which are deemed to be non-substantive and non-controversial; and that for the Disclosure of LAFCO Compensation and Budget policy has been amended to state that the Commission's most recent audit will be posted on the website for general public information. She says that in Chapter 2, Application Processing, the Indemnification policy is retitled to clearly identify it as indemnification and to clarify that the applicant and/or real part in interest indemnifies LAFCO upon submission of an application for a change of organization or reorganization, a sphere of influence amendment or a review of an out-of-agency service contract/agreement.

Ms. McDonald says that in the Human Resources section, the proposed structural change consolidates the Benefits Plan into the Human Resource Policies and Procedures, the language of the "scope" is redundant with the policy and is removed through this update. She says that the update to the LAFCO Policy and Procedure Manual also includes amendments to reflect statutory and regulatory changes for payroll and labor as reflected in the County's updated Exempt Compensation Ordinance and County Code. She says that these changes are deemed to be non-controversial.

Ms. McDonald says that in the Human Resources section, Chapter 2, Employment, the LAFCO Analyst position is changed to reflect the accurate title and corresponding revision to its salary range.

Ms. McDonald says that in the Human Resources section, Chapter 5, Benefits Plan, the medical and dental subsidies is significantly reorganized and updated to be consistent with current administration of medical and dental coverage and current law; however, no substantive changes made to the benefits. She says that for insurance and benefits, the language has been updated to be consistent with the current administration of these benefits: Term Life, Voluntary Life, Variable Life, Short-Term Disability, Long-Term Disability, Accidental Death and Dismemberment, Dependent Care Assistance Plan, Flexible Spending Account, Vision Care and for the Premium Conversion Plan, it has been placed as its own policy, minor updates to be consistent with the law and current administration of this benefit.

Ms. McDonald says that for the retirement policy, the changes relate to outdated language and other minor updates which are amended to be consistent with the California Public Employees' Pension Reform Act of 2013 and that in the retirement medical trust section it is established that at separation from LAFCO for reasons other than death, all sick leave goes to the Retirement Medical Trust, and other minor updates of the section.

Ms. McDonald says that for Application Processing, changes to this section include the removal of redundant environmental language that is currently covered in Section V (Environmental Review); removes outdated language, removes statutory recitations, and also includes clarification of procedure from policy, updates due to minor changes in statute, and other non-substantive and non-controversial changes.

Ms. McDonald says that for Environmental Review, changes to the section includes updates and changes to the environmental review process that was adopted by the Commission in 2012, and that the amendments to this section are non-substantive, which include, but are not limited

to, revisions that primarily reflect existing and new statutory changes for implementing CEQA and some minor reformatting to be consistent with the entire Manual.

Ms. McDonald says that in the Special Districts section, non-substantive changes include removal of outdated policies which includes the "Authorization" policy, the rescinding of the "Special Districts Association" policy, and the Rescinding of the Inventory of Special Districts Services" and "Establishment of Existing Functions and Services" policies. Ms. McDonald notes that some of the language has been placed in the new introduction section of this section of the manual.

Ms. McDonald says that in the Forms section, the forms have been reformatted and include non-substantive changes which include a revision to the indemnification language, as proposed as a part of the amendment to Chapter IV – Application Processing, which is part of the Certification on the following forms: Application and Preliminary Environmental description Form, Supplement – Annexation, Detachment, Reorganization Proposals, Supplement – Sphere of Influence Amendment, Supplement – Formation of a Special District, Supplement – Special District: Services – Activation or Divestiture, Application for Extension of Service by Contract.

Ms. McDonald reviews staff recommendations to certify that the proposed revisions and amendments to the Policy and Procedure Manual are statutorily exempt from the provisions of the CEQA and requests that the Commission adopt the Policy and Procedure Manual, as revised, by the adoption of Resolution No. 3202 and to direct staff to make the Manual available on the Commission's website.

Commissioner Warren asks if the forms will also be made available on the website. Ms. McDonald says that they will be.

Chairman Curatalo says that the changes clean-up and refine the Policy and Procedure Manual.

Commissioner Bagley comments regarding the term changes for the Chairman and Vice-Chairman and says that it is important to maintain the rotation for historical and leadership benefit.

Ms. McDonald says that the policy was proposed for amendment to allow the Commission to choose leadership without restrictions. Commissioner Bagley says that it is important to develop future leaders and term limits does provide for that. Commissioner Lovingood says that the experienced leadership of the Commission is important and that if the leadership should grow stagnant or ineffective, that the Commission would move to change leadership.

Commissioner Lovingood moves approval of the revised policy and procedure manual, 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.

