

DRAFT - ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF FEBRUARY 20, 2019

REGULAR MEETING

9:00 A.M.

FEBRUARY 20, 2019

PRESENT:

COMMISSIONERS:

Regular Member	Alternate Member
Jim Bagley	Louisa Amis
Kimberly Cox	Steven Farrell
James Curatalo, Vice Chair	
Robert Lovingood, Chair	
Larry McCallon	
Acquanetta Warren	
Dawn Rowe	

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: Janice Rutherford, Alternate Member

9:07 A.M. – CALL TO ORDER – FLAG SALUTE

Chair Robert Lovingood calls the meeting to order and requests Commissioner Cox to lead the flag salute.

ITEM 1. Swear In Regular County Commissioner – Dawn Rowe

Ms. La Trici Jones, Clerk to the Commission, administers the Oath of Office to Supervisor Dawn Rowe, Regular County member. Ms. Rowe will serve the unexpired Term of Office for Mr. James Ramos, expiring in May 2021.

ITEM 2. PUBLIC COMMENTS ON CLOSED SESSION

There are no comments provided.

ITEM 3. 9:11A.M. - CONVENE CLOSED SESSION – Conference Room Adjacent to Event Center Auditorium:

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- Conference with Legal Counsel - Existing Litigation (Government Code Section 54956.9(d)(1)) -- San Antonio Heights Association v. County of San Bernardino et al, San Bernardino County Superior Court Case No CIVDS1715504
- Conference with Legal Counsel - Existing Litigation (Government Code Section 54956.9(d)(1)) -- San Antonio Heights Association v. County of San Bernardino et al, San Bernardino County Superior Court Case No CIVDS1712771
- Conference with Legal Counsel - Significant Exposure to Litigation (Government Code Section 54956.9(d)(2)) -- Number of Potential Cases: Five (5)

ITEM 4. 9:41 A.M. - RECONVENE PUBLIC SESSION

LAFCO Legal Counsel Paula de Sousa Mills states that the Commission met in closed session for the three closed session items noted on the agenda and there is no reportable action.

ANNOUNCEMENT OF CONTRIBUTIONS

Chair Lovingood 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.

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 5.** Approval of Minutes for Regular Meeting of January 16, 2019 and Strategic Planning Workshop of January 22, 2019
- ITEM 6.** Approval of Executive Officer's Expense Report
- ITEM 7.** Ratify Payments as Reconciled and Note Cash Receipts for Month of December 2018
- ITEM 8.** Consent Items Deferred for Discussion

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

DISCUSSION ITEMS:

ITEM 9. REVIEW AND ACCEPT AUDIT REPORT FOR FISCAL YEAR ENDED JUNE 30, 2018 – STAFF RECOMMENDATION APPROVED

Executive Officer Samuel Martinez states that the Auditor provided a draft of the audit and the Admin Committee reviewed the draft audit with the Auditor. He states that staff has provided a staff report that summarizes the information from the draft audit. He states that Jennifer Farr from Davis Farr LLP is present to make the presentation to the Commission.

Jennifer Farr states that she has brief comments regarding the audit results. She states that we have completed the audit for fiscal year ending June 30, 2018 and issued an unmodified audit opinion on February 13, 2019. She states that this is the highest-level opinion that can be received on financial statements and it means that both the financial statements and the disclosures do not contain any material misstatements. She states that there were no new accounting standards implemented for this year's financial statements and the financial statements and disclosures are consistent with the prior year's report, however, there is an updated footnote disclosure on the amended office lease and you will see some capital asset activity related to tenant improvements made at the facility during the year. She states that the net pension liability increased from \$769,000 to \$865,000. She states that it was largely due to a change in the SBCERA discount rate from 7.65% to 7.15%. She states that all the change really means is that the actuary calculation of how much the Commission will have in investments to pay the liability in the future is a smaller number now than what SBCERA previously calculated.

Chair Lovingood asks the Commission for questions.

Commissioner Bagley states that on page 31 of the report, where there are some percentages he states that he does not understand such as the plan fiduciary net position percentage of the total pension liability. He questions what exactly this means.

Jennifer Farr states this is the percentage that the plan is funded as of the measurement date, which is June 30, 2017. She states that this is the total available investments divided by the total liabilities.

Commissioner Bagley states that the proportionate share of the collective net pension liability as percentage of covered payroll, which he identifies is 234%, he states again, he does not know what this number means.

