

**ACTION MINUTES TAKEN BY THE
LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY**

REGULAR MEETING

9:00 A.M.

FEBRUARY 19, 2020

PRESENT:

COMMISSIONERS:

Regular Member	Alternate Member
Jim Bagley	Louisa Amis
James Curatalo, Vice Chair	Steven Farrell
Kimberly Cox	Rick Denison
Robert Lovingood	
Dawn Rowe	

STAFF:

**Samuel Martinez, Executive Officer
Paula de Sousa, LAFCO Legal Counsel
Holly Whatley, LAFCO Special Counsel
Michael Tuerpe, Senior Analyst
Jeffrey Lum, LAFCO Analyst
La Trici Jones, Clerk to the Commission
Angela Schell, Administrative Assistant**

ABSENT:

**COMMISSIONERS: Larry McCallon, Chair
 Acquanetta Warren**

9:03 A.M. – CALL TO ORDER – FLAG SALUTE

ANNOUNCEMENT OF CONTRIBUTIONS

1. PUBLIC COMMENTS ON CLOSED SESSION

There were no members of the public who requested to speak on the Closed Session items.

2. CONVENE CLOSED SESSION

Conference with Legal Counsel – Existing Litigation – (Government Code Section 54956.9(d) (1)) – C.O.M.E.T. (Citizens of Mentone Empowered Together) v. City of Redlands et al, San Bernardino Superior Court Case No. CIVDS1906437

3. RECONVENE PUBLIC SESSION

[Not needed, as Commission did not meet in Closed Session.]

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.

4. Approval of Minutes for Regular Meeting of January 15, 2020

5. Approval of Executive Officer's Expense Report

Recommendation: Approve the Executive Officers' Expense Report for Procurement Card Purchases from December 24, 2019 to January 22, 2019.

6. Ratify Payments as Reconciled and Note Cash Receipts for Month of December 2019

Recommendation: Ratify payments as reconciled for the month of December 2019 and note revenue receipts for the same period.

7. Approve One Year Extension of Contract with Davis Farr, LLP for Financial Audit Services for Fiscal Year 2019-20

8. Consent Items Deferred for Discussion (none)

Commissioner Cox moves approval of the consent items. Second by Commissioner Bagley. The motion on the Consent Items passes with the following roll call vote:

Ayes: Bagley, Cox, Curatalo, Lovingood (except as to Item 4), Rowe and Denison.

Noes: None.

Abstain: Lovingood (Item 4 only)

Absent: McCallon and Warren (Denison voting in her stead)

PUBLIC HEARING ITEMS:

9. Consideration of: (1) CEQA Statutory Exemption for LAFCO 3231; and (2) LAFCO 3231 – Countywide Service Review for Fire/Emergency Medical Services/Dispatch

Recommendation: Staff recommends that the Commission approve LAFCO 3231 by taking the following actions:

1. For environmental review, certify that the County Wide Service Review for Fire/Emergency Medical Services/Dispatch is statutorily exempt from environmental review and direct the Executive Officer to file the Notice of Exemption within five (5) days.

- 2. Accept and file the Countywide Service Review for Fire Protection/Emergency Medical Services/Dispatch which sets forth the written statements for the six determinations outlined in Government Code Section 56430 made by the Commission.
- 3. As outlined in the service review presented to the Commission, take the following actions for specific agencies/entities:
 - a) Direct LAFCO staff to continue to monitor the Barstow Fire Protection District and the City of Barstow, and return to the Commission at its September 16, 2020 meeting.
 - b) Direct LAFCO staff to continue to monitor the San Bernardino County Fire Protection District, and return to the Commission at its September 16, 2020 meeting.
- 4. Adopt LAFCO Resolution No. 3301 reflecting the Commission’s determinations and directions as required by Government Code Section 56430 and Commission policy.

Commissioner Bagley moves approval of staff recommendation. Second by Commissioner Lovingood. The motion passes with the following roll call vote:

Ayes: Bagley, Cox, Curatalo, Lovingood, Rowe, Denison.
Noes: None.
Abstain: None.
Absent: McCallon and Warren (Denison voting in her stead)

Commissioner Rowe leaves the dais at 11:28 A.M.

