

ACTION MINUTES OF SEPTEMBER 21, 2016 HEARING

**DRAFT – ACTION MINUTES OF THE – DRAFT
LOCAL AGENCY FORMATION COMMISSION
HEARING OF SEPTEMBER 21, 2016**

REGULAR MEETING

9:00 A.M.

September 21, 2016

PRESENT:

COMMISSIONERS:

Jim Bagley	Larry McCallon
Kimberly Cox, Chair	Thurston “Smitty” Smith, Alternate
James Curatalo	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
Jeffrey Lum, LAFCO Analyst
Bob Aldrich, LAFCO Consultant

ABSENT:

James Ramos, Vice Chair **Janice Rutherford, Alternate**

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION
– CALL TO ORDER – 9:07 A.M. – SAN BERNARDINO CITY COUNCIL CHAMBERS**

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

ANNOUNCEMENT OF CONTRIBUTIONS

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 12 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:

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.

ITEM 1. Approval of Minutes for Regular Meeting of July 20 and August 17, 2016

ITEM 2. Approval of Executive Officer’s Expense Report for July and August 2016

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- ITEM 3. Ratify Payments as Reconciled for Month of July and August 2016 and Note Cash Receipts
- ITEM 4. Review and Approval of Merit Acknowledgement Payment for Executive Officer
- ITEM 5. Consideration of: (1) CEQA Statutory Exemption for LAFCO 3210; and (2) LAFCO 3210 – Annexation of Apple Valley Heights County Water District (APN 0438-132-21)

Commissioner Lovingood states that he will abstain from voting on Item 4 of the Consent Calendar. Commissioner Williams requests that Item 4 be pulled for further discussion.

Chair Cox asks the Commission if there is interest in moving the balance of the Consent Calendar.

Executive Officer Kathleen Rollings-McDonald states that each Commissioner has received an addition to the Executive Officer's expense report which reflects reimbursement for attending a Special Districts Association meeting held on Monday, September 19th.

Commissioner Lovingood moves approval of Items 1 and 2, as amended, and Items 3 and 5, second by Commissioner Williams. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon and Williams. Noes: None. Abstain: None. Absent: James Ramos

Commissioner Lovingood leaves the dais at 9:25 A.M.

PUBLIC HEARING ITEMS:

(CONSENT ITEMS DEFERRED FOR DISCUSSION)

ITEM 6. CONSENT ITEM DEFERRED FOR DISCUSSION -- REVIEW AND APPROVAL OF MERIT ACKNOWLEDGEMENT PAYMENT FOR EXECUTIVE OFFICER

Chair Cox calls for any questions from the Commission regarding this item.

Commission Williams states that she has no issue with the Executive Officer's contract amendment but would like to see the amended language inserted into the actual contract for review prior to approval. She also states that it is important to recognize that this merit acknowledgement payment is a one-time occurrence and is not precedent setting.

Chair Cox notes that the language in the staff report was reviewed by the Executive Committee, and they determined it was consistent with the agreement on this issue reached by the Commission.

Executive Officer Rollings-McDonald states that language addressing the requirements for the Commission granting merit acknowledgement pay is specifically outlined in the contract amendment approved at the August hearing.

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LAFCO Counsel Clark Alsop states that if the Commission wants to move forward on this item today, language in the contract which addresses the parameters of merit acknowledgement pay can be inserted into the staff report for clarification purposes.

Commissioner McCallon concurs with this approach.

Commissioner Williams moves approval of Item 6, as amended by the Commission, second by Commissioner McCallon. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon and Williams. Noes: None. Abstain: Lovingood. Absent: Ramos

ITEM 7 CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3208; AND (2) LAFCO 3208 – SPHERE OF INFLUENCE AMENDMENT FOR THE WEST VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT *(Continued from the August 17, 2016 Hearing)*

Assistant Executive Officer Sam Martinez presents the staff report for LAFCO 3208, 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 the *Inland Valley Daily Bulletin*.