Jennifer Farr states that all the numbers are derived from the actuarial evaluation that's prepared for the plan and this is a summary that comes out of the actuary evaluation. She states that it might be helpful to look at the actuarial evaluation to understand where all these numbers come from because it goes into great detail about how everything is calculated.

Commissioner Bagley states that in the Auditor's letter, it was noted that this was prepared by another party, which is SBCERA. He states that he does not unfairly want Ms. Farr to defend SBCERA's numbers, but the unfunded pension liability is one of the greatest concerns he has for every public entity.

Chair Lovingood asks if there are any additional questions from the Commission.

There is none.

Commissioner Cox moves approval of the staff recommendation to receive and file, Second by Commissioner McCallon. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Lovingood, McCallon, Rowe and Warren. Noes: None. Abstain: None. Absent: None

ITEM 10. UPDATE ON LAFCO 3187 – COUNTYWIDE SERVICE REVIEW FOR WATER, REQUIRED CONTINUED MONITORING FOR: STAFF RECOMMENDATION APPROVED

- a. Dagget Community Services District**
- b. County Service Area 70 Zone W-4**

Project Manager Michael Tuerpe presents the staff report. He states that nearly a year and a half ago, the Commission was presented with the countywide service review for water and it included monitoring for two other agencies that are not on the slide. He states that discussion relates to continuing monitoring for Daggett CSD and County Service Area 70 Zone W-4, Pioneertown. He states that for Daggett CSD, they have water quality issues which relate to water quantity issues and it's because they are in the Baja sub basin of the Mojave basin, which is at 45% ramp down. He states that Daggett CSD is in an area with limited resources and the LAFCO service reviews have stated this. He states that Daggett CSD has also had historical managerial issues, however, the district is trying the best that it can with the resources that it has. He states that in conjunction with the Mojave Water Agency and its small water assistance program, the Cal Rural Water Association has been working with Daggett CSD. He states as of the last update, applications have been put forth to the state for grant funding to look for additional well locations. He states that another issue is that Daggett CSD is adjacent to another water system, the former Yermo Water Company which has been assumed by Liberty Utilities. He states that at some point a potential consolidation of two systems could be undertaken by the State Water Board. He states that at this time there is nothing more to report but there are representatives from Daggett CSD present.

Chair Lovingood asks if there are any questions from the Commission.

There is none.

Chair Lovingood opens public comment and calls for Lee Heitt.

Mr. Lee Heitt states that his primary purpose for attending the hearing is to see what is happening. He states that Daggett Water District is not adjacent to Yermo Water District. He states that the ramp down is at 35% from what they initially started with. He states that the main concern right now is to get back the amount that they ramped down.

Chair Lovingood asks Mr. Heitt to reach out to his office to have an additional meeting.

Chair Lovingood closes public comment.

Project Manager Michael Tuerpe states that staff will return in 6 months with an update on Daggett CSD. He states that for County Service Area 70, Zone W-4, Pioneertown, staff is not recommending further monitoring. He states that there is no LAFCO solution. He indicates that the situation is not a man-made problem; it's a water quality problem in the ground with arsenic and uranium and the County has put forth bottled water money etc. He states that a physical solution is needed and it involves multiple agencies coming together to figure out a water moving solution and it is out of LAFCo's hands and is in the sphere of influence of the High Desert Water District. He states that significant movement has taken place to obtain financing, but the Commission does not have a direct purview over CSA 70 Zone W-4. He states that LAFCO staff recommends that no further monitoring occur.

Chair Lovingood asks if there are any questions from the Commission.

Commissioner McCallon moves the staff recommendation, Second by Commissioner Warren. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Rowe and Warren. Noes: None. Abstain: None. Absent: None

ITEM 11. UPDATE ON LAFCO 3190 – COUNTYWIDE SERVICE REVIEW FOR WASTEWATER, REQUIRED CONTINUED MONITORING FOR: STAFF RECOMMENDATION APPROVED

- a. City of Victorville/Victorville Water District**
- b. Victor Valley Wastewater Reclamation Authority**

Project Manager Michael Tuerpe presents the staff report. He states that in August the Commission considered the wastewater service review and continued monitoring for two systems; the City of Victorville/Victorville Water District and the Victor Valley Wastewater Reclamation Authority. He states that for the Victorville systems, the service review identified increasing operation and maintenance payments, which were affecting debt service and needed capital expenditures. He states that the City/Victorville Water District went a long time without a rate increase and the bill became due. He states that a five-year rate increase was passed and that will allow the City/Victorville Water District the mechanism to obtain funding. He states that the staff report has the water district's response that the wastewater system now has the mechanisms in place to further improvements and cash position. He states that staff went back and looked at the City's rate study and the plan it has moving forward are in line with the rate study and that satisfied staffs' concern and therefore staff is recommending no further monitoring. He states that

there is a city/water district representative in attendance should the Commission have any questions.

