



BUTTE LOCAL AGENCY FORMATION COMMISSION

Draft Minutes of December 5, 2019

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

1. CALL TO ORDER

Chair Leverenz called the meeting to order at 9:00 a.m., December 5, 2019, in the Butte County Board of Supervisors Chambers, 25 County Center Drive, Oroville, California.

1.1 Roll Call

Commissioners Present: Greg Bolin (City)
Jack Kiely (Special District)
Al McGreehan (Special District)
Carl Leverenz – (Chair-Public)

Commissioners Absent: Bill Connelly (Vice Chair - County), Nathan Wilkinson (City) and Steve Lambert (County)

Alternate Commissioners Present: None

Alternate Commissioners Absent: Greg Steel (Public-Alt), Debra Lucero (County-Alt) and Bruce Johnson (City-Alt)

Vacant Seat: Alternate Commissioner (Special District)

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

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2. CONSENT AGENDA

2.1 Approval of the Minutes of November 7, 2019

Chair Leverenz asked if there were any changes or amendments to be made on the minutes. None stated.

Commissioner McGreehan made a motion to approve the Consent Agenda. The motion was seconded by Commissioner Kiely.

The motion was carried by the following vote:

AYES: Bolin, Kiely, McGreehan and Chair Leverenz

NOES: None
ABSENT: Connelly, Wilkinson and Lambert
ABSTAINS: None

3. NOTICED PUBLIC HEARINGS - None

4. REGULAR AGENDA

4.1 Items Removed from the Consent Agenda – None

4.2 20-04 – City of Chico – Extension of Services – 216 Centennial Avenue

Steve Lucas stated this parcel is in the county and is proposed to be a temporary RV park to house Camp Fire victims only until the administrative permit expires which currently the ordinance is set to expire Dec. 31, 2020.

Commissioner McGreehan asked what would happen in the event the ordinance is extended.

Steve Lucas stated the resolution is written currently to state the approval will terminate upon the termination of the county issued Administrative Permit for a Temporary Recreational Vehicle Park under the County's Urgency Ordinance.

Chair Leverenz opened this item to the public for comment. No comments received.

Commissioner McGreehan moved to approve Resolution No. 06 2019/2020 approving the extension of services as recommended by staff. The motion was seconded by Commissioner Kiely.

The motion was carried by the following roll call vote:

AYES: Bolin, Kiely, McGreehan and Chair Leverenz
NOES: None
ABSENT: Connelly, Wilkinson and Lambert
ABSTAINS: None

4.3 19-10 – Durham Irrigation District – Holland Avenue Annexation No. 1

Steve Betts stated this annexation has 100% support of the land owners and staff recommends approval of the annexation.

Chair Leverenz stated as he understands it the county allowed the property to be divided without complying with the conditions required to finalize the map.

Steve Betts stated that is correct. When the Durham Irrigation District initiated the annexation to LAFCo the property only consisted of one parcel. The county finalized the map that added 4 additional new parcels, which were sold prior to the annexation being approved and recorded by LAFCo.

Chair Leverenz stated he raised this issue from a policy point of view because last month we had a similar problem with a different project and he would hope the Butte County Development Services Department would be a little more careful concerning conditions prior to approving and finalizing projects.

Chair Leverenz opened this item to the public. No responses received.

Commissioner Kiely moved to approve the annexation as submitted. The motion was seconded by Commissioner Bolin.

The motion was carried by the following vote:

AYES: Bolin, Kiely, McGreehan and Chair Leverenz
NOES: None
ABSENT: Connelly, Wilkinson and Lambert
ABSTAINS: None

4.4 Paradise Water Planning Issues Discussion

Chair Leverenz stated this Commission has had concerns over this issue. This Commission is required not only to approve any potential solution that we hear, a merger that may occur, or any extension of services will have to come through this Commission. The Commission asked staff to be involved so the Commission can be informed.

Steve Lucas stated Kevin Phillips, general manager for Paradise Irrigation District (PID), wanted to be here but he was predisposed this week and requested that we continue this item for discussion. The State Water Board is involved in this issue because of the money that was provided by the Department of Finance to PID and one of the conditions for that money was that a feasibility study be done. A copy of the letter to PID from the Department of Finance is included with the staff memorandum for this item. The study is expected to include all possible alternatives that may allow the Department of Finance to be satisfied with the ultimate report. There will also be a scope of work prepared for the preparation of that study. This is a very distinctly different study than the intertwined study which was a very specific proposed project. These are two different studies.

Chair Leverenz stated there are many options that may or may not be available for assisting PID, and some of these options may be something that the state of California says this is what needs to be done. The Commission wants to make sure each agency is involved and has the ability to assist the district and to make sure those decisions are well made.