Mr. Martinez states that that both Items 3208 and 3209 were continued from the August 17, 2016 hearing due to a lack of a quorum. He notes that both proposals were submitted by the West Valley Mosquito and Vector Control District and will be considered separately by the Commission since their boundaries are not coterminous; therefore the sphere amendment will be considered first followed by the reorganization proposal.

Assistant Executive Officer Martinez states that it is staff's position that a sphere of influence amendment does not require a service review be conducted pursuant to Government Code Section 56430. He indicates, however, that because mosquito and vector control is a service that has not been reviewed for over ten years, staff is recommending that a service review for mosquito and vector control be moved to the Fiscal Year 2016-17 cycle for consideration.

Mr. Martinez provides an overview of the key factors of consideration required to be considered by the Commission. He notes that the West Valley Mosquito and Vector Control District currently provides its services to the Cities of Chino, Chino Hills, Montclair, Ontario and Rancho Cucamonga, including the unincorporated spheres of influence for the Cities of Chino, Montclair and Rancho Cucamonga. He states that the area proposed to be added to the sphere of influence consists of the City of Upland and its unincorporated sphere area which totals approximately 18.3 square miles in size and includes a full range of land uses. He further states that the proposed sphere of influence amendment will result in no change in land uses.

Mr. Martinez states that the proposed sphere expansion area is currently served by the San Bernardino County Mosquito and Vector Control Program, and notes that because of increasing threats of new vector-borne diseases, an enhanced vector control program is needed. He notes that the West Valley Mosquito and Vector Control District currently

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provides a higher level of service than the County. He explains the different assessment districts and zones of benefit of the District. He also notes that if the proposed sphere of influence expansion is approved and the subsequent reorganization proposal is successful, the entire west valley region of San Bernardino County will be within the District's service area.

Assistant Executive Officer Martinez states that Government Code Section 56425(i) requires the Commission, during a sphere of influence update or amendment, to review and identify a range of services to be provided and the nature and location of these services. He notes that staff is recommending that the Commission affirm the service description for the District as identified in the LAFCO Policy and Procedure Manual. He notes that approval of LAFCO 3208 represents a reasonable expansion of the District's sphere of influence to solidify a uniform system for the delivery of its services that is cohesive and comprehensive.

He further notes the proposal has been submitted in order to move forward with LAFCO 3209, a companion reorganization proposal that the District has submitted to annex the City of Upland and its unincorporated sphere along with the North Etiwanda portion of the City of Rancho Cucamonga's sphere of influence and transfer the responsibility for mosquito and vector control services from the County to the District. The approval of this subsequent action will consolidate the range and level of service within the west valley region under a single jurisdiction providing for a more cohesive and responsive delivery of service. He notes that LAFCO's environmental consultant, Tom Dodson, has determined that the proposal is statutorily exempt from CEQA. Mr. Martinez recommends Commission approval of LAFCO 3208.

Chair Cox asks if the Commission has any questions regarding the proposed sphere amendment. There are none.

Chair Cox asks if there are any comments from the public. There are none.

Commissioner Curatalo moves approval of LAFCO 3208, including the recommended actions outlined in the staff report, second by Commissioner Bagley. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon and Williams. Noes: None. Abstain: Lovingood. Absent: Ramos

ITEM 8 CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3209; AND (2) LAFCO 3209 – REORGANIZATION TO INCLUDE ANNEXATIONS TO THE WEST VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT AND ITS ASSESSMENT DISTRICT NO. 1 AND ZONE A *(Continued from the August 17, 2016 Hearing)*

Assistant Executive Officer Sam Martinez presents the staff report for LAFCO 3209, 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 the *Inland Valley Daily Bulletin*, as required by law and individual notice has been provided to all landowners within the boundaries of the proposed reorganization.

