

**DRAFT – ACTION MINUTES OF THE – DRAFT  
LOCAL AGENCY FORMATION COMMISSION  
HEARING OF DECEMBER 14, 2016**

**REGULAR MEETING**

**10:00 A.M.**

**December 14, 2016**

**PRESENT:**

**COMMISSIONERS:**

<b>Jim Bagley</b>	<b>Larry McCallon</b>
<b>Kimberly Cox, Chair</b>	<b>James Ramos, Vice-Chair</b>
<b>Jim Curatalo</b>	<b>Janice Rutherford, Alternate</b>
<b>Steve Farrell, Alternate</b>	<b>Diane Williams</b>

**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:**

**Robert Lovingood**  
**Aquanetta Warren, Alternate**

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION  
COMMISSION – CALL TO ORDER – 10:03 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 were 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 November 16, 2016
- ITEM 2.** Approval of Executive Officer's Expense Report
- ITEM 3.** Ratify Payments as Reconciled for Month of November 2016 and Note Cash Receipts

Commissioner Williams moves approval of the Consent Calendar, second by Commissioner Ramos. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, McCallon, Ramos, Rutherford and Williams. Noes: None. Abstain: Curatalo. Absent: Lovingood (Ms Rutherford voting in his stead).

**PUBLIC HEARING ITEMS**

**ITEM 4 CONSENT ITEMS DEFERRED FOR DISCUSSION:**

None

**DISCUSSION ITEMS:**

**ITEM 5 CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY THE COUNTY OF SAN BERNARDINO FOR A CONDITIONAL USE PERMIT TO ESTABLISH A 315,000 SQ.FT. HIGH CUBE WAREHOUSE WITH 8,000 SQ. FT. OF OFFICE ON APPROXIMATELY 20.68 ACRES, AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC#409; AND (2) LAFCO SC#409 – CITY OF SAN BERNARDINO IRREVOCABLE AGREEMENT TO ANNEX NO. 2016-218 FOR SEWER SERVICE (ASSESSOR PARCEL NUMBERS 0266-012-13, 0266-021-28 & -29, AND 0266-021-49 & -51).**

Assistant Executive Officer Martinez presents the staff report on this item, 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 Sun*, a newspaper of general circulation within the area and individual notice has been provided as required by statute.

He states that the City of San Bernardino submitted a request for approval of an Irrevocable Agreement to Annex that outlines terms for extension of sewer service. Mr. Martinez indicates that the agreement relates to the proposed development of five contiguous parcels comprising 20.68 acres within the City of San Bernardino's northwestern sphere of influence. He indicates that in 2009 the County approved a Conditional Use Permit for development of a warehouse on the site, and conditions of

approval for the project require connection to the City of San Bernardino's water and sewer facilities.

Mr. Martinez further states that the Commission has previously confirmed that provision of water service by the City of San Bernardino is exempt from LAFCO review on the basis that the Commission previously determined that the acquisition of the private water company for the area allowed for service extension. However, the extension of sewer service requires a contract with the City for the provision of service outside its boundaries. He indicates that sewer service will be provided by extending an 8-inch sewer main approximately 250 feet along Industrial Parkway, and that the City of San Bernardino has identified an estimated cost of \$316,729.16 in sewer fees.

Assistant Executive Officer Martinez states that the Commission's environmental consultant, Tom Dodson, has reviewed the County's environmental assessment and the Mitigated Negative Declaration for the proposed project site and determined they are adequate for the Commission's use as a CEQA responsible agency. Mr. Martinez reviews the criteria established by Commission policy and Government Code Section 56133 for out of agency service agreements, and summarizes the determinations included in the staff report. He recommends Commission approval of LAFCO SC#409 by taking the actions detailed in the staff report.

Chair Cox asks for any Commissioner comments on this item.

Commission Bagley asks why the City has not initiated annexation of the parcels; to which Assistant Executive Officer Martinez responds that since the project was approved in 2010, the applicant has been working diligently with the City, and a service contract was seen as means to facilitate development.

