

**DRAFT – ACTION MINUTES OF THE – DRAFT
LOCAL AGENCY FORMATION COMMISSION
HEARING OF MARCH 21, 2018**

REGULAR MEETING

9:00 A.M.

MARCH 21, 2018

PRESENT:

COMMISSIONERS:	Jim Bagley	Steven Farrell, Alternate
	James Ramos	Robert Lovingood
	Jim Curatalo	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
La Trici Jones, Commission Clerk
Bob Aldrich, LAFCO Consultant

ABSENT:	Kimberly Cox, Chair	Janice Rutherford, Alternate
	Larry McCallon	Acquanetta Warren, Alternate

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION
– CALL TO ORDER – 9:03 A.M. – NORTON REGIONAL EVENT CENTER**

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

CONSENT ITEMS – STAFF RECOMMENDATION APPROVED

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 February 21, 2018
- ITEM 2.** Approval of Executive Officer's Expense Report
- ITEM 3.** Ratify Payments as Reconciled and Note Cash Receipts for Month of January 2018
- ITEM 4.** Consent Items Deferred for Discussion

Executive Officer Kathleen Rollings-McDonald states that there has been no request for deferral or discussion of a consent item.

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

DISCUSSION ITEMS:

ITEM 5 UPDATE ON LAFCO 3187 – COUNTYWIDE WATER SERVICE REVIEW REQUIRED CONTINUED MONITORING FOR: (A) COUNTY SERVICE AREA 70 ZONE CG (CEDAR GLEN); (B) COUNTY SERVICE AREA 70 ZONE J (OAK HILLS); (C) DAGGETT COMMUNITY SERVICES DISTRICT; and (D) COUNTY SERVICE AREA 70 ZONE W-4 (PIONEERTOWN) – STAFF RECOMMENDATION APPROVED

Project Manager Michael Tuerpe 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. Affected and interested agencies were notified as required by law.

Commissioner Williams takes her place at the dais at 9:12 A.M.

Mr. Tuerpe states that this item is continued from the previous hearing due to the need to provide notice of the consideration. He states that the Commission considered the Countywide Water Service Review at the July 2017 hearing, and several “hotspots” identified in the report were recommended by the Commission for a six month status update. He states that the following hotspots are addressed in this update:

- a. County Service Area 70 Zone CG (Cedar Glen)
- b. County Service Area 70 Zone J (Oak Hills)
- c. Daggett Community Services District
- d. County Service Area 70 Zone W-4 (Pioneertown)

Mr. Tuerpe states that County Service Area 70 Zone CG (Cedar Glen) was failing when the County Special Districts Department purchased the system. He indicates that while the system continues to experience ongoing challenges, the County Special Districts Department has provided information showing overall improvement. He states that the staff recommendation is for no further formal monitoring of CSA 70 Zone CG for its water service.

Mr. Tuerpe states that with respect to County Service Area 70 Zone J (Oak Hills), the primary issues are that all sources have hexavalent chromium above the rescinded Maximum Contaminate Level (MCL), and the boundary conflicts between the Hesperia Water District and Zone J at the Maple/Topaz strip continue to exist. He states that the State Water Board rescinded the MCL standards for Chromium VI and is currently formulating new standards for review and comment.

Executive Officer Rollings-McDonald states that the Maple/Topaz strip was a hold-over from the incorporation of the City of Hesperia. She states that the area that was not

originally included in the Hesperia Water District boundary because CSA 70 Zone J served in the area. She states that about five to six years ago, the entire strip was annexed to the Hesperia Water District, but there were service connections to Zone J that remained. She states that staff is awaiting the Hesperia Water District's extension of facilities to serve the remaining connections so they could transition. Ms. Rollings-McDonald states that since this has not occurred, there has been difficulty transitioning the connections. She states that this is the reason for the need for a contractual agreement between Hesperia Water and Zone J so there can be a cooperative arrangement for service that acknowledges existing infrastructure even though it is outside the boundary of the respective water providers.

Mr. Tuerpe states that CSA 70 Zone J was identified in the water service review as a hot spot. He states that although LAFCO staff is working with the Hesperia Water District and CSA 70 Zone J on a mechanism to resolve the boundary conflicts, staff recommends that the Commission direct staff to continue to monitor the Zone J system. In addition, it is recommended that the Commission direct staff to return at the August 2018 hearing for an update regarding the water quality issue and the on-going discussions between Hesperia and County Service Area Zone J to resolve its boundary issues.