Chair Lovingood asks the Commission if there are any questions.

There is none.

Chair Lovingood asks if there are any questions or comments from the City of Victorville.

There is none.

Project Manager, Michael Tuerpe states that in regards to VVWRA, the City of Victorville diverted approximately 1 MGD of flow reducing revenue. He states that the City of Hesperia is withholding payment due to disagreement with VVWRA board of directors and there are unresolved differences with FEMA regarding a grant for construction. He states that the service review went into these issues in detail and the VVWRA general manager provided an update as part of this staff report. He states that the general manager could not be in attendance today as he is satisfying a couple of the items of the update (at a VVWRA Commission meeting scheduled on this day). He states that due to this, staff is recommending to the Commission to come back in six months and provide another update. He states that things look positive but the issue with VVWRA is a cash matter regarding other agencies. He states that if these issues get satisfied, then hopefully, the cash position of the agency improves which will reduce its risk in paying off its debt in the future.

Chair Lovingood states that he will take a motion to receive and file.

Commissioner Curatalo moves the staff recommendation, Second by Commissioner McCallon. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Rowe and Warren. Noes: None. Abstain: None. Absent: None

ITEM 12. REPORT ON STRATEGIC PLANNING WORKSHOP OF JANUARY 22, 2019

Executive Officer Samuel Martinez states that this is a review of the strategic planning workshop held on January 22, 2019. He states that there were three items staff felt needed the Commissions immediate consideration. He states that as the Commission was ending our workshop, Commissioner McCallon suggested a vision statement. He states that the Commission should also take into consideration the Commission's mission statement. He states that he would like the Commission to review the draft vision statement, provide suggestions, or alternative statements and come back with a subsequent hearing with a vision statement or discussion. He states that he understands that the Commission wants to look at the policies and procedures and eliminate policies that are not current and modify those that need changing. He states that at this point, he would ask the Commission to direct staff to review all of its policies and procedures. He states that he would also ask the Commission to put together a policy committee that staff can work with in the next few

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months. He states that finally, there was a request that staff look at drafting policies on open space and agriculture preservation. He states that staff would like to move forward with this and formulate draft policies for consideration and possible adoption. He then identifies other items that were discussed at the workshop that did not require any follow-up action. He states that there was some discussion concerning service reviews and the distribution for said service reviews, to not only staff members, but also to the legislative bodies. He states that the Commission also outlined and affirmed the service review cycles which include the healthcare districts, solid waste, street lighting, park and recreation and roads. He states that staff also identified issues with healthcare districts and that staff will be working on the healthcare service review after the fire service review. He states that there was also a request to have a training program on net pension liability and staff will inquire and come back at the budget hearing for a plan. He states there was also discussion on LAFCO outreach and coordination and some of the items identified included; educating local legislators about LAFCO, better coordination with public agencies including school districts, and making notices more user-friendly and continued presence in CALAFCO and participation in the Southern Region LAFCOs. He states there was much discussion about core values, and staff would like to identify its core values, which are: integrity and ownership of the work process, excellence in work, innovation in work product and having an environment that fosters ideas that promote efficient and effective local services as well as valuing its role in local and state governance including participation in CALAFCO and its Legislative Committee. He asks the Commission if there is anything else that it would like to discuss that was not discussed at the workshop?

Commissioner Bagley states that on the review of the open space and agricultural preservation policy, in the workshop, he states that he was attempting to define a broader definition of open space which includes recreational opportunities and that mining is part of it. He states that there is a perceived prejudice in the management of open space because sometimes there's more on the no-use side rather than the preservation of the ability for the public to use open lands and that is an important part of the economy. He states that he does not want to be limited in those discussions and would like to see it broader.

Executive Officer Samuel Martinez states that he will ensure the discussions will not be limited.

Commission Bagley states that in review of the policies there was also discussion about the need to expand the Executive Committee of LAFCO through the rotation of the chair. He states there is no note of this discussion in the staff report. He states that he does not want that discussion to go by the wayside. He states that he believes that the Commission need to have an institutional memory from a strong executive committee through the rotation of the chair so that the Commission will have a perpetual effective working group for the future, no matter what happens to Commission's composition.

