

**DRAFT – ACTION MINUTES OF THE – DRAFT
LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2017**

REGULAR MEETING

9:00 A.M.

January 18, 2017

PRESENT:

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

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: Janice Rutherford, Alternate
 Aquanetta Warren, Alternate

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION
– CALL TO ORDER – 9:08 A.M. – SAN BERNARDINO SANTA FE DEPOT**

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 December 14, 2016

ITEM 2. Approval of Executive Officer's Expense Report

- ITEM 3.** Ratify Payments as Reconciled for Month of December 2016 and Note Cash Receipts
- ITEM 4.** Consideration of Fee Reduction Request by the City of Upland/San Bernardino County Fire Protection District for its Reorganization Proposal to Annex the City of Upland Territory to the San Bernardino County Fire Protection District
- ITEM 5.** Approval of Hiring Clerk to the Commission/Office Manager at Step 8 of Established Salary Range

Commissioner McCallon 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, Curatalo, McCallon, Ramos, and Williams. Noes: None. Abstain: None. Absent: Lovingood.

Commissioner Lovingood arrives at 9:12 A.M.

PUBLIC HEARING ITEMS

ITEM 6. CONSENT ITEMS DEFERRED FOR DISCUSSION -- None

ITEM 7. CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION PREPARED BY THE CITY OF CHINO PRE-ZONE (PL 16-0051) DESIGNATION TO RD8 (RESIDENTIAL 8 UNITS/ACRE) FOR APN 1016-521-03, -04, AND -05 (TRACT 18902) ON APPROXIMATELY EIGHT ACRES AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3213; AND (2) LAFCO 3213 – REORGANIZATION TO INCLUDE ANNEXATION TO THE CITY OF CHINO AND DETACHMENT FROM COUNTY SERVICE AREA 70 (GRIFFIN HOMES)

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 *Inland Valley Daily Bulletin*, a newspaper of general circulation within the reorganization area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification. LAFCO staff has also provided individual notice to the landowners and registered voters surrounding the reorganization area in accordance with State law and adopted Commission policies.

Mr. Martinez states that the reorganization proposal was initiated by the City of Chino and includes both annexation to the City of Chino and detachment from County Service Area 70. He indicates that the proposed reorganization area includes Tract 18902, a 36-lot planned development and a railroad right-of-way of approximately seven acres generally located within the City of Chino's northwestern sphere of influence. He notes the County approved Tract 18902 in November 2014 and included a requirement for connection to the City's water and sewer facilities in order to record the final tract map. Mr. Martinez states that this was accomplished through an out-of-agency agreement, LAFCO SC #400, which was approved by the Commission in November 2015. He further states that the City

conditioned the agreement to require immediate annexation of the tract into the City as permitted under the City's policy for parcels contiguous to the City's boundary.

Assistant Executive Officer Martinez states that on June 21, 2016, the City initiated the reorganization proposal under consideration today, and reviews the reorganization's boundaries, land uses, service issues, and effects on other local governments. He indicates that the reorganization proposal provides for a logical boundary since it contains the entirety of Tract 18902, a wholly contained community of 36 single family homes. He states that the reorganization area is a mix of residential development and vacant lots and includes a section of the Southern Pacific Railroad right-of-way. Mr. Martinez summarizes the County's and City's General Plan designations and the City's pre-zoning designation for the reorganization area which are all residential in nature. Finally, he summarizes the existing and proposed service providers in the area and notes that the proposed extension of City services will maintain, and/or exceed, current service levels provided through the County and is determined to be sustainable for the foreseeable future.

Executive Officer Rollings-McDonald states that implementation of the City's policy which requires annexation of areas contiguous to the City that require water and sewer service, instead of connection through out of agency agreements, may in the future result in zig-zag jurisdictional boundaries lines similar to those that have been created in the City of Redlands over the years. She notes that this has raised major concerns for law enforcement and County Public Works, and states that LAFCO will continue to work with cities on these issues but will not allow for the creation of islands. She states that LAFCO 3213 will not result in the creation of an island.