DISCUSSION ITEMS:

ITEM 7 STATUS REPORT ON LAFCO 3176 -- SPECIAL STUDY FOR YERMO,

DAGGETT AND NEWBERRY COMMUNITY SERVICES DISTRICTS

Project Manager Michael Tuerpe presents the staff report for the status report for the Special Study for Yermo, Daggett and Newberry Community Service Districts, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. He says that at the January hearing the Commission considered the special study of the Daggett, Newberry, and Yermo Community Service Districts. He says that the Commission determined that the districts were not in compliance with the requirements previously requested by the Commission and detailed in the staff report, and that the Commission directed staff to continue to monitor progress to rectify the problems and update the Commission every six months until all of the items of concern are satisfied.

Mr. Tuerpe says that the outstanding issues are detailed in the staff report. He says that all three districts are to adopt and annually review reserve policies pursuant to Community Services District Law Section 61112 and that as of the date of the report, Daggett and Yermo have not provided staff with the information on this statutory requirement and that Newberry has indicated the adoption of its reserve policies scheduled to its August 25 meeting.

Mr. Tuerpe says that all three districts are required to forward a copy of the final budget to the County Auditor pursuant to Community Service District Law Section 61110. He says that Newberry has completed this statutory requirement and has indicated that it will continue to adhere to it; Daggett has placed adoption of its FY 2015-16 budget for its August 12, 2015 meeting, and has indicated that they will provide a copy to LAFCO and the County Auditor following approval and that as of the date of the staff report Yermo has not provided information on this statutory requirement.

Mr. Tuerpe says that all three districts are required to adopt an annual appropriations limit by resolution authorizing the expenditure of the proceeds of taxes and review the annual calculation as a part of the annual financial audit, pursuant to Article XIIB of the State Constitution, which is further acknowledged by Community Services District Law Section 61113. He says that Daggett adopted its annual appropriation limit by resolution at the district's June 26, 2015 hearing; he says that Newberry adopted its annual appropriations limit by resolution at the district's June 23, 2015 hearing and that both districts are aware of the requirement to review the annual calculation as a part of the annual financial audit. He says that as of the date of the report, Yermo has not provided information on this constitutional requirement.

Mr. Tuerpe says that recommendation #5 from the 2012-13 Grand Jury Report reads for Newberry CSD to: " Work with the Board, County Auditor, and utilize resources such as the California Special Districts Association to develop a basic accounting manual". He says that Newberry CSD formally approved its accounting procedures at its February 24, 2015 meeting

Mr. Tuerpe says that staff was directed to continue to work with the County to address and formalize a lease arrangement or title transfer for the Daggett Community Center. He says a draft contract between the County and the District was reviewed and approved by HUD funding, and the concerns about the use of the facility, insurance, maintenance, etc., need to be resolved to eliminate risk and the potential financial obligation to the County. He says that the contract is to be signed by Daggett CSD, then submitted to the County Board for final approval. He says

that pursuant to HUD's direction, the contract will state that the County will record a lien on the property for five years with Daggett CSD continuing maintenance and operation during that term. He says that during this time the County will still be exposed to risk and that following the five-year term, the title and risk will transfer to Daggett CSD if it meets the conditions of the contract.

Mr. Tuerpe says that Daggett CSD is to provide the Commission with a copy of all future water quality information provided to the public, to include water quality control reports, occurrences of contamination, and boil water orders through the initiation of the second cycle North Desert Service Reviews. He says that LAFCO staff confirmed with county Environmental Health Services that there has been no occurrences of contamination or boil water orders since January 2015.

Mr. Tuerpe says that Daggett is required to adopt an annual budget that conforms to generally accepted accounting and budgeting procedures by September 1 of each year at a noticed hearing pursuant to Community Services District Law Section 61110, and that failure to comply with this requirement will necessitate further action by the Commission to resolve the issue. He says that Daggett CSD has placed the adoption of its FY 2015-16 budget for approval on its August agenda. He says that Daggett's audits were not originally included as a monitoring item, however, the LAFCO has requested but not received Daggett's FY 2012-13 and FY 2013-14 audits; completion of annual audits are a requirement of CSD Law Section 61118 and that at the next scheduled status report in February 2016, if satisfactory progress to complete the overdue audits in not meet, LAFCO staff will recommend that the Commission request the County Auditor to either make or contract for the audits pursuant to Government Code Section 26909.

Mr. Tuerpe says that LAFCO has received an unsigned letter regarding public records and other items of concern in the Newberry CSD from two unnamed board members and that a copy of the letter has been provided to the Commissioners and will be provided to the District.

Mr. Tuerpe says that all three districts have at least one outstanding statutory compliance requirement and that LAFCO staff will continue to provide assistance to the districts as requested to help achieve compliance. He says that the next status report is scheduled for February 2016 and asks the Commission to note receipt of the status report and file.