Executive Officer Samuel Martinez states to clarify that Commission Bagley discussed rotation of the chair and of the admin committee.

Commissioner Bagley states that rotation of the admin committee is part of that. He states that the intent is to groom a vice-chair to be the chair. He states that the Executive Committee should be the immediate vice-chair, the chair and every member of LAFCO

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should participate. He states that the Commission should rotate the chair around so there will be full participation and no matter what happens with elections and changes on LAFCO, in perpetuity the Commission will have a very effective working group, full of knowledge of the internal workings of LAFCO.

LAFCO Counsel Paula de Sousa Mills states that this can be captured as part of the review of the Commissions policies.

Chair Lovingood asks if the Commission has more questions or comments

Commissioner McCallon states that it's not ownership on the vision statement, but he does not know what local public agencies mean. He states that he would prefer it to say, "...public interest to ensure that our County, municipalities and special districts are providing efficient and..." He states that is what municipalities and special districts do. He states that he does not know what public agencies mean and that it's too broad.

Commissioner Farrell states that one of the policies that the Commission talked about was a policy regarding endorsing legislation that goes beyond LAFCO. He states this was specifically mentioned in the past and he does not see it in the staff report.

Executive Officer Samuel Martinez states that no one identified legislative policies during the workshop, but indicated staff will include policies related to legislation as well.

Commissioner Farrell states that he has a question about the vision. He states that he sometimes struggle with understanding the distinction between efficient and cost-effective. He states that if the Commission would like to clarify it for him, it may be helpful for everyone. He states that what the Commission is missing is the word "sustainable". He states that one of the key issues is a sufficient revenue stream. He states that he does not know how the Commission can capture that, but it is one of its goals.

Executive Officer Samuel Martinez states that staff is taking all of this into consideration and will come back to the Commission.

Commissioner Cox states that during the workshop when she mentioned the Commission's policies, she specifically talked about the indemnification policy. She states that in a recent attempt to form a new CSD, proponents were not willing to sign the indemnification, which now has been delayed because the county has to provide said indemnification. She states that the formation of that district would have been put in peril had the county not embraced that local government structure. She states that it is an unintended consequence that the Commission was not looking at when the policy was adopted. She also states that with regard to open space, there will be different interpretation but what she has been concerned about, particularly related to agricultural preservation, is that the Commission is allowing mitigation outside the community that is impacted by that loss of open-space. She states that the Commission needs to consider policies that if open-space is loss, the mitigation land should be within that same community. She references the orange groves in Redlands and the loss of those groves as it gets eaten up one bite at a time by the residential and commercial development.

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Chair Lovingood states that he agrees with Commissioner Bagley from a standpoint of rotation for the Chair, as the Commission will keep a broad brush of institutional knowledge alive. He states that within the First Supervisorial District, there is quite a bit of federal lands and that the Commission also has to incorporate the county plan that is taking place today for the uniqueness of the communities and how each one wants to look.

Commissioner Rowe states that she concurs with Commissioner Bagley's comments that open-space in the high desert means allowing that access to public lands and keeping them open for multiple things, whether it is mining or recreation in particular, not just wildlife corridors, not just closing off lands. She states that she would like to clarify that as well.

Executive Officer Samuel Martinez states that staff will try to capture this and hopefully come up with some policies that will capture all of that.

Commissioner Warren states that the Commission has to be clear to the local municipalities that the Commission is not trying to infringe on what municipalities have planned. She states that there are elements in the General Plan that allow for open-space and dictates a city's efforts to maintain said lands. She states that the Commission needs to keep in mind that it does not want to be in violation or fighting with cities on what the municipalities have committed to.

Chair Lovingood also identifies that the County has an overlay with the Antiquities Act that prevents operation access of federal property. He states that what the County is finding troubling is the National Park Service has no mechanism within the organization to allow access to roads. He states that it has always belonged to the Bureau of Land Management (BLM) but current don't have that ability so the County is hoping at some point, that power can be restored to the BLM because they have the management ability as well.

Commissioner Curatalo states that the whole effort put into the workshop was great. He states that is was great to work with Mr. Chiat, our staff and the Commission. He states that the Commission all agree that change presents new opportunities and he believes that this will be a refinement and improvement on LAFCO's service to all the communities that it serves. He states the suggestion by staff that possibly an ad hoc committee be appointed for policies and procedures; should that take place, he would be very interested to be part of that committee. Commissioner McCallon and Commissioner Bagley also expressed interest in being part of the policy committee.