Mr. Tuerpe states that during the service review, the Commission reaffirmed its position that Daggett CSD and Yermo CSD have a combined sphere of influence, signaling the Commission's desire for consolidation. In addition the Commission directed staff to coordinate with Mojave Water Agency to seek further assistance for the Daggett CSD through MWA's Small Water Assistance Program.

Mr. Tuerpe states that the managerial issues persist at the Daggett CSD and require outside assistance. In addition, assistance from outside entities is needed to increase the water system's supply source, safety, and effectiveness. He further states that the CSD is taking any and all efforts not to be on the radar for a potential SB 88 consolidation required by the State Water Board with the adjacent Yermo System of Liberty Utilities (private water company). Mojave Water Agency (MWA) and the California Rural Water Association (CRWA) are actively engaging with the CSD on its water and managerial challenges. According to the data provided by MWA, water quality treatment does not appear to be a viable option for the CSD and that locating good quality groundwater in the service area, or near the service area, of Daggett CSD was necessary. In January 2018, MWA provided CRWA with data of wells and associated water quality within or near the CSD.

Mr. Tuerpe states that staff is recommending that the Commission direct staff to return at the August 2018 hearing with another update for Daggett CSD.

Commissioner Lovingood inquires if there has been any consolidations within the State under SB 88, to which Mr. Tuerpe replies that he is aware that there were two in Northern California but is not aware of any in Southern California.

Executive Officer Rollings-McDonald clarifies that there was one in Riverside County that pre-dated SB 88 and it had a number of issues which prompted the passage of SB 88. Commissioner Lovingood states that he would like for his office to review the process for consolidations that pre-dated SB 88.

Commissioner Bagley states that the staff report indicates that LAFCO staff requested audit reports for 2015/16 that have not been provided; to which Executive Officer Rollings-McDonald states that the problem is managerial and the inability of office staff to assemble the required data for an Auditor to audit the District. Commissioner Bagley states that this is a major red flag. He states that LAFCO's review is not to harass agencies, but there are some basic fundamental responsibilities for all public agencies. He states that one of those responsibilities is to be financially accountable of the money that comes in and out. Mr. Tuerpe states that we have an open line of communication with Daggett and Mojave Water Agency, and we are recommending to come back with another Commission update at the August 2018 hearing.

Mr. Tuerpe states that CSA 70 Zone W-4 Pioneertown, is located westerly of the Town of Yucca Valley and the boundaries of the Hi-Desert Water District. He states that the Commission could not take a direct action during the service review consideration because zones do not have a sphere of influence. He states that the State Board does have this zone on their radar for SB88. He states that LAFCO has been in contact with the Hi-Desert Water District, which is the adjacent agency, and Zone W-4 is within its sphere of influence. He states that as part of the Countywide Service Review for Water, Zone W-4 was classified as a "hot spot" due to its water quality challenges. He states that while progress has been made, LAFCO staff recommends that the Commission direct staff to return in six months at the August 2018 hearing with an update on the Zone W-4 system.

Mr. Tuerpe states that this concludes his staff report, and he is available to answer any questions from the Commission.

Vice-Chair Ramos calls for questions from the Commission. He states just to be clear, staff's recommendation is to take Cedar Glen off the monitoring list, but have the others come back at the August meeting for another update; to which Mr. Tuerpe responds in the affirmative.

Commissioner Bagley moves approval of staff's recommendation, Second by Commissioner Williams. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Curatalo, Lovingood, Ramos, Williams and Farrell. Noes: None. Abstain: None. Absent: Cox (Commissioner Farrell voting in her stead) and McCallon

ITEM 6 REVIEW AND CONSIDERATION OF POLICY RELATED TO RETENTION OF ELECTRONIC COMMUNICATIONS (CONTINUED FROM FEBRUARY 21, 2018 HEARING) – STAFF RECOMMENDATION APPROVED

LAFCO Project Manager Michael Tuerpe 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.