Steve Lucas stated the really important issue, at least from a planning perspective, as PID is looking at trying to manage their district in the way they feel is best and certainly they have made a lot of progress. From our perspective, now that we are a year into this, there's a lot of long range planning that needs to be done. Ultimately when the Town of Paradise updates their General Plan it will direct the land use plans. There are multiple components and we need to make sure people are collaborating and are as informed as possible. LAFCo needs to make sure there is greater communication, connect the dots and put people together so that better solutions can be reached.

Commissioner McGreehan suggested staff go over the potential next steps staff is recommending in the staff memo.

Steve Lucas summarized the potential next steps as listed in the staff memo.

There was discussion explaining the importance of having staff involved at this level at the request of the Commission.

Commissioner Kiely stated the bottom line is this affects more than just the district and it is best that we come up with a decision that is best for the people of Paradise.

Scott Browne, LAFCo counsel, stated through the participation in CALAFCO we have seen this increasing focus by the legislature on giving the State Water Resources Control Board authority to make local government reorganization decisions and take the authority away from LAFCo. Basically moving the local level to the state level to an agency that doesn't have any background or skills in dealing with the complex issues of local government. The Commission is now seeing a problem that we have been fighting for the last three years.

Chair Leverenz opened this item to the public for comments.

Grace Marvin from Chico and also the Conservation Chair of the local Sierra Club, stated she wanted to express her affirmation for what Jack Kiely said and what the LAFCo counsel added in terms of the broader frame of reference. We all want to help Paradise but to the degree in which the water is affecting other parts of the County, everybody needs to be aware of what is being done and it should not be left to just one district body. She stated she is very appreciative that the Commission is aware of these issues.

John Scott stated he supports what LAFCo is doing and the comments made today. This is something that really needs a very thorough study because it implicates a lot more than PID. John Scott stated there is no one here from PID or Del Oro Water Company.

Chair Leverenz explained that Kevin Phillips requested we continue this matter due to a conflict in scheduling and he could not attend. We anticipate this issue will be on our agenda on a regular basis.

John Scott stated the study has got to include the Miocene Canal issue and the property owners affected by the loss of the canal on the south side of Butte Valley. John stated he would like the study to include a historical review of the Miocene Canal.

Cliff Jacobson, resident of the Town of Paradise, stated he has been following this issue for quite a while now. We need to separate out the water and water rights. One issue is the viability of PID proper and its funding and that is a separate issue from the Miocene Canal and it is a separate issue from how others would be affected by our water if it wasn't distributed to them. We need to figure out what we need to do to have PID continue on and be financially able to do that. If we don't deal with this the state is going to take control. Cliff voiced one option of having the Town of Paradise taking over control of PID and making PID a subsidiary of the Town.

Chair Leverenz stated the Commission's concern is that we would be the entity being involved in the event of a merger or something else and that is why we are having this discussion now.

Lauren Gill, Town Manager for the Town of Paradise, stated she is not here to speak on behalf of the town council although wanted to report the majority of the Town council voted to support a study of an intertie project. Lauren stated very close after the fire destroyed the Town of Paradise, she contacted Steve Lucas to find out what the role of LAFCo was at that point and what she needed to know in putting the Town back together. Steve Lucas was helpful and knowledgeable and he understands what LAFCo's role is. The Town fully supports PID remaining a public entity. There have been many talks about consolidation. In disaster recovery there are a whole lot of more things to look at. Both the Town of Paradise and PID have lost their revenue source for a time being but we have not lost our obligation to service our residents. The issue now is how best to do this.

Chair Leverenz explained LAFCo's role is different depending on what direction the district decides.

Lauren Gill stated one of the projects the Town is undertaking is an update to their General Plan. That is going to be a very interesting study. Before the fire, the Town needed to do a General Plan update and now after the fire we are very eager to take this on.

Commissioner Kiely wanted to make sure a complete water study will be part of the General Plan and then the District will react to that water study to implement it.

Lauren Gill stated correct and that's why with disaster recovery that is important. PID has stated their first responsibility is to provide water to the residents of Paradise now and in the future. No one knows what that future looks like but right now that needs to be a full build out.

Ed Cox with the Miocene Canal Coalition stated the Miocene Canal upper portion was destroyed in the Camp Fire. It is a quirky canal that has been in existence for over 100 years and it's carried water from the Feather River down into Oroville. PG&E has decided it is not cost effective for them to continue the operation and have abandoned the operation. The 3 thousand miner's inches of water rights associated are in many people's view up for grabs. The canal is in disrepair, the water rights could be abandoned and very well be up for grabs. The Miocene Canal should be a part of any study in the ridge area.

Commissioner Kiely asked for clarification on the amount of acre feet of water.

Ed Cox stated it takes 20,000 acre feet per day to keep the Miocene Canal in operation. The Canal was running at approximately 30,000 acre feet per day. Cal Water successfully diverted from the Miocene Canal as a pilot program and since the Camp Fire has diverted water. They wiled it out of the system out of Lake Oroville. The 20,000 acre feet per day is what it takes to keep the canal flowing to the water users which includes at least 2 customers with water rights.