Executive Officer Kathleen Rollings-McDonald states that these parcels are a part of an unincorporated peninsula along Cajon Boulevard and, at this time, do not make a logical boundary. She states that LAFCO staff continues to work with the City of San Bernardino and other cities on the unincorporated islands in this area.

Chair Cox opens the public hearing and request comments. There are none. She closes the public hearing.

Commissioner Curatalo moves approval of Item 5, second by Commissioner Rutherford. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Ramos, Rutherford and Williams. Noes: None. Abstain: None. Absent: Lovingood (Ms. Rutherford voting in his stead).

**ITEM 6      CONSIDERATION OF REQUEST FOR EXMPTION FROM GOVERNMENT CODE SECTION 56133 FOR LAFCO SC#410 FOR OUT-OF-AGENCY SERVICE AGREEMENT FOR SEWER SERVICE BY CITY OF FONTANA TO THE COUNTY OF SAN BERNARDINO'S CRISIS RESIDENTIAL TREATMENT FACILITY (ASSESSOR PARCEL NUMBERS 0235-052-11 & -12)**

Assistant Executive Officer Martinez presents the 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. The item has been advertised in *The Sun*, a newspaper of general circulation within the area and individual notice has been provided as required by statute. He states that on November 2, 2016, the City of Fontana submitted a request that the Commission determine that the proposed pre-annexation agreement between the City and the County of San Bernardino is exempt from the provisions of Government Code Section 56133 as outlined in Subsection (e). Mr. Martinez indicates that, per Commission policy, this is being presented because the exemption request is development-related.

Mr. Martinez explains that the agreement relates to two adjacent parcels which are owned by the County of San Bernardino and are generally located at the southeast corner of San Bernardino and Carob Avenues, within Fontana's western sphere of influence. He states that the request is to receive sewer service for the parcels from the City of Fontana, the current sewer provider for several other parcels along San Bernardino Avenue. Mr. Martinez further states that the County of San Bernardino's Department of Behavioral Health is proposing to build a new Crisis Residential Treatment facility on both parcels. He notes the proposed 11,900 square foot facility will be used for providing crisis intervention for individuals diagnosed with mental health and/or substance abuse issues.

Mr. Martinez states that staff believes the proposed service agreement meets the exemption criteria outlined in Government Code Section 56133(e) because: (1) the agreement is between the City of Fontana and the County of San Bernardino, both of which are public agencies; (2) sewer service is already being provided by the City of Fontana within the area and the service to be provided is in-lieu of the County developing the infrastructure; and, (3) the level of service to be provided through this contractual arrangement is consistent with the level of service contemplated by the County of San Bernardino for the proposed facility. He concludes by recommending that the Commission determine, pursuant to Government Code Section 56133 (e), that the Pre-Annexation Agreement between the City of Fontana and the County of San Bernardino is exempt from further review and approval by the Commission as outlined in the staff report.

Chair Cox asks if the Commission has any questions or comments. There are none.

Chair Cox opens the public hearing and requests public comments. There are none.  
Chair Cox closes the public hearing.

Commissioner Curatalo moves approval of the Item 6, second by Commissioner Ramos. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Ramos, Rutherford and Williams. Noes: None. Abstain: None. Absent: Lovingood (Ms. Rutherford voting in his stead).

## **INFORMATION ITEMS**

### **ITEM 7 LEGISLATIVE UPDATE REPORT**

Executive Officer McDonald states that Senator Richard Roth, for the fifth year in a row, has introduced a bill to return per capita payments to the Cities of Eastvale, Jurupa Valley, Menifee, and Wildomar. She notes that past attempts have all been vetoed by the Governor.

Executive Officer McDonald informs the Commission that the CALAFCO Legislative Committee is meeting this Friday, December 16<sup>th</sup>, and will be developing a platform for the coming year with a focus on water service issues. She notes that she will be providing the draft platform to the Commission at its January meeting. Ms. McDonald states that if any of the Commissioners have a specific legislative issue or area of interest, she would be happy to present it to the Legislative Committee.