Mr. Tuerpe states that this is a continuing consideration from the February 21, 2018 hearing. He states that at the February hearing, the Commission directed that the Policy include language that records regarding a LAFCO proposal be retained for six months following completion of the proposal. Mr. Tuerpe notes that language has been added to the proposed policy to address this request as follows:

7. *The LAFCO official shall retain all emails related to a proposal for six months following issuance of the certificate of completion, certificate of termination, or withdrawal notification by the applicant.*

He states that this language is being placed in as Item #7 in the draft Communications Policy.

Vice-Chair Ramos asks if there are any questions from Commissioners.

Commissioner Farrell asks if Commissioners can request automatic forwarding to their personal email from the LAFCO email and if all emails can be saved on the server indefinitely; to which Mr. Tuerpe responds that the Supreme Court case, as well as the recommendation in the draft language that was provided by Best and Krieger, in general puts the responsibility on the LAFCO official to delete or retain their own emails. Commissioner Farrell asks if Mr. Tuerpe looked into the possibility of auto-forwarding the emails, to which Mr. Tuerpe responds that this is a function with Microsoft 365 and Gmail. He states that this is an option for all Commissioners.

Discussion continues.

Vice-Chair Ramos asks if there are any further questions from Commissioners.

Commissioner Farrell states that at this time he is satisfied and just needed some clarity on what was not clear to him in the staff report.

Mr. Tuerpe states that staff recommends that the Commission take the actions outlined on page one which are to: (1) Adopt the Electronic Communication Policy as proposed. Amend the Records Retention Policy as proposed; (2) Authorize the Executive Officer to establish and remove Email addresses for Commissioners, when applicable, with the County Information Services Department utilizing the Microsoft 365 Platform and the existing County retention schedule; and (3) Adopt the resolution reflecting the changes to the Policy and Procedure Manual.

Commissioner Curatalo moves approval of Staff Recommendation, Second by Commissioner Farrell. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Curatalo, Lovingood, Ramos, Williams and Farrell. Noes: None. Abstain: None. Absent: Cox (Commissioner Farrell voting in her stead) and McCallon

ITEM 7 WORKSHOP ON COUNTYWIDE HABITAT CONSERVATION
/PRESERVATION FRAMEWORK STUDY UPDATE AND CHANGES IN
STATE LEGISLATIVE DIRECTION – STAFF RECOMMENDATION
APPROVED

Commissioner Lovingood leaves the dais at 10:03 A.M.

Samuel Martinez, Assistant Executive Officer for LAFCO, presents the staff report and PowerPoint presentation, a complete copy of each is on file in the LAFCO Office. He states that this item is a two-part consideration; first he states the Commission will have a presentation from Josh Lee of the San Bernardino County Transportation Authority and

Mike Howard from Dudek on the County's progress related to habitat conservation and preservation for the entire County. He states that this is a collaborative effort by the County, SBCTA and SCAG together with the Countywide Vision Environmental Elements Group. Mr. Martinez states that the staff recommendations relate to the Commission's service review for habitat conservation and open space management services identified as LAFCO 3157A.

Josh Lee states that back in 2014, SBCTA started this effort under the Environmental Elements Group of the Countywide Vision Plan. In 2015, a Phase I report was completed which addressed the principals, next steps and some of the policies for doing a countywide habitat plan. Mr. Lee states that Mike Howard from Dudek is here to give the Commission the technical background regarding Phase II efforts.

Mr. Howard states that he has been working with the County since 2015. He states that Phase II work began in 2016 and was referred to as an alternative conservation plan to:

- Provide a comprehensive assessment of conservation priorities for focal species
- Identify where mitigation for development would be focused
- Streamline project permitting in conjunction with implementing a landscape-scale conservation strategy

Mr. Howard states that in the fall of 2016, the state passed AB 2087, which was codified in Fish and Game Code, and referred to as the Regional Conservation Investment Strategy (RCIS). He states that this program is administered through the California Department of Fish and Wildlife, and it provided many of the same functions that the County was trying to implement through the alternative conservation plan.

Mr. Howard states that the RCIS Program is voluntary and non-regulatory. He states that it does not regulate land use, create any new land use regulations, or restrict local land use authority. He states that an RCIS is a science-based conservation planning and mitigation strategy, developed by public agencies to identify conservation priorities and deliver more flexible mitigation options for development impacts. He states that this is a guide for conservation and mitigation actions to be implemented by state and local governments, NGOs, and private entities.