Executive Officer Kathleen Rollings-McDonald says that staff is concerned that Daggett is adopting their first budget since 1995 without the benefit of an audit and she also says that a copy of the letter of complaint regarding Newberry CSD has been forwarded to the Grand Jury.

Commissioner Cox asks what services Daggett CSD provides. Mr. Tuerpe says that they provide fire, streetlighting, park and recreation, and water services. Ms. Cox asks if Daggett's water services should be required to merge with one of the other district water services, would the remaining services be viable. Mr. Tuerpe say that the water functions at Daggett CSD are a business function and should not impact the government side of the district's functions. Executive Officer Kathleen Rollings-McDonald says that the water function of the district does support the administrative areas of the district, so it could be an issue in this case.

Commissioner Lovingood says that his district office continues to be involved in the monitoring

of all the CSDs and asks if staff is receiving the requested documents from the district. Commissioner Lovingood states that his office was informed that there had been an issue with missing information and document in the Yermo CSD business office, which has been resolved and ask that his office be kept informed of any additional information regarding the district is needed.

Commissioner Bagley says that it is disappointing to hear that the required documentation is not being provided and the basic requirements are not being met, and that as a public agency, they should comply with the basics such as a budget and have the basic financial knowledge to prepare a budget and to have an audit. He says that the lack of the basic financial documents does raise red flags and perhaps the grand jury should be brought in again and that it raises concern on accountably. He says that if these issue continue and are again brought forth during the next municipal service review that perhaps consolidation should be considered in more detail.

Ms. McDonald says that transparency in government is essential and that constituents have a right to know how their monies are being used by the agencies that are charged to provide services to them. She says that the budget is used to state how an agency intends to use their funds and the audit is to state how the funds were spent and that it is important to have both. She says that staff will continue to assist these small districts to achieve that goal of transparency and accountability.

Commissioner Lovingood says that it is important that the constituents are informed of how their money is being spent and that that basic information seems to be lacking in some areas and that by informing the constituents, it will give them the information they need to make decisions on who they want to manage their municipal services and that he supports staff efforts on this issue.

Commissioner Ramos says that it is the responsibility of the Commission to continue to monitor districts and keep the grand jury aware as needed, but that the responsibility also belongs to the CSD to do what is in the best interest of the constituents and that the constituents also have a responsibility to remain informed and elect those who will best service the needs of the districts and the people it serves. Ms. McDonald says that the potential for consolidation has very specific criteria and will be an arduous task for a district to take on.

Commissioner McCallon says that he agrees with the comments regarding the need for a budget and that he is concerned with the lack of an audit to show how monies are being spent and that staff should focus on gathering those audits. Ms. McDonald says that staff agrees and is working to that end.

Commissioner Farrell asks for clarification on SB 88, the water system consolidations to which Ms. McDonald says that this is a new mandate and that the State Water Board will make the determinations on this and LAFCO will be responsible for the follow up and that it is currently a broad approach to fix water issues.

Commissioner Cox moves to receive and file the Status Report, 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.

ITEM 8. STATUS REPORT ON RIM OF THE WORLD PARK AND RECREATION DISTRICT

Project Manager Michael Tuerpe presents the staff report for the Status update for 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. He says that at the July 2010 hearing the Commission completed its service review for the Rim of the World Recreation and Park District and identified a number of financial issues which prompted the Commission to question the District's financial solvency at that time. He says that the District has satisfied all of the conditions that were outlined in the Commission's resolution from the service review and that many of the questions and concerns identified by the Commission have been addressed. However, at the March 2015 hearing the Commission determined that it would be prudent to continue to monitor the District for an additional year.

Mr. Tuerpe says that it is staff's view that the district still does not have a full understanding of governmental fund accounting and generally accepted governmental budgeting standards. He says that when staff reviewed the 2015-16 budget, revenues are budgeted at \$40,706 over expenditures, with this amount designated in the District's budget as "Contingency/ Carryforward". However, Mr. Tuerpe notes that funds set aside for contingencies are not carry forward funds, although unused contingency funds do carry forward. He says that the District has possibly overreached by substantially increasing its reserve levels to the point that for 2015-16 Unassigned fund balance is 23% of Total Expenditures. He says that this may be an issue because the district does not receive its first proceeds of taxes until November. He says that the unassigned funds are necessary to operate the district until that time and that should an unexpected circumstance arise, then the committed reserves would have to be used through a Board of Directors action.

