

BUTTE LOCAL AGENCY FORMATION COMMISSION
Minutes of March 7, 2013

1. CALL TO ORDER

Chair Leverenz called the meeting to order at 9:00 a.m., on March 7, 2013, in the Butte County Board of Supervisors Chambers, 25 County Center Drive, Oroville, California.

1.1 Roll Call

Present: Commissioners Scott Lotter (City), Larry Duncan (Special District), Bill Connelly (County), Jerry Fichter (City) Steve Lambert (County), and Chair Carl Leverenz (Public). Alternate Commissioners Loren Gill (Alternate-Special District) and Greg Steel (Public).

Absent: Alternate Commissioners Ann Schwab (City) and Larry Wahl (County).

Others Present: Stephen Lucas, LAFCO Executive Officer
Stephen Betts, LAFCO Deputy Executive Officer
Jill Broderson, LAFCO Management Analyst
Joy Stover, LAFCO Commission Clerk
Scott Browne, LAFCO Legal Counsel

2. CONSENT AGENDA

2.1 Approval of the Minutes of February 7, 2012

2.2 FY 2012/13 Budget Appropriation Transaction Request

Chair Leverenz asked if anyone had any questions or wanted either of these items removed from the Consent Agenda. No responses received.

Commissioner Duncan made a motion to approve the Consent Agenda. The motion was seconded by Commissioner Fichter.

The motion was carried by the following roll call vote:

AYES: Commissioners Lotter, Duncan, Fichter, Lambert and Chair Leverenz

NOES: None

ABSENT: None

ABSTAINS: Commissioners Connelly and Gill

3. NOTICED PUBLIC HEARINGS – None

4. REGULAR AGENDA

4.1 Items Removed from the Consent Agenda – None

4.2 13-04 M/S – El Medio Fire Protection District – Municipal Service Review and Sphere of Influence Update

Steve Lucas stated in 2004 LAFCo prepared a Municipal Service Review (MSR) and Sphere of Influence (SOI) Plan for El Medio Fire Protection District and at that time the district was in a very difficult spot. As a result of that MSR, the Commission provided a zero SOI to the District. The District has made much of progress in the last eight years. In early 2012 the District applied for and was awarded a grant to facilitate an update of the District's MSR/SOI Plan. In August of 2012 the District formally requested LAFCo review and update their MSR/SOI Plan for the purpose of justifying the District's desire to expand its service area.

Steve Lucas identified the proposed SOI area as shown on the map attached to the staff report. Areas where El Medio is generally the first responder were also identified. The Administrative Draft MSR/SOI Plan has been prepared and is under review. Next a Public Review Draft MSR/SOI Plan will be prepared and circulated for a 30 day period. Comments will be reviewed and the Draft will then be presented to the Commission at a noticed public hearing.

Chair Leverenz stated as part of this process, he assumes there is input both from the City of Oroville and the County of Butte.

Steve Lucas stated the consultant preparing this document have met with both staff from the City of Oroville Fire Department and County Fire Department staff.

Commissioner Gill asked if the impact fees would be automatic or what is the process?

Steve Lucas stated the District has a current parcel assessment that was voted on and approved. When territory gets annexed into the district, it is added to the assessment roles for that district and that assessment becomes part of the District's financing. The District has also established and requested the County collect an impact fee in the past. The District would be asking for similar revenue that would only be triggered by new construction. The third component is property tax allocation, which is a required negotiation between the County and the District. The only one that is fixed is the current \$120 per parcel assessment.

Chair Leverenz stated the District currently has a zero sphere, there would be no annexations until this is implemented and the District's sphere area is increased.

Commissioner Connelly stated the District is in dire straits financially. All of their commercial areas were annexed into the City of Oroville and were removed from the District. The District has tried to stay in business by relying on grants, etc. The ultimate end is the District provides very good service, they are very personable and that is why they were able to pass two assessment fees.

Chair Leverenz opened this item to the public. No response and the public portion was closed.

No action was taken on this item. Opened for discussion only.

4.3 Review of Proposed County Community Wastewater Management System

Chair Leverenz stated he feels there needs to be some clarification as to LAFCo's role due to the letter received on March 6, 2013 from Jeff Meith, objecting to the Commission considering this proposal. The Commission has asked our staff to be involved with the County of Butte and any other entity that is creating policies and programs which would ultimately impact things that LAFCo would be involved with. LAFCo staff is simply providing the Commission an update as to what the County is proposing in their draft policy.

Steve Lucas stated in every discussion he has had with the County and participants of various groups related to this, there was a sincere and reasonable acknowledgement that the County needed to consider an alternative treatment system as a way to treat properties that otherwise would be treated with a leach field type system that can often have difficulties. These alternative systems have been effective, useful, function appropriately and are currently being used. An oversight entity needs to be formed and in this case a County Service Area entity is proposed.

Chair Leverenz opened this item to the public.

Jeff Meith said he doesn't object to this Commission considering this matter. He feels the Commission should find elements of the proposed policy objectionable. Jeff Meith stated he represents the Lake Oroville Area Public Utility District (LOAPUD), and his client has not been involved in any discussions with respect to the development of this policy. LOAPUD is currently endeavoring to amend their Sphere of Influence with LAFCo. This policy contemplates that there can be a decision made, even if the property is within the SOI of LOAPUD, based on elements called extraordinarily expensive, infeasibility, or environmental superiority where LOAPUD could be found to not be the service provider. LOAPUD and Thermalito Water & Sewer District (TWSD) need to be involved in this policy making discussion. Jeff Meith stated he feels this policy is objectionable, needs to be much more refined and has overlapping issues.