Assistant Executive Officer Martinez states that an environmental assessment and a Negative Declaration for Pre-zoning, prepared by the City, has been reviewed by the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, who determined that the documents are adequate to use as a responsible agency under CEQA. He further notes that staff is recommending a waiver of a protest proceeding since the reorganization area is legally uninhabited, the property owner/buyer has required all buyers within the tract to sign Landowner Consent Forms, and LAFCO has received no formal opposition from Southern Pacific Railroad. Mr. Martinez summarizes the determinations listed in the staff report and recommends Commission approval of LAFCO 3213 accordingly.

Mr. Martinez notes that Union Pacific filed a letter late yesterday with LAFCO referencing a March 18, 2016 comment letter provided to the City of Chino. He notes that a copy of that correspondence has been provided to each commissioner. Mr. Martinez states that he made a follow-up phone call to Union Pacific this morning, and Union Pacific stated that they were not opposed to the project but wanted to go on record with their concerns about locating residential uses adjacent to a major railroad corridor.

Executive Officer McDonald states that LAFCO staff will be forwarding this letter to the County's Land Use Department, the original approving authority for Tract 18902.

Chair Cox requests that staff go over the concerns of Union Pacific.

Assistant Executive Officer Martinez states that Union Pacific identified potential incompatibility issues with residential development in close proximity to a major railroad corridor, but is not opposed to the project. Executive Officer McDonald states that these same issues will come again, and that everyone should be informed of potential issues of locating high intensity residential uses near a railroad corridor. She notes that approval of the residential tract was through the County, not the City, and approval of this residential tract was not in the City's purview.

Commissioner McCallon states his concerns regarding residential uses built next to airports and railroads. He notes that at some point in the future there will likely be complaints over noise or vibration. He asks staff if buyers have been informed of these potential issues. Assistant Executive Martinez states that disclosures have been provided to all buyers.

Commissioner Farrell clarifies that even if the annexation is not approved, this will not prohibit the development from being completed since there is an out of agency agreement already in place. He asks for clarification regarding LAFCO's land use authority. Executive Officer McDonald states that LAFCO has no direct authority on issues related to land use. She notes that LAFCO staff participates in the land use process with cities and the County through the pre-zoning process, but that LAFCO has no direct land use responsibility.

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

Chair Cox closes the public hearing.

Commissioner Bagley states that the best way to address land use incompatibility issues is through participation in the local government planning process and notes that there are nine levels of local government in this area.

Commissioner McCallon moves approval of Item 7, second by Commissioner Ramos. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, and Williams. Noes: None. Abstain: None. Absent: None.

ITEM 8. CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY THE CITY OF LOMA LINDA FOR GENERAL PLAN AMENDMENT (GPA 15-044) FROM BUSINESS PARK TO LOW DENSITY RESIDENTIAL FOR 30-ACRE PROPERTY; PRE-ZONE (ZMA 15-045) FOR SINGLE FAMILY RESIDENCE (R-1) ON 39 ACRES, MULTI FAMILY RESIDENCE (R-3) ON 18 ACRES, INSTITUTIONAL (I) ON 13 ACRES, AND GENERAL BUSINESS (C-2) ON 10 ACRES; ANNEXATION (ANX 15-043) FOR A TOTAL OF APPROXIMATELY 80 ACRES; AND TENTATIVE TRACT MAP 19963 (TTM 15-046) TO SUBDIVIDE A 30-ACRE PROPERTY INTO 95 SINGLE-FAMILY RESIDENCES AND NINE (9) COMMON LETTERED LOTS AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3214 AND (2) LAFCO 3214 – REORGANIZATION TO INCLUDE ANNEXATION TO THE CITY OF LOMA LINDA AND DETACHMENT FROM SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND ITS VALLEY SERVICE ZONE, AND COUNTY SERVICE AREA 70 (CALIFORNIA STREET ISLAND)

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 reorganization area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification. LAFCO staff has also provided individual notice to the landowners and registered voters surrounding the reorganization area in accordance with State law and adopted Commission policies.

Mr. Martinez states that LAFCO 3214, initiated by the City of Loma Linda, includes the annexation of an 84-acre unincorporated island 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. He notes that the purpose of the annexation is to provide services to proposed Tentative Tract Map 19963, a 95-unit single family residential development covering approximately 30 acres of the reorganization area.