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He states that in January 2016 the West Valley Mosquito and Vector Control District initiated a reorganization application proposing to annex two areas: Area 1, approximately 18.3 square miles, consisting of the City of Upland and its unincorporated sphere area commonly known as San Antonio Heights; and, Area 2, approximately 9.3 square miles, consisting of the remainder of the District's sphere of influence which includes the entirety of the City of Rancho Cucamonga's unincorporated sphere area generally known as the North Etiwanda area.

Mr. Martinez indicates that the District's proposal also includes annexation of the two areas into its Vector Control Assessment District No. 1, Zone A. However, he indicates that staff is proposing a modification to the proposal to annex the territory into the District's Assessment District No. 2, Zone C, instead of its Assessment District No. 1, Zone A. Mr. Martinez states that the primary reason for the proposed modification is that the proposed annexation territory is adjacent to territory currently in Assessment District No 2, Zone C, which will provide a more cohesive assessment territory. He notes that current rates within the two assessment districts are the same. Mr. Martinez states that the modification provides for a more gradual and predictable increase in assessments since the rates in Assessment District No. 2, Zone C, are tied to the Consumer Price Index with a maximum annual increase not to exceed three percent while assessments in Assessment District No. 1, Zone A, cannot exceed \$50.00 annually per parcel.

Mr. Martinez states that the primary reason for the proposal is to consolidate mosquito and vector control services in the west valley region of San Bernardino County. He reviews the proposed reorganization boundary on the overhead display and notes that the reorganization will also allow for enhanced mosquito and vector control services. He states that the City of Upland is in support of the proposed reorganization and, if approved, will be given a seat on the District Board providing a direct voice in the implementation of programs and outreach efforts to the citizens of the City of Upland.

Assistant Executive Officer Martinez states that the proposed reorganization territory includes a full range of land uses and that no change in land use is anticipated as a result of the reorganization proposal. He discusses the District's Plan of Services and reiterates that the District provides comprehensive mosquito and vector control services. Mr. Martinez provides an overview of the District's finances. He indicates that the District's existing Vector Control Assessment District - Assessment District No. 2, Zone C - will replace the County's existing benefit assessment and, if successful, will take effect beginning Fiscal Year 2017-18. He notes that a condition of approval has been recommended by staff which requires the County and the District to enter into a contract prior to the issuance of the Certificate of Completion which requires the County to transfer a pro-rated share of the County's Vector Control assessment for Fiscal Year 2016-17 to the District based on the effective date of the reorganization.

Mr. Martinez states that the District currently has a six-member Board of Trustees with members appointed by the Cities of Chino, Chino Hills, Montclair, Ontario and Rancho Cucamonga and the sixth member is appointed by the San Bernardino County Board of Supervisors. If LAFCO 3209 is successful, he states that the City of Upland will appoint a seventh Trustee representing the City of Upland. Mr. Martinez states that LAFCO's environmental consultant, Tom Dodson, of Tom Dodson and Associates, has determined the proposed reorganization is statutorily exempt from CEQA.

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In summary, he states that the proposal will both consolidate mosquito and vector control services in the west valley region for San Bernardino County and provide an enhanced level of service. He recommends approval of the LAFCO 3209 as outlined in the recommendation included on page one of the staff report.

Executive Officer McDonald informs the Commission that, because of the proposed extension of a special tax, approximately 21,000 notices were sent out to landowners within the reorganization territory. She noted that if LAFCO 3209 is approved by the Commission, another 21,000 notices will be sent out to landowners prior to the Protest Hearing outlining their ability to protest.

Chair Cox asks if there are any comments from the Commission.

Commissioner Williams inquires if staff received protest on this proposal.

Executive Officer McDonald responds that based on the large number of landowners and property owners, protest was very minimal.

Commissioner Farrell states the he is monitoring the North Etiwanda Preserve and inquires if the proposed assessment applies to property within the preserve. Executive Officer McDonald states that because the preserve is in public ownership, the assessment would likely not apply. Commissioner Farrell notes that the District should be cautious when applying mosquito treatments to conservation areas due to their sensitive nature.