10. Consideration of: (1) Notice of Intent to Adopt a Mitigated Negative Declaration for LAFCO 3233 (SCH #2019120661); and (2) LAFCO 3233 – Reorganization to Include Dissolution of County Service Area 64 and Formation of the Spring Valley Lake Community Services District together with Formation of Zone A for Solid Waste and Street Sweeping, and Establishment of the Sphere of Influence for the Spring Valley Lake Community Services District

Recommendation: Staff recommends that the Commission ...

- 1. Modify LAFCO 3233A by removing Area 2 from the revised proposal boundary since Area 2 has not received services from CSA 64 nor will the SVLCSD be providing any services to the area following successful completion of the reorganization.
- 2. With respect to environmental review for LAFCO 3233A, as modified, and LAFCO 3233B:
 - a) Certify that the Commission and its staff have independently reviewed and considered the environmental assessment and proposed Mitigated

Negative Declaration prepared by the Commission’s Environmental Consultant, Tom Dodson and Associates, it has reviewed and responded to any comments received; and provided a response to those comments;

- b) Adopt the Mitigated Negative Declaration, including the mitigation measure and the Mitigation Monitoring and Reporting Program;
 - c) Find and determine that the Commission does not intend to adopt alternatives for the project but does intend to include a mitigation measure related to mitigation payment to the County; and,
 - d) Direct the Executive Officer to file a Notice of Determination within five (5) days.
3. Approve LAFCO 3233A, reorganization to include dissolution of County Service Area 64 and Formation of the Spring Valley Lake Community Services District, as modified, to exclude Area 2 from the overall proposal (as shown on Figure #4) together with Formation of Zone A for Solid Waste and Street Sweeping (as shown on Figure #6), with the following determinations:
- a) Pursuant to the requirements of Government Code Section 61014, the Commission finds that the SVLCSD has sufficient revenues to perform the services as outlined in its application to provide water, sewer collection, street sweeping, and solid waste services.
 - b) Pursuant to requirements of Government Code Section 56301, the Commission determines that the proposed SVLCSD could provide the range and level of services contemplated in a more efficient and accountable manner.

And with the following terms and conditions:

Condition No. 1. The boundaries of this change of organization, as modified by the Commission, are approved as set forth in Resolution #3302 for LAFCO 3233A;

Condition No. 2. The following distinctive short-form designation shall be used through this proceeding: LAFCO 3233;

Condition No. 3. The effective date of this reorganization shall be the date the Certificate of Completion is issued;

Condition No. 4. The Spring Valley Lake Community Services District shall be the successor agency and shall function under and carry out all authorized duties and responsibilities assigned to a community services district as outlined in Government Code Section 61000 et seq., Community Services District Law, and other applicable laws. Upon the Effective Date of this reorganization, the legal existence of County Service Area 64 shall cease to exist, except as otherwise required by law, and the Spring Valley Lake Community Services

District, as successor District, shall succeed to all the rights, duties, responsibilities, properties (both real and personal), contracts, equipment, assets, liabilities, obligations, functions, executory provisions, entitlements, permits and approvals of the extinguished agency;

Condition No. 5. All lands, buildings, appurtenances, and equipment held by County Service Area 64 or County Service Area 70 for the purpose of providing services within the boundaries of County Service Area 64 shall be transferred to the Spring Valley Lake Community Services District upon its formation. The Spring Valley Lake Community Services District shall assume complete maintenance and operation responsibilities for these facilities. All quitclaim deeds to effectuate the transfer of land and the title transfer documents for vehicles shall be prepared by the County to be filed upon the effective date of the change with copies provided to LAFCO.