Discussion continues.

Commissioner Farrell asks what is the expected time frame for the RCIS to be completed to which Mr. Howard replies that the draft RCIS is expected to be completed for review and circulation in the fall of this year.

Mr. Martinez states that staff is proposing to close the current service review for habitat conservation and open space management, LAFCO 3157A, and for the Commission to direct staff to return to the Commission with a request to reinstate the service review for habitat conservation and open space management services upon completion of the collaborative process that the County of San Bernardino, the San Bernardino County Transportation Authority, the Southern California Association of Governments, and the

County's Environment Element Group have undertaken to address habitat preservation and conservation for the entire County.

Commissioner Farrell asks if LAFCO has ever reviewed habitat conservation and open space to which Executive Officer Rollings-McDonald states that this effort started with the sphere of influence establishment of CSA 120 which is required by LAFCO statute. She states there were questions regarding habitat, the management and the requirements of the California Department of Fish and Wildlife, mitigation requirements and EIR's/Negative Declarations in Redlands, Loma Linda and the desert related to CSA 120.

Vice-Chair Ramos asks the Commission for questions.

There are none.

Commissioner Farrell moves approval of staff's recommendations, Second by Commissioner Williams. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Curatalo, Ramos, Williams and Farrell. Noes: None. Abstain: None. Absent: Cox (Commissioner Farrell voting in her stead), McCallon and Lovingood.

INFORMATION ITEMS:

ITEM 8 LEGISLATIVE ORAL REPORT

Executive Officer Rollings-McDonald states that the CALAFCO Legislative Committee met last Friday and was attended by Assistant Executive Officer Samuel Martinez. She states that AB 2050 was discussed last month and is the bill sponsored by Eastern Municipal Water District to address the concerns about the imposition of surcharges on water bills. She states that this bill is proposing to create the Small System Water Authority Act to require consolidation of small water providers. She states that CALAFCO has taken a watch position at this time.

Ms. Rollings-McDonald states that AB 2258 is the CALAFCO sponsored grant program to allow for grant funding opportunities for smaller LAFCO's processing significant proposals.

She states that AB 3254 is a Local Government Committee omnibus bill that CALAFCO is sponsoring. She states that Assistant Executive Officer Samuel Martinez is currently working with Los Angeles LAFCO Executive Officer Paul Novak to shepherd this bill through the Legislature. Ms. Rollings-McDonald states that the bill currently contains non-substantive technical changes to the Cortese-Knox Hertzberg Act.

Executive Officer Rollings-McDonald states that SB 1215 is the wastewater version of SB 88, which proposes that the State Water Resources Control Board have the authority to require consolidation of waste water agencies. She states that this bill has some significant issues and CALAFCO is questioning some of the information in the bill.

Ms. Rollings-McDonald states that AB 226 is the League of Cities sponsored legislation that will return the per-capita funding source for island annexations that was removed by the Governor's budget bill SB 89.

She states there are a number of bills in the state legislature regarding retirement, CalPers and inactive accounts, but are not specifically related to LAFCO.

ITEM 9 EXECUTIVE OFFICER'S ORAL REPORT

Executive Officer Rollings-McDonald states that there are no new proposals, but we have had two proposals withdrawn. She states that the sphere of influence and reorganization to exchange property between IEUA and Muni turned out not to be a jurisdictional problem. It was a problem that the Assessor had incorrectly placed a subdivision in a Tax Rate Area where it did not belong. She states that the Districts have requested to withdraw the applications which requires a return of approximately ten thousand dollars in filing fees.

She states that staff is currently processing the East Valley Water District latent power authority application, and that the City of Hesperia and the County of San Bernardino have approved the property tax transfer required for the Hesperia Fire Protection District territory to annex into County Fire.

Ms. Rollings-McDonald states that following last month's review and discussion regarding the LAFCO audit presentation, staff has reviewed the issue with LAFCO's current auditor. She states that a presentation by the auditor to the Commission will be provided for all future audits.

Ms. Rollings-McDonald states that the recruitment for the Executive Officer will close on March 30, 2018, and in April the Commission will consider the 2018-19 preliminary budget.

ITEM 10 COMMISSIONER COMMENTS

There are none.

ITEM 11 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:

LA TRICI JONES
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES RAMOS, Vice-Chair