Commissioner Bagley questions the size of the District's \$2.5 million reserve, to which Executive Officer McDonald responds that this represents a carryover of the benefit assessment from each year. She states that staff will be looking at that issue through the upcoming service review.

Chair Cox asks if there are any comments from the public. There are none.

Commissioner Curatalo moves approval of LAFCO 3209, including the recommended actions outlined in the staff report, second by Commissioner Bagley. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon and Williams. Noes: None. Abstain: Lovingood. Absent: Ramos

DISCUSSION ITEMS:

ITEM 9 APPOINTMENT OF VOTING DELEGATE FOR CALAFCO BUSINESS MEETING AT OCTOBER CALAFCO ANNUAL CONFERENCE

Executive Officer McDonald states that the Commission must appoint a delegate to vote on items at the 2016 CALAFCO Conference in Santa Barbara. She notes that historically the Commission has appointed the Chair as primary delegate and the Executive Officer as the secondary delegate.

Commissioner McCallon moves to appoint Chair Cox as the primary delegate and Executive Officer McDonald as the secondary delegate at the 2016 Santa Barbara

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CALAFCO Conference, second by Commissioner Bagley. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon and Williams. Noes: None. Absent: Lovingood and Ramos

Commissioner Lovingood returns to the dais at 9:50 A.M.

INFORMATION ITEMS:

ITEM 10 LEGISLATIVE UPDATE REPORT

Executive Officer Kathleen Rollings-McDonald presents the legislative daily 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. She notes that this is a downtime for the Legislature and updates the Commission on several bills recently signed by the Governor, including AB 2032, which addresses residual issues relating to the disincorporation statute, and AB 2910, the CALAFCO omnibus bill. She states that AB 2470, which addresses municipal water districts and water service in tribal lands, and SB 1266, which addresses joint exercise of powers and the requirement to file JPA formations with LAFCO for information purposes, were also signed by the Governor. Finally, she notes that AB 1362, which addresses the number of directors on the San Mateo Vector Control District, and AB 1658 which allows non-residents to be buried in the Happy Homes Cemetery District, were also signed by the Governor. Executive Officer McDonald announces that Commissioner Curatalo will serve as Chair of CALAFCO Board of Directors beginning in October.

ITEMS 11 EXECUTIVE OFFICER'S ORAL REPORT

Executive Officer McDonald informs the Commission that there will be an October 2016 LAFCO meeting to consider a Loma Linda service contract. She states that she can provide interested Commissioners with agendas and other materials from CALAFCO Executive Director Pamela Miller and others who testified before the Little Hoover Commission on special district issues. She also references an article on CalPERS relating to the potential suspension of three agencies for failure to pay their annual contract obligations including the possibility that existing retirees may be impacted by this suspension. Executive Officer McDonald notes that San Bernardino LAFCO received notification from their insurer that because there have been no property or worker's compensation claims filed for the previous five consecutive years, the agency will receive a reduction in insurance rates. Finally, she informs the Commission that she will be leaving on a two-week vacation and will return on October 11 .

Chair Cox asks for an update on the office move to the transit center.

Executive Officer McDonald responds that she and Assistant Executive Officer Martinez met yesterday with the design team and SANBAG. She notes some concern with the schedule after yesterday's meeting, but states the project is moving forward.

ITEM 12 COMMISSIONER'S COMMENTS

Chair Cox asks if there are any Commissioner comments.

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Commissioner Curatalo relates that a recent *Los Angeles Times* article indicates that the Voter's Guide to the November election is the longest in history and includes 17 initiatives.

Commissioner Bagley thanks Executive Officer McDonald for the article on CalPERS. He states that he believes the public retirement-related issues remain one of California's biggest challenges.

ITEM 13 COMMENTS FROM THE PUBLIC

Chair Cox asks if there are any comments from the public. There are none.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED AT 10:02 A.M.

ATTEST:

KATHLEEN ROLLINGS-McDONALD
Executive Officer

LOCAL AGENCY FORMATION COMMISSION

KIMBERLY COX, Chair