



BUTTE LOCAL AGENCY FORMATION COMMISSION

Draft Minutes of January 6, 2022

(A complete voice recording of the Commission's meetings can be obtained from www.buttelafco.org)

1. CALL TO ORDER

Steve Lucas called the meeting to order at 9:00 a.m., January 6, 2022, through Zoom Webinar attendance due to the COVID-19 pandemic.

1.1 Roll Call

Commissioners Present: Carl Leverenz (Chair-Public)
Bill Connelly (Vice Chair-County)
Tod Kimmelshue (County)
Al McGreehan (Special District)
Bill Sharman (Special District)
James T. "Bo" Sheppard (City)

Commissioners Absent: Greg Bolin (City)

Alternate Commissioners Present: Steve Betts (Public), Larry Bradley (Special District),
Bruce Johnson (City) & Debra Lucero (County)

Alternate Commissioners Absent: None

Others Present: Stephen Lucas, LAFCO Executive Officer
Shannon Costa, LAFCO Government Planning Analyst
Joy Stover, LAFCO Commission Clerk
Marsha Burch, LAFCO Legal Counsel Representative

2. CONSENT AGENDA

2.1 Approval of the Minutes of November 4, 2021

2.2 Approval of the Minutes of December 2, 2021

2.3 Adoption of a Renewing Resolution In Support of AB361

Steve Lucas asked if there were any questions or a motion to approve.

Commissioner Leverenz made a motion to approve the consent agenda. The motion was seconded by Commissioner Kimmelshue.

The motion was carried by the following roll call vote:

AYES: Chair Leverenz, Johnson, Connelly, Kimmelshue, McGreehan, Sharman and Sheppard

NOES: None
ABSENT: None
ABSTAINS: Commissioner Sheppard as to **Item 2.2** only

3. NOTICED PUBLIC HEARINGS

3.1 21-06 - Formation of Tuscan Water District

(This public hearing was continued from the December 2, 2021 meeting)

Steve Lucas stated this item has been continued to February 3, 2022. The Commission is not being asked to conduct any business, take any action or have any discussion about this item this morning.

Steve Lucas opened this item to the public for comment and stated Aimee Raymond is first up to speak. Steve stated Aimee submitted a Power Point comment late last night and those slides have been provided to the Commissioners this morning.

Aimee Raymond stated she is currently on the Butte Water Commission and opposes the formation of the Tuscan Water District. She wanted to share how to eliminate this opposition to the Tuscan Water District.

Chair Leverenz stated he listened to Aimee Raymond at the last hearing and read her presentation. He stated her recommendation is to change the Water Code. LAFCo does not have the legal ability to do that. Others have raised the issue about the lack of a democratic view point, but at the same time all LAFCO can do is condition the District so that it complies with the Water Code.

Aimee stated she comes at it as the Commission has the opportunity to deny this proposal.

Chair Leverenz stated if we were to deny this application based solely on the grounds that it isn't democratically set up, even though it is in compliance with the Water Code, the applicants would be justified in filing a lawsuit against LAFCO and get a writ of mandate to force LAFCo to approve it and they would be on solid ground because they would be complying with the Water Code. We are not in a position to just turn it down based on that.

Aimee stated she can appreciate that LAFCo does not have the ability to change the governance and the Principle Act. You have the proposal for a CA Water District and not a Water Conservation District. We are all violently in agreement that we have a groundwater sustainability issue. We have a surplus of surface water in our district and a lot of surface water that flows through our district that could be used to recharge the groundwater. We have a lot of opportunities to work together and we are working against each other. Aimee stated litigation would just be enriching a whole lot of lawyers who would love to have this controversy but at the end of the day we don't solve our groundwater problem. The objective of her presentation is for us to come forward and be honest. All of the opposition all comes down to the governance. Aimee stated what she is proposing is a Water Conservation District that would be countywide and focused on sustaining the groundwater within Butte County.