Executive Officer McDonald notes that State Assemblyman Chad Mayes is now serving on the Little Hoover Commission. She states the Little Hoover Commission is updating their ten-year old report on special districts and taking a hard look at LAFCOs and special district issues, particularly health care districts. She notes that CALAFCO will be making some important presentations before the Commission, and that the report is due this summer. Ms. McDonald states that she believes Assemblyman Mayes' expertise in local government will be an asset to the Commission.

### **ITEM 8 EXECUTIVE OFFICER'S ORAL REPORT**

#### **a. Update on Committee formed related to LAFCO 3212**

Executive Officer McDonald states that LAFCO 3212 has been withdrawn by the applicant, the Inland Empire Utilities Agency, through adoption of Resolution 2016-12-4. She states that, for the record, the "whereas" in the Resolution referencing the County taking a position on the proposal, and the letter from Supervisor Hagman to the Chair Cox stating the County's position on LAFCO 3212, are incorrect and reflect Supervisor Hagman's position only, not the County Board of Supervisors. Executive Officer McDonald further states that she has verified that the County has not taken a formal position in support or in opposition to LAFCO 3212. She notes that staff will be sending a letter to the committee members thanking them for their time and participation. She states that the application will be officially closed, there will be no further discussion on the item, but the proposal can be resubmitted by any affected agency at any time.

Chair Cox asks if the County will be sending correspondence to IEUA correcting their Resolution language; to which Executive Officer McDonald responds that she cannot answer on behalf of the County, but that all LAFCO withdrawal documentation related to LAFCO 3212 is very clear on that issue.

Commissioner Ramos states that when this item came before the Board of Supervisors, the Board's official position was to continue the item to a future meeting. To which Ms. McDonald notes that the item before the Board of Supervisors was a property tax transfer exchange and was not an item allowing to Board to take a formal position in support or opposition of the proposed consolidation.

Commissioner Ramos states that he will submit a letter clarifying the matter.

**b. Update on Relocation/Renovation Progress at Santa Fe Depot**

Executive Officer McDonald states that LAFCO staff continues to work closely with SANBAG staff to finalize the Request for Proposal for the office space renovations. She notes that all parties are working diligently to ensure we make the July 1<sup>st</sup> deadline for relocation. She advises the Commission that beginning in January, LAFCO meetings will be held at the SANBAG meeting room.

**c. New Proposals Received**

Executive Officer McDonald states that staff has received a reorganization application from the City of Upland for a sphere of influence change and annexation into the San Bernardino County Fire Protection District and County Fire's FP-5 special tax zone. She notes the City has requested completion of the proposal in time to make the August 2017 tax roll. Ms. McDonald notes that this timeline will stretch staff resources and has made no commitment to the City regarding a completion date.

Executive Officer McDonald states that the Commission will receive two annexations at their January 18<sup>th</sup> meeting, one from the City of Chino and one from the City of Loma Linda, as well as the annual audit report. Ms. McDonald states that the Commission will also be considering a fee reduction request from the City of Upland at that meeting.

Executive Officer McDonald updates the Commission on staff's governance training efforts, noting that on December 8<sup>th</sup> staff conducted a workshop with CSDA on understanding special district law. She notes that workshop was well attended and well received. She states that upcoming educational workshops will include sessions on LAFCO basics (partnering with CALAFCO, Riverside LAFCO, and Los Angeles LAFCO) and working with community-based agencies.

Ms. McDonald also notes that information has been provided to each Commissioner on a free ethics training session sponsored by Yucaipa Valley Water District and a summary of the Brown Act prepared by BB&K.

**ITEM 9 COMMISSIONER'S COMMENTS**

Chair Cox asks if there are any Commissioner comments.

Commissioners McCallon and Bagley wish everyone happy holidays.

Commissioner Bagley states that in 2017 the Commission should consider taking a broader perspective on fire reorganizations and look at this issue regionally.

Commission Farrell asks if the agreement to use the SANBAG meeting room is long-term; to which Executive Officer McDonald responds affirmatively.

**ITEM 10 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 10:35 A.M.**

**ATTEST:**

\_\_\_\_\_  
**KATHLEEN ROLLINGS-McDONALD**  
Executive Officer

**LOCAL AGENCY FORMATION COMMISSION**

\_\_\_\_\_  
**KIMBERLY COX, Chair**