Executive Officer Samuel Martinez states that he would also like to know how the Commission felt about the workshop. He asks the Commission if it was what it expected? He states that staff felt that not much was done, but at the same time it was a good refresher for the Commission, which is a good start.

Commissioner Curatalo states that he thinks it is going to be a good north star for the Commission, as a LAFCO, as the Commission continue moving forward. He states that the sentiments Executive Officer Samuel Martinez expressed early on in his interview of being more proactive with agencies and solicit input will help the Commission refine the decisions it makes.

Commissioner McCallon states that he thought it was a good workshop. He states that it provided an opportunity for the Commission to get together as a Commission and formally talk about goals, how it wants to operate and look at what staff is suggesting. He states that he congratulates Executive Officer Samuel Martinez on the workshop.

Commissioner Bagley states that he commends Executive Officer Samuel Martinez on what he is doing, as this is a nice direction for the Commission to go. He states that there was some discussion about LAFCO having a municipal service review of its own. He states that this is sort of a way for us to do it and suggest that it be done on a 3 to 5 year cycle. He states the review of LAFCO 101 is important for all Commissioners and review the basics on what the Commission is legally entitled and responsible for doing.

Commissioner Farrell states that he wants to express his appreciation, as it was very useful. He states that he has not been a Commissioner long enough to remember the 2010 workshop. He states that he does not see this as a single event but every 3 to 5 years. He states that this was the beginning of a process, which he hopes, carries the Commission through this year.

Commissioner McCallon states to address the concern about the vision statement, he suggests adding sustainability or sustainable where it says, "...providing efficient, sustainable and cost-effective services..." He states that if this should cover it.

Chair Lovingood asks if there are any other statements.

There is none.

Executive Officer Martinez asks if the Commission feel comfortable with having a policy committee.

Chair Lovingood states yes, and Commissioner Curatalo is going to head it.

The Commissioners discuss who will be on this committee. The Committee will consist of Vice Chair Curatalo, Commissioner Bagley and Commissioner McCallon.

Chair Lovingood states this item is a receipt and file and calls for the reading of the roll.

There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Rowe and Warren. Noes: None. Abstain: None. Absent: None

INFORMATION ITEMS:

ITEM 13. LEGISLATIVE UPDATE ORAL REPORT

Executive Officer Samuel Martinez states for the legislative oral report, there has not been much action in the Legislature. He states that even the omnibus items submitted to the Assembly Local Government Committee have not been responded to. He states that this

week is the last week to introduce bills so the Commission will see several legislations coming in this week. It is anticipated that the Commission will have a report in March.

ITEM 14. EXECUTIVE OFFICER'S ORAL REPORT

Executive Officer Samuel Martinez states the City Selection Committee will be selecting the alternate city member on March 6, 2019 so the Commission will have an alternate city member at the next hearing. He states that the Commission will also have the formal approval of the revised LAFCO 3228, the annexation to Running Springs Water District, and an out-of-agency service agreement with the City of Redlands.

ITEM 15. COMMISSIONERS COMMENTS

Commissioner Cox states that in light of comments made in a previous meeting, related to having no applications received to date, she states that the Commission is on the cusp of beginning preparation of a new budget year. She states that she would like discussion to occur regarding how minutes are taken. She states that maybe the Commission can go a different way of preparing of minutes which would save staff time. She also states that staff is always diligent in sending staff reports out and copious notifications. She asks if there a different way this can be accomplished. She states that she has her iPad, and that is how she reads the agenda, not from the paper copies. She states that she would really like the Commission to turn over rocks in how it can save costs here and there, as it adds up over the course of the year. She states that if the Commission continue the current trajectory of not having applications, and costs maintain the same, the Commission is just passing that cost on to each of our sector groups. She states that the Commission need to look at everything in our budget, see where the Commission can be more practical, and come more in to the 21st Century with technology and save some of these costs.

Executive Officer Samuel Martinez states that only the Commissioners who want the paper copies are the ones who get hard copies. He states that staff will look at the minutes as it takes a lot of staff time. He states he will come back to the Commission with some suggestions.

ITEM 16. COMMENTS FROM THE PUBLIC

There is none.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING ADJOURNS AT 10:36 A.M.

ATTEST:

LA TRICI JONES
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

James Curatalo, Vice Chair