Marty Dunlap stated she has been tracking the groundwater conditions of Butte County for 18 years and has a strong commitment of protecting the groundwater for future generations. Everyone has an interest in ensuring that our region stays vital with healthy groundwater levels. It is flawed thinking to consider that creating a government structure

that allows a small proportion of landowners, with a significant number living outside of the area, will provide adequate representation in ensuring protection of this valuable resource. All of the entities who have participated in the discussion have a genuine concern about protecting the groundwater of our region. The question that must be addressed is “Is the TWD the best, the most effective and efficient way to address the mandates of SGMA and provide a democratic manor of protecting the groundwater of our region”. The argument should not be framed as between agricultural users and residential users of the local groundwater.

Richard Harriman stated he is appearing individually and as general counsel for the Northern CA Environmental Defense Center. He wants to echo the tone of both Ms. Dunlap and Ms. Raymond. He feels it may be successful if staff wanted to meet and confer with the public privately as maybe that would be a better venue to try to work something out.

Commissioner Lucero stated she has a question of procedure. What came of the request to hear an opposition presentation to the TWD? Why aren't we hearing some kind of organized presentation?

Steve Lucas stated he has provided an emailed response to those very questions to Mr. Harriman who presented those questions in an email to staff. In short, there is a process for a public hearing and it is traditionally a process by which the public is allowed to speak and have input. There has absolutely been no restrictions on the public's ability to either provide written or verbal comments to this date. It is not appropriate, nor is it consistent or traditional in the planning process to allow opposition to have a separate presentation period.

Commissioner Lucero asked how does LAFCo answer the questions that are asked by the public.

Steve Lucas stated questions that come in from the public that require an answer will be provided an answer in the next possible staff report prepared by staff. Then in the public hearing in response to the staff report, the Commission is free to then dig deeper with their staff into the responses and during the public hearing follow up with any individual speaker concerning any particular point. There is clearly an opportunity and a process that has been in place for decades that has been traditionally followed by all public bodies that he has ever participated in. Steve asked Ms. Burch if she had anything to add.

Marsh Burch stated she felt Steve summarized it very well

Chair Leverenz stated historically when we've had issues with an application, we have deliberately held more than one hearing and we have done that in this case as well. Once the staff report encompasses the issues that have been raised by all the people, and if the public still has concerns, LAFCo may very well continue to allow amendments to the staff report. This is due process.

Commissioner Lucero stated she is asking because we have been in this process for some time but we have heard no responses to the opposition that has been brought up.

Chair Leverenz stated this isn't anything that we are going to rush through. There was a lot of material that came in in December and you have to give staff an opportunity to analyze the material. This district can be formed and it can be limited. There are districts in the county that are landowner run and they are running just fine with no complaints.

Steve Lucas stated this item was agendaized with the Commission taking no action on this item today. Steve Lucas responded to Commissioner Lucero's concerns regarding the opposition and stated there has been no lack of opportunity for anyone to come in and speak on this project.

Commissioner Connelly stated much of the public interest has been generated by falsehood put out by people that are either misinformed or uninformed. We at LAFCo don't form water districts. Landowners form water districts by the law and that is the procedure we use. We are not putting out false information such as this district is being formed to sale groundwater south or it is being formed to help farmers that don't live in the district. That is out of our purview. Commissioner Connelly stated he is not an advocate for this project nor is he being paid in any way to do this. He is trying to stay grounded and in the middle. He doesn't feel distorting the facts and getting the public upset is something he wants to be a part of.

There was discussion on whether we should continue this item as a standalone item aside from perhaps simple business items on the consent agenda.

Commissioner Kimmelshue made a motion to continue this item to the February 3, 2022 LAFCo meeting. The motion was seconded by Commissioner McGreehan.

The motion was carried by the following roll call vote:

AYES: Chair Leverenz, Johnson, Connelly, Kimmelshue, McGreehan, Sharman and Sheppard
NOES: None
ABSENT: None
ABSTAINS: None

4. REGULAR AGENDA

4.1 Items Removed from the Consent Agenda- None

4.2 22-08 - South Feather Water and Power - Oro Bangor Hwy Annexation No. 4

Shannon Costa stated the proposal involves the annexation of an approximately 90 acre parcel to the South Feather Water and Power Agency. The parcel is developed with a variety of buildings including a single-family home. The territory is located in a high risk severity zone according to the CALFIRE hazard severity maps. The property owner mitigates fire risk with an on-site pond. In times of drought, the pond levels fluctuate. Therefore the landowner is requesting raw water be delivered to the site to mitigate fire hazards. Staff is recommending approval of the annexation.

Steve Lucas opened this item to the public for comments. None stated.

Commissioner Connelly made a motion to approve the annexation as submitted. The motion was seconded by Commissioner Sheppard.

The motion was carried by the following roll call vote:

AYES: Chair Leverenz, Bolin, Connelly, Kimmelshue, McGreehan, Sharman and Sheppard
NOES: None
ABSENT: None
ABSTAINS: None

5. Public Comment on Items not on the Agenda

Steve Lucas asked if there were any comments on items not on the agenda.

Aimee Raymond stated as a public member per Butte LAFCO policy & procedures section 5.5.1.1 she is making a formal request for LAFCO to initiate a study for a change of organization related to the impact of SGMA on the water districts and how best to organize ourselves within the district in their roles and responsibilities of the various agencies. It is not clear at all what the GSAs are going to do and how we are going to manage, organize and coordinate all of the various projects and efforts that need to go on which represent new services and new requirements of each of these various water districts. She would ask that LAFCo consider asking Kami Loeser of the Water Department to pursue this study. She has the experience and expertise and could be objective.

Steve Lucas stated we can take no action on this item.

6. Reports and Communications

6.1 Executive Officer's Report

Steve Lucas summarized the Executive Officer's report and provided updates.

Commissioner Connelly stated he wanted to commend the entire Board of Supervisors for dedicating some of our one-time money towards the Palermo Clean Water Consolidation project. We still have other issues in the area including failing, aged-out and non-percolating septic systems that need to be taken care of with a sewer system in the future.

Steve Lucas stated staff has been having discussions with the Lake Oroville Area Public Utility District regarding bringing sewer services to the Palermo area sometime in the future. Steve provided an update to the status of the El Medio Fire Protection District and stated possible actions that need to be taken to initiate a change.

Commissioner Connelly stated the public is pretty upset because they are paying a fee to a fire district that is not providing a service. Can the public initiate the dissolution of the El Medio Fire Protection District?

Steve Lucas stated there is a process but it might be more difficult than moving forward with a resolution.

Shannon Costa provided an update to the status of the City of Chico Annexation Plan and stated the draft plan will now go to the City of Chico counsel for their review.

6.2 Correspondence - None

7. ADMINISTRATION

7.1 The Commission will discuss and provide direction to the Executive Officer on administrative matters relating to the operation of the Commission.

Steve Lucas stated we have a mask mandate moving forward but he would very much like to hold the Tuscan Water District session for February in person.

8. ADJOURNMENT

Commissioner McGreehan made a motion to adjourn the meeting to Feb. 3, 2022. The motion was seconded by Commissioner Sheppard.

The motion was carried by the following roll call vote:

AYES: Chair Leverenz, Johnson, Connelly, Kimmelshue, McGreehan, Sharman and Sheppard

NOES: None

ABSENT: None

ABSTAINS: None

There being no further business, the meeting was adjourned at 10:12 a.m. to the next LAFCO meeting scheduled for February 3, 2022 in the City of Oroville Council Chambers.

LOCAL AGENCY FORMATION COMMISSION

By: Stephen Lucas, Executive Officer

Minutes prepared by Joy Stover, Commission Clerk