Condition No. 6. The Board of Directors of the Spring Valley Lake Community Services District shall consist of five (5) members, elected at-large, pursuant to the provisions of Government Code Section 61020 and proceedings conducted by the Commission;

Condition No. 7. The Spring Valley Lake Community Services District shall be authorized to provide the following functions and services as active powers:

Water -- Supply water for any beneficial use as outlined in the Municipal Water District Law of 1911, Division 20 (commencing with Section 71000) of the Water Code.

Sewer -- Collection of sewage, wastewater, recycled water, and storm water in the same manner as a sanitary district formed pursuant to the Sanitary District Act of 1923, Division 6 (commencing with Section 6400 of the Health and Safety Code).

Solid Waste and Recycling-- Collect, transfer, and dispose of solid waste and refuse and provide solid waste handling service, including, but not limited to, source reduction, recycling, and composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code.

Roads – Limited to street sweeping of public streets and roads.

Condition No. 8. Upon the Effective Date of this change of organization, there shall be created a Zone of the Spring Valley Lake CSD related to the provision of Solid Waste and Recycling Services, identified in Resolution No. 3302 for LAFCO 3233A which shall continue all previously authorized charges, fees, assessments and/or special taxes of the County of San Bernardino identified as the "ESFR" in the same manner as provided in the original authorization pursuant to Government Code Section 56886(t). Such revenues shall accrue and be deposited in a separate account(s) designated for the use of the Zone and shall be accounted separately from other funds of the District.

Condition No. 9. If the proposal is approved by the electorate at an election, the County Board of Supervisors, through its County Special District's Department, shall continue to provide for the administration of services and functions performed by the dissolving entity for a transition period identified as commencing upon the effective of the reorganization until the contract end date. Nothing in this condition precludes a future Board of Directors of the Spring Valley Lake Community Services District from contracting for an extended period of time for the provision of administration, maintenance, operation, billing, and other services through the County Special Districts Department.

As outlined in the Transition Plan presented by the County Special Districts Department, set forth in Resolution No. 3302 for LAFCO 3233A, the Spring Valley Lake CSD shall be required to sign the Interim General Manager Agreement at its first regular meeting to allow for fulfillment of Government Code Section 61050 and setting forth the payment structure for services rendered. In addition, the Operation and Maintenance Agreement with the County Special Districts Department for the period from the effective date of the reorganization until the contract termination date shall be signed within ten (10) days following the first regular meeting of the Board of Directors of the Spring Valley Lake CSD to assure continuity of services and elimination of questions of liability or risk to the County for continued provision of the administration and operation of the services to the area.

Condition No. 10. The Spring Valley Lake CSD shall succeed to all water and capacity rights, outstanding obligation payments, and interests of County Service Area 64, whether wholly or partially owned or held by the District, and shall succeed to the priorities of use or rights of use of water or capacity rights in any public improvements or facilities or any other property, whether real or personal, to which CSA 64 is entitled to upon the effective date of the reorganization. The Successor District shall specifically succeed to all rights and interests held or claimed by CSA 64 under the Judgment entered (including all documents constituting the Physical Solution, as from time to time exist) in City of Barstow, etc. et al v City of Adelanto, etc. et al., and Related Cross Actions, Riverside County Superior Court Case No. 208568 (the "Mojave Basin Area Adjudication"), including those from time to time set forth in Table B-1 to the Judgment.

The Successor District shall also specifically succeed to all rights and interest held or claimed by CSA 64 under all agreements and memoranda of understanding with the Regional Water Quality Control Board, the California Department of Health Services, the County Regional Parks, Victor Valley Wastewater Reclamation Authority, the City of Hesperia/Hesperia Water District, and any other public agency or private entity with which CSA 64 has an agreement or memorandum of understanding. The Successor District shall also assume all joint use flow agreements and maintenance agreements pursuant to Government Code Section 56886(j) and (r).

Condition No. 11. The Spring Valley Lake CSD, as the Successor District, shall enter into an agreement with the Victor Valley Wastewater Reclamation Authority (VWRA) for the continuation of wastewater treatment at the level of service currently provided by VWRA to CSA 64. Such agreement with VWRA shall be signed within ten (10) days following the first regular meeting of the Board of Directors of the Spring Valley Lake CSD to assure continuity of services to the area.