Mr. Martinez states that parcels comprising Tentative Tract Map 19963 are contiguous to the City of Loma Linda's boundary and, per the City's Measure V, the proposed 30-acre development is required to annex to the City prior to receiving services. He states that the City expanded the annexation territory to include the entire 84-acre unincorporated island to avoid creating two separate islands and to better define the boundary between the Cities of Loma Linda and Redlands in this area.

Assistant Executive Officer Martinez reviews the reorganization's boundaries, land uses, service issues, and effects on other local governments. He notes that the area proposed for annexation is a totally surrounded island of unincorporated territory and is less than 150 acres in size. He states that the annexation area includes prime agricultural land and, therefore, cannot be processed under the streamlined island annexation provisions of Government Code Sections 56375.3 and 56375(a)(4). He states that the reorganization provides for a logical boundary since it removes a totally surrounded island of territory and clarifies the boundaries between the City of Loma Linda and the City of Redlands. Mr. Martinez states the reorganization area includes six single family residences, two religious facilities, vacant parcels and citrus groves, and summarizes the current and proposed land use designations for the area. He notes that the City of Loma Linda processed a General Plan Amendment from Business Park to Low Density Residential for the 30-acre parcel comprising Tentative Tract 19963. Mr. Martinez summarizes the existing and proposed service providers noting that extension of City services will maintain and/or exceed current service levels provided through the County and can be sustained in the foreseeable future.

Mr. Martinez states that the City of Loma Linda has prepared an environmental assessment and Mitigated Negative Declaration for the proposed Orchard Heights Project (Tentative Tract 19963) which has been reviewed by the Commission's environmental consultant, Tom Dodson of Dodson and Associates. Mr. Martinez notes that Mr. Dodson has determined that the City's environmental documents are adequate for Commission's use as a responsible agency under CEQA for LAFCO 3214.

Executive Officer McDonald states that the conversion of agricultural lands will result from the development of Tentative Tract 19963 and notes that the protection and preservation of

agricultural lands remains one of the major tenants of LAFCO's overall mission. She states that Government Code 56377 requires the Commission to consider this issue in its deliberations. She notes that staff has determined that LAFCO 3214 promotes orderly development by eliminating an unincorporated island and that the conversion of agricultural lands has been in process in this area for over 40 years. She also states that one of the mitigation measures applied to this residential development by the City requires replacement for the loss of agricultural lands at a defined ratio.

Assistant Executive Officer Martinez summarizes the determinations listed in the staff report and recommends Commission approval of LAFCO 3214.

Commissioner McCallon applauds the City of Loma Linda for eliminating an unincorporated island through this reorganization.

Discussion ensues among staff and the Commission regarding the ratio of agricultural land replacement.

Chair Cox opens the public hearing and requests comments.

Paul Hsu, representing the developer of Tentative Tract 19963, provides a history of the project and summarizes the improvements that will result from its development. He recommends that the Commission approve the proposed reorganization.

Chair Cox closes the public hearing.

Commissioner Ramos moves approval of Item 8, second by Commissioner Curatalo. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, and Williams. Noes: None. Abstain: None. Absent: None.

DISCUSSION ITEM:

**ITEM 9 REVIEW AND ACCEPT AUDIT REPORT FOR FISCAL YEAR ENDED
JUNE 30, 2016**

Project Manager Michael Tuerpe 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. Mr. Tuerpe states that the audit is for Fiscal Year 2015-2016 and that the independent auditor, Davis Farr LLP, verified the financial statements prepared by LAFCO staff. He notes that the auditor did not identify any deficiencies in internal controls.

Mr. Tuerpe states that the auditors, LAFCO management, and the Ad-hoc Audit/Budget Committee, consisting of Chair Cox, Vice-Chair Ramos and Commissioner Curatalo, discussed the draft audit during a phone meeting on December 19, 2016. He states that the financial statements show a positive change in net position of \$147,842 and a fund balance of \$154,256. He introduces LAFCO's independent auditor, Jennifer Farr, of Davis Farr LLP.

