

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: DECEMBER 10, 2015
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: AGENDA ITEM #8 – WORKSHOP TO OUTLINE ISSUES RELATED TO
LAFCO 3197/3198 CITY OF SAN BERNARDINO FIRE
REORGANIZATION AND LAFCO 3199/3200 TWENTYNINE PALMS
WATER DISTRICT FIRE REORGANIZATION

RECOMMENDATION:

Staff recommends that the Commission:

1. Change the date of the January hearing to January 27, 2016 with the Notice of Hearing and individual Notice provided on January 4, 2016; and,
2. Provide its questions and direction to staff for further processing of these fire reorganization proposals.

BACKGROUND:

At the September hearing, the Commission determined that its top priority was to process the fire reorganizations involving the City of San Bernardino, the Twentynine Palms Water District and Hesperia Fire Protection District with the San Bernardino County Fire Protection District (hereafter shown as "County Fire"). As of the date of this report, only two of the three proposals have been submitted – the City of San Bernardino and Twentynine Palms Water District. The Hesperia Fire Protection District proposal is expected prior to the staff office closing for the holidays, and we have a new application coming from the City of Needles in the next few weeks. Staff has placed this workshop on the agenda to review the issues related to the City of San Bernardino, currently scheduled for consideration on the January 20, 2016 agenda, and the Twentynine Palms Water District now scheduled for consideration on the February 18, 2016 agenda.

The proposals as presented represent a good government approach to providing a continuing and sustainable fire protection and emergency response service; however, as always the devil is in the details, and LAFCO is responsible for making sure that it

addresses those details to assure a smooth transition, to assure the constituents that are to receive and fund the services from a new provider understand the ramifications and that we have done the due diligence as best we can to assure that sustainability.

As we continue to work with the applicants and analyze the proposals for presentation to the Commission, significant issues unique to each proposal have arisen and the Commission needs to be aware of the issues as we progress. Those identified as follows:

1. Notices:

For each of these proposals, we have received direction from Legal Counsel that we need to provide individual notice to all landowners for both the Commission's hearing and the protest hearing related to the imposition of an existing tax through the annexation. This direction relates to the provisions of Government Code Section 56125, which is somewhat ambiguous as it states that individual notice shall be provided by the "*clerk of the county or of the district*". Since 2001, when Cortese-Knox-Hertzberg was enacted the notice for protest hearings has transitioned to LAFCO and this section is a holdover from prior acts. However, in an abundance of caution, Legal Counsel has directed that individual notice be provided to landowners for both hearings requiring that approximately 44,000 notices be mailed for San Bernardino and approximately 15,500 for Twentynine Palms. Based upon that information, staff has requested Commission concurrence in changing the January hearing date to the 27th with the notices being mailed on January 4th rather than during the time the LAFCO office is closed. That concurrence has been received and staff is recommending that the hearing date be officially changed.

2. City of San Bernardino proposals:

Over the past several months, staff has been working with representatives of the City of San Bernardino, the County Administrative Office and County Fire to address the information needs to move forward with this proposal. A number of items remain unclear at this time, but the primary issues are identified as:

- a. The standard transfer of property tax required by Revenue and Taxation Code 99 for this proposal has illuminated an issue with the outline of revenues within the Plan for Service. A substantial portion of the property tax pledged to provide for the ongoing delivery of service is derived from the swap of Motor Vehicle In-Lieu fees for property tax which a fire protection district is not statutorily authorized to receive. Therefore, as a part of this process we will be developing a condition of approval to transfer these funds in perpetuity. This needs to be worked out by County Counsel, the City Attorney, LAFCO Legal Counsel, and the Auditor-Controller's office. Discussions are ongoing.
- b. The Plan for Service and the Fiscal Impact Analysis are currently being updated to reflect the information required by LAFCO staff. Questions

include but are not limited to: the transfer of equipment funded by the San Manual Tribe of Mission Indians, the Community Facilities District funding the Verdemont Fire Station, and questions on the transfer of ownership of that station as it is a function of leaseback financing with the California Infrastructure and Economic Development Bank.

Staff continues to work with the representatives to assure a timely LAFCO hearing process to achieve the desired July 1, 2016 effective date.

3. Twentynine Palms Water District proposals:

The primary issue to be resolved in regards to the District's reorganization of its fire function relates to its unfunded PERS pension liability. In mid-November, it was determined that this represented an estimated \$3,000,000 liability. The District's application proposes to divest its fire function and transfer that obligation to County Fire; however, its PERS contract pension liability would remain an obligation of the District without a means to pay for that obligation. The City of Twentynine Palms has outlined its interest in assisting in the resolution of this issue with County Fire and Twentynine Palms Water District but it will require crafting a condition of approval that can secure a funding means, payment method and the agreement upon the designation of the PERS contract as an inactive contract for the District. In addition, LAFCO staff has identified that a new Service Zone will need to be created to isolate this obligation as a part of the reorganization process.

Staff continues to work with all parties in this discussion to resolve the issue; but the materials required will not be available in time to place the item on the January 27th agenda. The item has been tentatively placed on the Commission's February 18th agenda, the last hearing that can reasonably assure a completion by the requested July 1, 2016 date. However, the hearing date remains uncertain due to the need for submission of additional information from the District and County Fire.

The purpose of this workshop is to outline these issues and to hear from the members of the Commission on additional questions it requires staff to address in its reports on these matters. Staff will be happy to answer any questions of the Commission prior to or at the hearing.

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