Condition No. 12. The Spring Valley Lake CSD, as the Successor District, shall accept all system facilities transferred from the dissolving agency in "as is" condition without any payment or repair obligations (Government Code Section 56886(h)). All material and incidental liabilities, including, but not limited to, accounts payables and receivables, contract obligations and customer deposits, held by the dissolving CSA 64 shall be transferred to the Successor District upon the effective date of the reorganization (Government Code Section 56886(h)). All assets, including, but not limited to, cash reserves, building and other real property, water production equipment (pumps, storage tanks, etc.), transmission lines and rights-of-way, wastewater equipment (pumps, transmission lines); rolling stock, tools, and office furniture, fixtures and equipment, all lands building, real and personal property and appurtenances held by the dissolving entity shall be transferred to the Successor District upon the effective date of the reorganization.

In addition, the Spring Valley Lake CSD shall receive a share of the pooled equipment and equipment reserve funds for the County Special Districts Department, Water and Sanitation Division, as identified in Attachment #9. The Board of Directors of the Successor District are entitled to receive this amount in equipment, in cash, or in a combination of equipment and cash subject to the following limitations:

- a. If the method for receipt of the assigned value is determined by the Board of Directors to be received in cash only, said payment shall be spread over a three- to five-year period subject to negotiations between the County Board of Supervisors and Board of Directors for the Successor District. Nothing in this resolution precludes the use of the value of these transfers to be used against the payments required of the Successor District as mitigation for continuation of the services of the Special Districts Department;
- b. If the method for receipt of the assigned value is determined by the Board of Directors to be received in a combination of cash and equipment, and the cash balance exceeds \$200,000, said cash payment shall be spread over a three-year period subject to negotiations with the County and Board of Directors; or,
- c. If the method for receipt of the assigned value is determined by the Board of Directors to be received in equipment only, or a combination of cash and equipment and the cash balance is less than \$200,000, said payment shall

occur as expeditiously as possible, but not later than 90-days following the determination of the Board of Directors.

Condition No. 13. The applicant (County) and the Resident Group continue to negotiate the mitigation mechanism to offset losses to maintain a comparable level of service and operation for the remaining county agencies. Of question is the amount and duration of mitigation funds. With implementation of this mitigation measure, the potentially significant indirect impact to residual water and wastewater agencies in Special Districts Department from approval of LAFCO 3233 can be reduced-controlled to a less than significant impact level. As a condition of approval, the County and Resident Group are to present a formal response to LAFCO on the negotiated and approved mitigation mechanism. The Certificate of Completion for LAFCO 3233 will be held in abeyance until receipt of said formal response. Such mitigation shall be signed within ten (10) days following the first regular meeting of the Board of Directors of the Spring Valley Lake CSD.

Condition No. 14. All property tax revenues attributable to County Service Area 64, prior to calculations required by Section 96.1 of the Revenue and Taxation Code, including delinquent taxes, return of property tax revenues related to pass-through payments from any and all redevelopment agencies overlying the area, and any and all other collections or assets of the District shall accrue and be transferred to the Successor District, the Spring Valley Lake CSD, pursuant to the provisions of Government Code Section 56810, except as described below;

The property tax revenue attributable to County Service Area 64 within Tax Rate Area 21004 shall transfer at 15% to the Town of Apple Valley. The property tax revenue attributable to County Service Area 64 within Tax Rate Area 21006 shall transfer at 100% to the Town of Apple Valley.