Jeff Carter, appearing on behalf of the Thermalito Water and Sewer District, stated he would like to suggest that LAFCo staff go back to the County [regarding this policy] and ask- 'do we really need this policy?' Jeff Carter commented on some issues that are affecting a future development in Durham: The Durham Villas Project and stated the developer is currently looking at whether the water for that project should be provided by Durham Irrigation District or form a new entity. Ultimately it is LAFCo that will make the decision.

Chair Leverenz stated the County has been frustrated when the developer comes to the County wanting some guidance as to how best to develop and the County currently has no policy. That is why the County is trying to come up with some type of mechanism in the form of a policy, to help assist the developers.

Jeff Carter stated today we are talking about outside wastewater. The enabling legislation basically allows the full gambit of government services to be provided by a CSA or CSD.

Commissioner Connelly stated three sewer districts that can't form into one, terminate in a loosely written JPA are here worried about the opportunity for people to use an alternative sewer system that doesn't dictate you flush a toilet and the water goes into the

river. The intent of the County was to allow opportunity for green growth and to treat sewer in an alternative manner and give it as an option. It wasn't seen to be in big competition with any agency. This is a huge overreaction to something where we are trying to look forward 20 years; we are not trying to stay at status quo. Maybe a CSA isn't the right way to do this and maybe we'll simply issue a permit.

4.4 Presentation of Butte LAFCO Website Update

Steve Lucas stated the current Butte LAFCo website was created sometime in 2006 and it has become technologically challenged. We had the opportunity to talk to Earl Jessee, senior consultant from Matsom & Isom Technology Consulting, who helped us create our original website back in 2000/2001. We discussed the need for more readability, more usability, a friendlier website that provided more information, etc.

Earl Jessee presented the new Butte LAFCO website to the Commission and stated the goal was to make the new website easier to manage on the back end. There were some technical hurdles that made things take longer than they should have with the old website. Earl Jessee stated they took into consideration the type of information the Commission needs to get out to the public, in a nice content management system. The new website will now work with the new technical devices and automatically format to fit their screens.

5. PUBLIC COMMENTS NOT ON THE AGENDA

Chair Leverenz asked if there was anyone who wanted to comment on anything not on the agenda.

Dan Ostrander stated he is caught in a catch 22 situation between the City of Chico and the County. He bought a piece of property on Stewart Avenue in Chico a few years ago with the intent of developing it with new apartments and retain the existing home on the parcel. He has paid thousands of dollars to get the infrastructure in. The city sewer hookup was designed to service all the apartments on the property, including the new duplex and the existing home. When it came time to get an inspection, Mr. Ostrander asked the County who is going to perform the inspection on the sewer hookup. He was told by the County the sewer hookup would need to be inspected and approved by the City of Chico. That's when he learned there was a problem and he was not supposed to be allowed to hookup the new developments to the city sewer system without approval from LAFCo, including the new additions to the house. Mr. Ostrander is concerned he will miss the college market if he doesn't get the sewer connection completed as soon as possible.

Chair Leverenz asked what happened to Mr. Ostrander's annexation to the City and has it been submitted to the City.

Steve Lucas stated to the best of his knowledge Mr. Ostrander made a formal application to the City and the City has yet to act on it and submit it to LAFCo for action.

Chair Leverenz stated if in fact there was an application for the annexation, the Commission would move on it. How long ago was the application for annexation submitted to the City.

Dan Ostrander stated maybe six weeks ago and paid his fees.

Chair Leverenz stated the Commission's policy would not allow hookup of the sewer to new construction.

Scott Browne stated this item is not on the agenda and discussion should be limited to deciding whether or not to place it on the next agenda.

Steve Lucas stated there are three options: the city could submit an application for an extension of services and we could possibly get this on the April agenda, the City could submit the application for annexation, or Mr. Ostrander could submit an application by petition for annexation directly to LAFCo.

Chair Leverenz stated the Commission cannot act on this item until it is on the agenda.

Commissioner Duncan stated at the last meeting of the Butte County Special District Association, they have been unable to get a quorum to appear and they are talking about disbanding the association. Is there a requirement to have an association in order to be involved with LAFCo.

Scott Browne stated the law contemplates that special districts shall meet to select their representatives on LAFCo and that can be done by ballot. The law does not require the districts to have an association.

Steve Lucas stated for the purpose of selecting LAFCo representative, that process has already been turned over to LAFCo staff.

6. REPORTS AND COMMUNICATION

6.1 Executive Officer's Report –

Chair Leverenz stated the Budget Committee met and they approved a preliminary budget and it will be brought to the Commission for consideration in April.

Steve Lucas summarized the Executive Officer's report. Steve Lucas stated one note not listed on the Executive Officer's report is there is a bill (56133) that would allow LAFCo's to extend service outside of the agencies SOIs. The north region was opposed to this bill and the bill will now be revised. There was a committee established to revise the bill and Steve Lucas has been invited by CALAFCO to be on the committee.

6.2 Correspondence –

- a. January 8, 2013 letter from Michael Ashlock

The letter was received and acknowledged.

7. CLOSED SESSION

- 7.1 Public Employee Performance Evaluation** – With respect to every item of business to be discussed in a closed session pursuant to Government Code Section 54957. Title: Executive Officer.

The Commission did meet in executive session on personnel issues and we will have on our agenda next month an item to increase the term of our Executive Officer's contract to three years. Other than that, there was no reportable action taken.

8. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:43 a.m. to the **Thursday, April 4, 2013** regularly scheduled meeting.

LOCAL AGENCY FORMATION COMMISSION



By: Stephen Lucas, Executive Officer