Mr. Tuerpe says that the district states the 2015-16 Reserve and Fund Balance figures are based on the final 2014-15 budget and not on actual figures for 2014-15 year-end. He says that the totals have been "Adjusted upward preliminarily by \$191,423" according to the background documents for the 2014-15 financial statements and that LAFCO staff questions why the district did not calculate the actual year-end figures during the recent 2015-16 budget formulation and that the need for an interim updated is unnecessarily being prepared.

Mr. Tuerpe says that the district has made significant strides; that staff will continue to monitor and provide feedback; and that with a few more improvements the district's financial documents should be readily understandable to the public. He says that the District's financial situation seems to be improving after years on unsure ground and that the district continues to improve on their financial reporting and that the continuing attention to its governance and financial issues will preclude the problems of the past. He states that the next status report is scheduled for the February 2016 hearing and that the Commission is to note receipt of the Status Report and file.

INFORMATION ITEMS:

ITEM 9 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 bills determined to be of importance to LAFCO by CALAFCO.

Ms. McDonald says that AB 851 (Mayes) disincorporations - is scheduled for its final hearing on the Senate floor, and then will go to the Assembly and finally to the Governor's office for signature. She says that the Commission will be sending a letter of support to the governor for his signing of this bill.

Ms. McDonald says that AB 402 (Dodd) establishes a pilot program for the Napa and San Bernardino Commissions that would permit them to authorize a city or district to provide services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances. She says it is going to the Senate floor for final reading, however, the California Water Association has identified some concerns and that some of the items that the Water Association has requested cannot be supported by CALAFCO so staff is waiting for the outcome and to see what develops.

Ms. McDonald says that SB 88 is law and that SB 552 is a clean-up bill related to water consolidation in disadvantaged communities. She says that some changes to this bill need to be added and that it will be something to investigate in the upcoming year. She says that CALAFCO continues to work with the OPR, the Water Resources Control Board, the Governor office and others to try and develop this system and that she will continue to monitor and wait and see what develops and keep the Commission apprised.

Ms. McDonald says SB 239 (Hertzberg) is also on the assembly floor and that the bill is related to fire protection service and that she will continue to monitor and keep the Commission apprised as needed.

Commissioner Cox asks for a summary of AB 707 (Wood) which deals with the Williamson Act. Ms. McDonald says that it would provide that the authority for the landowner and the Department of Conservation to agree on the cancellation of value of the land does not apply to a contract between a landowner and a city or county if that contract includes an additional cancellation fee, as specified. Commissioner Cox asks that the current Williamson Act areas be put on an agenda for future review, discussion and information.

ITEM 10 EXECUTIVE OFFICER'S ORAL REPORT:

Executive Officer Kathleen Rollings-McDonald says that CALAFCO is moving away from the host model of the Annual Conference and that CALAFCO will be responsible for the planning and execution of the Annual Conference in an effort to alleviate the burden of staffing to the hosting LAFCO. She says that CALAFCO will be going forward to host the annual conferences rotating through the three preferred areas which are: Monterey, Sacramento and San Diego, and that an increase in registration fees will also be issued and more efforts for sponsorships will be made. She says that as noted in the report from CALAFCO, increasing requests from the Legislature to provide input on bills and so forth has brought to light the need to increase the CALAFCO Executive Director's working hours from 24 to 32 hours weekly with a corresponding increase in the dues. Ms. McDonald states that these are all efforts to move the association forward to provide a more professional operation and to provide for a more dynamic conference presentation. No questions or concerns expressed by Commission.

Ms. McDonald says the Commission has received the SANBAG update for the Draft San Bernardino Countywide Transportation Plan and that staff's concern on this project is the long-term sustainability and that staff will continue to work with the various agencies involved.

(It is noted that Commissioner McCallon leaves the dais)

Ms. McDonald says that staff has received information regarding the State auditor's office high risk local government audit program. She says the state auditor's office is conducting those audits and that staff will be looking at the final product to see if it will be useful to the Commission's Service Review.

Ms. McDonald says that notification has been sent regarding the Commission's annual audit and that staff is expecting several significant proposal in the near future related to fire service, that staff is moving forward with the service reviews and that staff anticipates next year to be a busy one.

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

ITEM 11 COMMISSIONER COMMENTS

Commissioner Curatalo says that CALAFCO is an active and busy organization and says that staff is very engaged with CALAFCO at the state level and that their participation is very helpful and needed to move legislation forward. He also thanks the Supervisor's for their support of this year's Annual Conference.

ITEM 12 COMMENTS FROM THE PUBLIC

No comments.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION THE HEARING IS ADJOURNED TO THE CALAFCO ANNUAL CONFERENCE IN SACRAMENTO – SEPTEMBER 2 THROUGH 4, 2015 AT 10:17 A.M.

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman