

**DRAFT - ACTION MINUTES OF THE  
LOCAL AGENCY FORMATION COMMISSION  
HEARING OF DECEMBER 5, 2018**

**REGULAR MEETING**

**9:00 A.M.**

**DECEMBER 5, 2018**

**PRESENT:**

**COMMISSIONERS:**

<b>Regular Member</b>	<b>Alternate Member</b>
<b>Jim Bagley</b>	<b>Louisa Amis</b>
<b>Kimberly Cox</b>	<b>Acquanetta Warren</b>
<b>James Curatalo, Vice Chair</b>	
<b>Diane Williams</b>	
<b>Robert Lovingood</b>	

**STAFF:**

**Samuel Martinez, Executive Officer  
Paula de Sousa Mills, LAFCO Legal Counsel  
Michael Tuerpe, Project Manager  
Jeffrey Lum, LAFCO Analyst  
La Trici Jones, Clerk to the Commission  
Angerose Schell, Administrative Assistant**

**ABSENT:**

**COMMISSIONERS:**

<b>Regular Member</b>	<b>Alternate Member</b>
<b>Larry McCallon</b>	<b>Janice Rutherford</b>
	<b>Steven Farrell</b>

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION  
– CALL TO ORDER – 9:18 A.M. – NORTON REGIONAL EVENT CENTER**

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

**ANNOUNCEMENT OF CONTRIBUTIONS**

Vice-Chair Curatalo 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 was made, and the matter of consideration with which they are involved.

There were none.

**ITEM 1.** Presentation of Resolution of Appreciation to Diane Williams for her 26 years of LAFCO Service

Vice-Chair Curatalo presents a resolution of appreciation to Diane Williams for 26 years of service to the Local Agency Formation Commission for San Bernardino County. He states that Diane's service has been exemplary in every way. He states that she has also served on the Rancho Cucamonga City Council for 28 years.

Former Executive Officer Kathleen Rollings-McDonald also acknowledges Diane Williams' service to the Commission and expresses her appreciation for her service.

**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 2. Approval of Minutes for Regular Meeting of October 17, 2018
- ITEM 3. Approval of Executive Officer's Expense Report
- ITEM 4. Ratify Payments as Reconciled and Note Cash Receipts for Months of September and October 2018
- ITEM 5. Approval of Letter of Support for the California WaterFix
- ITEM 6. Consideration of: (1) CEQA Statutory Exemption for LAFCO SC#433; and (2) LAFCO SC#433 – City of Redlands OSC 18-01, Out of Agency Service Agreement for Water Service (APNs 0302-152-09 & 0302-152-15)
- ITEM 7. Consent Items Deferred for Discussion

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

**PUBLIC HEARING ITEMS:**

- ITEM 8. **CONSIDERATION OF: (1) REVIEW OF THE ADDENDUM TO THE ENVIRONMENTAL IMPACT REPORT (SCH# 2008091077) PREPARED BY THE TOWN OF APPLE VALLEY FOR THE APPLE VALLEY 2009 GENERAL PLAN AND ANNEXATION 2008-001, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3229; AND (2) LAFCO 3229 – REORGANIZATION TO INCLUDE ANNEXATION TO THE TOWN OF APPELY VALLEY AND DETACHMENT FROM COUNTY SERVICE AREA 70**

Project Manager Michael Tuerpe presents the staff report, a complete copy of which is on file in the LAFCO office and made a part of the record by its reference here. The item has

been advertised through publication in a newspaper of general circulation within the county, *The Daily Press*, as required by law.

Vice-Chair Curatalo opens the public hearing.

Project Manager Michael Tuerpe states that this area is in the northwestern sphere of influence of the Town of Apple Valley. He refers the Commission to the map. He states that the proposal submitted by the Town is for a portion of the island area. He states that four areas of consideration are required by law and are detailed in the report. He states that in 2012, there was LAFCO proposal 3169 and the entire island area referenced was included in the application. He states that the Commission approved LAFCO 3169, but at the protest hearing, it was overturned by the voters.

He states that now in 2018, the Town has returned with another application for a reorganization to include only part of the island. He states that on the west side of I-15 is the City of Victorville unincorporated sphere of influence. He states that the sphere of influence is a planning tool but also a probable boundary of an agency at a future point, so in due time, the City of Victorville will be west of the freeway. The purpose of the application is for the Town of Apple Valley to have development control along the I-15 on the east side. He states that however, that because the proposal includes an island, Commission has several options which Mr. Tuerpe describes as follows: Option 1 would be to expand LAFCO 3229 to include the entire unincorporated island area, but this would be the same as LAFCO 3169 and the success of this going through would not be likely. He states that there are 57 registered voters and LAFCO staff believes the same outcome would occur; Option 2 would be to square it off at area A (as shown on the map) on the south. He states that the reasoning for squaring it off would allow for a more logical boundary. He states that even though it provides for a logical boundary it still does not address the rest of the island contained as shown on the map as Area B and therefore this is not the optimal option; and Option 3, which he states is LAFCO staff's recommendation, to keep the proposal as submitted by the Town.

He states that LAFCO staff would not be doing its job if staff recommended approval as submitted without considering and analyzing the remainder of the island. He states that the Government Code prohibits the creation of an island unless certain determinations can be made. He states that LAFCO staff is recommending the Commission choose Option 3, which is to annex the area as submitted, while also requiring the Town, as a condition of approval, to come back to LAFCO within one year with a proposal to annex the remainder of the island. He states that this would allow a one year period of time to properly engage with the landowners and registered voters and come back with the proposal for LAFCO. He states that that the subsequent proposal would then, if approved by the Commission, live or die based upon the protest process. He states that the condition language is on page 7 of the staff report. He states that should the Commission choose any of the options presented today, the Commission should be clear that it still creates an island, which is generally prohibited by law unless the Commission makes a determination that the restriction on creating the island would be detrimental to the orderly development of the community, which includes the I-15 corridor to the east, and determine that the area to be surrounded cannot reasonably be annexed to another city or incorporated as a new city.

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He states that the County's land use designation is generally compatible with the Town's general plan land use for the area and the Town's pre-zoning is consistent with the Town's general plan. He states that there is a variety of service delivery. He states that water is generally provided by Liberty Utilities, but this particular area is not within the Liberty Utilities service area and the staff report has details on this. He states that one area of service he wants to focus on for a moment is drainage. He states that the County requested that a condition be made that the Town of Apple Valley will accept the transfer of all the drainage easements. He states that LAFCO staff has agreed based on its reasoning and the recommendation is on pages 1 and 2. He states that the fiscal impact analysis shows the ability of the Town of Apple Valley to extend its services. He states that for Environmental considerations, the Town is the lead agency and has adopted an Environmental Impact Report with an addendum. He states that the Commission's Environmental Consultant's recommendation is that the Town's Environmental documents are adequate for the Commission's use as a responsible agency under CEQA.

He states, in conclusion, that approving the proposal would allow the Town to have development control within the area. He states that should the Commission approve any of the options presented by staff; options 2 or 3, the Commission needs to make a determination required by law that it knows it's creating an island, however, staff is going to address that by adding a condition that requires the Town to initiate the remainder of the island within one year of the Commission's approval of LAFCO 3229. He states that for these reasons, staff recommends that the Commission approve the staff recommendations set out in the staff report. He states that there are Town representatives present to answer any questions and he will be happy to answer any questions.

Vice-Chair Curatalo asks if there are any questions from the Commission.

Commissioner Cox asks the acreage of the area being considered today. She also asked the acreages of Areas A and B being discussed.

Mr. Tuerpe states that the total acreage is 1,365 and it represents 42 to 43 percent. He states that he calculated the percentage, but he did not calculate the acreage.

Executive Officer Martinez states that Area B is over 1000 acres and Area A is approximately 100 acres.

Commissioner Warren questions if it is standard to condition a proposal for a whole year and asks whether this will give the Town enough time.

Mr. Tuerpe states that the Commission has conditioned proposals in the past to either six months or a year for two different proposals. He states that a year will allow the proper time to engage with the landowners and voters given the outcome of the previous annexation attempt.

Commissioner Cox states that it seems like staff has given the Commission some logical options that comply with the law and do not impede the interest of the Town and their future development. She states that she thinks the Commission has some good options to consider.

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Commissioner Bagley states that the proposal from Apple Valley is a very wise proposal. He states that the Commission is often criticized because the protest process seems to be unattainable by people, but this is an example where it actually worked and its part of the democratic process and he is proud to say that. He states that the Commission takes these things very seriously, when the public comes down to protest and they have a sense of identity and they don't want to be annexed by a governmental agency; the Commission needs to honor that. He states that his role as a public member is to address that.

Vice-Chair Curatalo calls for additional questions from the Commission.

There is none.

Vice-Chair Curatalo calls for the applicant, Town of Apple Valley.

Lori Lamson, Assistant Town Manager, states that she would like to thank Commissioner Williams for her public service. She states that the Town staff is excited to attend to represent the project and the great Town of Apple Valley. She states that staff has been working on this for a long time and feel that what is proposed before the Commission today is a compromise and will enable the Town to look towards future growth in the area. She states that the Town had a clear message sent by the voters of the area in 2012 and this is how the Town has responded, by coming back with this proposal. She states that she wants to thank Sam and the LAFCO staff for all their assistance and the Town staff agree with all the conditions of approval.

Vice-Chair Curatalo asks if there are any questions of the applicant.

There is none.

Vice-Chair Curatalo states that there is one speaker slip request from Kerry Watson of Apple Valley.

Ms. Watson states that they own two pieces of property adjacent to the corners of this project and they bought it because it was rural. She states that she would like to keep it rural.

Vice-Chair Curatalo asks LAFCO Legal Counsel, Paula de Sousa Mills to briefly describe the rule that LAFCO has in this matter, and the scope of the Commission's responsibility.

Ms.de Sousa Mills states that LAFCO's scope is to review the application submitted by the Town and make determinations in the best interest of the provision of services because LAFCO's role is to ensure the efficient provision of governmental services and the logical and orderly formation and development of local agencies.

Vice-Chair Curatalo asks if there is additional comments from those in attendance.

There is none.

Vice-Chair Curatalo closes the public hearing and asks the Commission for an action. He states that the Commission has a recommendation by staff outlined in the staff report.

Commissioner Bagley moves the staff recommendation (including Option 3), Second by Commissioner Cox. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, Warren and Williams. Noes: None. Abstain: Lovingood. Absent: McCallon (Warren voting in his stead)

**INFORMATION ITEMS:**

Commissioners Warren and Lovingood leave the dais at 9:50 A.M.

**ITEM 9. LEGISLATIVE UPDATE REPORT**

Executive Officer Samuel Martinez states the Legislative Report is on the dais. He states that AB 2258 is the CALAFCO sponsored bill for grant funding for costs associated with studies and reorganizations that was vetoed by the governor. He states that his assumption is that the CALAFCO Board will decide at the next Board hearing on whether to sponsor this bill again for the next year. He states that AB 1577 is the Gibson bill that authorizes the State Water Resource Control Board to take over the Sativa Water District. He states that this is important since it could happen to one of the agencies in San Bernardino County. He states that the State Water Resource Control Board could easily, through special legislation, do something similar if a water district in San Bernardino County is either not performing and/or it needs some help.

**ITEM 10. EXECUTIVE OFFICER'S ORAL REPORT**

Executive Officer Samuel Martinez states that last Monday, December 3, 2018, LAFCO had its first governance training workshop at the Cucamonga Valley Water District. He states that this was a workshop on customer service in the public sector. He states that the Commission will have two more – one in January or February, which will be a session on LAFCO 101 and the other will be in March at the Mojave Water Agency on policy and procedure writing. He states that on the dais is next year's calendar and as a reminder, the LAFCO office will be closed during the Christmas week but will then be open starting on January 2, 2019. He states that the calendar includes all the regular Commission hearings, holidays and the Fridays the office will be closed. He states the calendar includes the workshop in January and identifies again that the LAFCO office will be closed Christmas week and the beginning of the year 2020. He states that as a reminder, the Commission will have its January hearing on the 16<sup>th</sup> and at this point we have a few items: the continued item for Running Springs, a service contract with the City of Rialto, and the mid-year financial report and audit. He states that today the City Selection Meeting to be filling-in Diane's regular city seat on the LAFCO Commission. Executive Officer Martinez states that he would like to thank Commissioner Williams for her valuable service to the Commission. He states that she has served the Commission well and her service is valued not only as a Commissioner, but as a council member for the City of Rancho Cucamonga and especially as a proponent for the incorporation of that city which included the communities of Cucamonga, Alta Loma and Etiwanda. He states that he wishes everyone happy holidays and a new year full of peace and joy.

**ITEM 11. COMMISSIONER COMMENTS**

Commissioner Cox states that she does not know what it will be like coming to the next LAFCO hearing and not seeing Commissioner Williams at the dais. She states that for many years, they have sat next to each other and it will certainly be different. She states to Executive Officer Martinez she appreciates the way that item #8 was written with the various options. She states that it made it very clear for the Commissioners as well as the public. She states that she appreciates Commissioner Bagley's comments.

Commissioner Bagley states to Commissioner Williams, there was a touch of sadness when she walked in the door and there will be a touch of sadness when she walks out. He states that she is not only a great Commissioner, but also a friend.

Commissioner Williams states that Jim has been a great friend and she treasure those friendships and that is the greatest thing she is taking with her.

**ITEM 12. COMMENTS FROM THE PUBLIC**

Sajida Dae, a member of the Public, states that she owns three properties on Mill Creek Road and she has questions regarding a notice she received from the LAFCO office. Executive Officer Samuel Martinez states that the notice is for a service contract the Commission approved earlier for water service. He states that she has received the notice as a surrounding landowner.

Vice-Chair Curatalo asked if she would stay after the hearing and directed staff to assist her and answer her questions.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING ADJOURNS AT 10:01 A.M. IN RECOGNITION AND IN HONOR OF COMMISSIONER DIANE WILLIAMS' FAITHFUL SERVICE**

**ATTEST:**

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**LA TRICI JONES**  
Clerk to the Commission

**LOCAL AGENCY FORMATION COMMISSION**

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**JAMES V. CURATALO, Vice-Chair**