Condition No. 15. All previously authorized charges, fees, assessments, and/or taxes of County Service Area 64 in effect upon the effective date of this reorganization shall be continued and assumed by the Spring Valley Lake CSD, as the successor agency, in the same manner as provided in the original authorization pursuant to the provisions of Government Code Section 56886(t);

Condition No. 16. Until duly revised by the Spring Valley Lake CSD, and unless otherwise expressly provided herein or legally required, all ordinances, resolutions, rules and regulations, policies, procedures, and practices existing for CSA 64 on the effective date of this reorganization shall govern the activities and affairs of the Successor District. The Board of Directors of the Spring Valley Lake CSD, as the Successor District, shall expeditiously review and ratify the ordinances, resolutions, policies, procedures and practices adopted hereby, making such revisions as it shall deem appropriate;

Condition No. 17. Upon the effective date of this reorganization, any funds currently deposited for the benefit of County Service Area 64 which have been impressed with a public trust, use or purpose shall be transferred to the Spring

Valley Lake CSD, as the successor agency, and the successor agency shall separately maintain such funds in accordance with the provisions of Government Code Section 57462;

Condition No. 18. Pursuant to the provisions of Government Code Section 56811, the provisional appropriation limit of the Spring Valley Lake CSD shall be set at \$\$1,446,105. The permanent appropriation limit shall be established at the first district election held following the first full fiscal year of operation and shall not be considered to be a change in the appropriation limit of the district pursuant to Article XIIB of the California Constitution;

Condition No. 19. Pursuant to the provisions of Government Code Section 56885.5(a)(4), the County Board of Supervisors, as the governing body of County Service Area 64, is prohibited from taking the following actions unless an emergency situation exists as defined in Section 54956.5:

1. Approve any increase in compensation or benefits for members of the governing body, its officers, or the executive officer of the agency;
2. Appropriating, encumbering, expending or otherwise obligating, any revenues of the agencies beyond that provided in the current budget at the time the reorganization is approved by the Commission. The Commission identifies that the budget to be utilized in this condition shall be the final budget for Fiscal Year 2020-21 adopted by the County Board of Supervisors;

Condition No. 20. Pursuant to Government Code Section 56886.1, public utilities, as defined in Section 216 of the Public Utilities Code, have ninety (90) days following the recording of the Certificate of Completion to make the necessary changes to impacted utility customer accounts;

Condition No. 21. The County of San Bernardino, as applicant, shall indemnify, defend, and hold harmless the Commission from any legal expense, legal action, or judgment arising out of the Commission's approval of this proposal, including any reimbursement of legal fees and costs incurred by the Commission.

4. Adopt LAFCO Resolution #3302 for LAFCO 3233A, setting forth the Commission's determinations, terms and conditions concerning the reorganization proposal;
5. Approve LAFCO 3233B, the sphere of influence establishment for the Spring Valley Lake Community Services District as shown on Figure #7; and,
6. Adopt LAFCO Resolution #3303 for LAFCO 3233B, setting forth the Commission's determinations related to the sphere of influence establishment.

The following spoke during public comment:

JoAnne Romero
Leonard Hernandez
Paul Russ
Doug Robertson
Bo Goulet
David Dicies
Joseph W. Brady
Alexander A. Gergely Jr.
Joan Marie Tosto-Gergely
Amy Stanton
Katrina Siverts
Rory Shannon
Charlie Johnson
Bill Walters
Jeff Smith

Commissioner Lovingood moves to approve staff recommendation. Second by Commissioner Cox. The motion passes with the following roll call vote:

*Ayes: Bagley, Cox, Curatalo, Lovingood, Denison.
Noes: None.
Abstain: None.
Absent: McCallon, Rowe and Warren (Denison voting in her stead),*

Commissioner Lovingood leaves the dais at 11:55 A.M.

INFORMATION ITEMS:

11. Legislative Update Oral Report

Executive Officer Samuel Martinez updates the Commission on the extension of SB 799 and the reporting mechanism on Assembly Bill from Senator Dodd's office.

12. Executive Officers Oral Report

In an effort to save costs, Executive Officer Samuel Martinez asks the Commission to go dark for the month of March. He states that there are no pressing items, and the items that are continued to March will be held over to the April hearing.

13. Commissioner Comments

Commissioner Amis states that she appreciates being sent to Part II of the Watershed Conference.

14. Comments from the Public

There are none.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE MEETING ADJOURNS AT 12:04 P.M.

ATTEST:



LA TRICI JONES, Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION



JAMES CURATALO, Vice-Chair