Jennifer Farr, Davis Farr LLP, states that the audit, completed for the Fiscal Year ending June 30, 2016, received an unmodified audit opinion – the highest level of audit approval that can be issued. She notes that the audit showed no material weakness in internal controls and no instances of non-compliance with laws and regulations. She states that, overall, the audit was very clean, the County records were in good condition, and staff was very helpful in assisting the audit team in the completion of the audit.

Commissioner Bagley raises concerns about unfunded pension liabilities and the complexity of that discussion within the audit report.

Discussion ensues among the Commission and staff regarding unfunded pension liabilities.

Ms. Farr states that comparing Fiscal Year 2014-2015 to Fiscal Year 2015-2016, the agency's unfunded pension liability has increased by approximately \$1,000.

Commissioner Bagley expresses concern about the anticipated return rates of CalPERS and other public retirement funds and notes that unfunded pension liability among public agencies in California is a real concern.

Executive Officer McDonald states that she is most concerned about LAFCO's total net pension liability which is currently \$681,447. She states that the agency has established a reserve fund, which is increased each year, to pay for unfunded liability. She notes that should the Legislature disband LAFCOs at some point in the future, we need to have the funds to pay that cost.

Commissioner Bagley states that there are cities in danger of going bankrupt because of pension liabilities, and the new reporting requirements for unfunded pension liabilities are too complex and should be simplified to clarify this issue for the decision makers and the public.

Commissioner Ramos states that the overall issue of unfunded pension liability is a bigger issue than what we are looking at today.

Chair Cox asks staff how much LAFCO has in reserve funds to offset the agency's \$681,447 unfunded pension liability to which Executive Officer McDonald responds approximately \$665,000.

Chair Cox asks if there are any other comments. There are none.

Project Manager Tuerpe recommends that the Commission receive and file the audit report and its related materials for Fiscal Year 2015-2016.

Commissioner Curatalo moves approval of Item 9, seconded by Commissioner Ramos. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, and Williams. Noes: None. Abstain: None. Absent: None.

INFORMATION ITEMS

ITEM 10 LEGISLATIVE UPDATE ORAL REPORT

Executive Officer McDonald states that there is a CALAFCO Legislative Committee Meeting scheduled on January 27th. She states that CALAFCO is sponsoring legislation this year to clarify the components of a plan of service (Government Code Section 55653). She notes that as a result of a lawsuit filed in Butte County, the courts determined that an annexation proposal could not go forward because a plan of service could not address areas that previously received services through an out of agency agreement. Ms. McDonald states that Butte LAFCO has a sponsor for the legislation and that she would be meeting with Assemblyman Mayes to determine if he would co-sponsor.

ITEM 11 EXECUTIVE OFFICER'S ORAL REPORT

Executive Officer McDonald introduces La Trici Jones as the new LAFCO Commission Clerk/Office Manager.

Ms. McDonald states that staff continues to move forward on the office relocation, noting that an issue with the air conditioning/heating system was identified this week which could result in a four to six week delay. She states that she will be meeting with SANBAG staff to address the issue.

Ms. McDonald states that staff should be receiving a fire annexation application from the City of Victorville shortly, noting that the City has requested completion of the annexation prior to August 8th. She notes that a special meeting of the Commission may be necessary to accommodate that deadline.

Executive Officer McDonald states that a CALAFCO Southern Regional Summit will be held on January 23rd at the Metropolitan Water Department near Union Station, and that a LAFCO 101 training session is scheduled for Tuesday, January 24th, at the Norton Regional Event Center. She states that the February Commission meeting is cancelled.

Commissioner Bagley asks if the Santa Fe Depot will be the Commission's permanent hearing location to which Executive Officer McDonald responds affirmatively, at least until July. Ms. McDonald notes that an alternative location in the future may be the Norton Regional Event Center, and staff is looking further into that option.

Chair Cox asks for any Commissioner comments on the Executive Officer's report. There are none.

ITEM 12 COMMISSIONER'S COMMENTS

Chair Cox asks if there are any Commissioner comments. There are none.

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 10:34 A.M.

ATTEST:

KATHLEEN ROLLINGS-McDONALD
Executive Officer

LOCAL AGENCY FORMATION COMMISSION

KIMBERLY COX, Chair

DRAFT