Tasha Levinson, Oroville resident, stated it is her understanding that LAFCo exist to govern public agencies yet at the same time she keeps hearing Cal Water and PG&E, two privately owned companies thrown in the mix here. When an Oroville water study was done, they were told the private companies were only volunteer participants and LAFCo has no control over them. She does not understand how LAFCo can even play a role with anything that PG&E or Cal Water decides to do.

Chair Leverenz stated LAFCo's legislative control and jurisdiction relates to a public entity, in this case Paradise Irrigation District. If PID wants to extend services outside their sphere of influence, they have to come to LAFCo to get approval. As far as PG&E is concerned we have no jurisdiction unless they are seeking to obtain services from a public entity. It appears almost every option that has been discussed, such as a merger, has involved actions that would come under LAFCo control.

Chair Leverenz asked for more public comments. None received. Public portion was closed.

Commissioner McGreehan stated it might be pertinent to put in writing any steps we approve.

Steve Lucas wanted to remind everyone that there were a lot of terms used today such as merger, consolidation and subsidiary and all of these terms stand for very different and definite actions. Also, this would not be a LAFCo study, this is something we will hopefully collaborate and participate in but we can't dictate its outcome.

Commissioner McGreehan stated wouldn't it be germane to include the audience comments received today in any letter sent to the state regarding the study.

Commissioner Kiely moved to approve the three items suggested in the memorandum by the staff and incorporate Commissioner McGreehan's comments. The motion was seconded by Commissioner Bolin.

Commissioner Bolin stated there are a lot of people upset that LAFCo is even discussing this issue. Steve Lucas has taken a lot of heat. The fact is we are here to help and assist and we are not trying to take over the situation.

The motion was carried by the following vote:

AYES: Bolin, Kiely, McGreehan and Chair Leverenz
NOES: None
ABSENT: Connelly, Wilkinson and Lambert
ABSTAINS: None

5. Public Comment on Items not on the Agenda

Chair Leverenz asked if there was anyone that wanted to speak on anything not on the agenda.

John Scott asked if there was anything within the LAFCO bylaws or structure that would allow LAFCO to have the Paradise Water Planning Issue on its agenda every two weeks for the next six months.

Chair Leverenz stated LAFCo can set its own agenda but he would be reluctant to prospectively do something like that without some type of additional structure for a need. The discussion on an ongoing basis will take place between the various entities and the staff. If the staff feels it needs to be an agenda item it will be placed on the agenda.

6. Reports and Communications

6.1 Executive Officer's Report.

Steve Lucas summarized the executive officer's report and provided an update to the recruitment process.

6.2 Correspondence - None

7. ADMINISTRATION

8. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:04 a.m. to the next LAFCO meeting scheduled for January 2, 2020.

Steve Lucas asked if the Commission could reopen the meeting as he glanced over that there are some people here that want to speak on the north Chico area flooding issue.

Scott Browne, LAFCo counsel stated you can reopen the meeting if all Commissioners were in agreement.

Chair Leverenz asked if the Commission agreed to reopen the meeting to allow people to speak on the north Chico area. All Commissioners unanimously agreed to reopen the meeting.

Meeting was reopened at 10:05 a.m.

Steve Lucas stated this issue is listed under general notes and attachment #2 in the Executive Officer's Report. This is an informational item only and no action can be taken.

Marilyn Rees thanked the Commission for reopening the meeting. Marilyn stated she is a member of the North Chico Neighborhood Safety Group, which is recognized by the Secretary of State as a non-profit unincorporated entity. The letter dated Nov. 5, 2019 sent to LAFCo represents all of north Chico neighborhoods within the North Chico specific plan. The Group is looking into area wide issues that cover flooding and storm water drainage, including the annual flooding around their closest fire station on Highway 99. The Group is also looking into the impact on traffic flow from additional developments, especially the current traffic flow on Garner Lane, Hicks Lane and Keefer Road. These roads are impacted right now without any rain. Also a possible increase of an emergency response time needed to reach citizens especially during flooding events and keeping a very low density residential zone. The Group wants to offer themselves and their time to assist the County in reaching solutions to these issues. They have members with varying professional skills and they would gladly give their time to volunteer to assist the County in reaching solutions to keep their neighborhood safe in north Chico. Their beginning efforts include both CSA and non CSA neighborhoods and they are receiving contributions to support their efforts as flooding affects 1200 plus homes in north Chico. They are requesting to be placed on a future agenda with LAFCo so they can give a full account of their research into the drainage issues. They want to offer their time to help out with audits as at the last Board of Supervisor's meeting they learned the County doesn't have time or staffing to do the research. The group wants to become a strong advisory board and a working group to clarify and move forward with solutions for growth in north Chico and answers to their flooding and storm drainage issues.

Chair Leverenz stated as he understands it this letter and the group's presentation has also gone to the Board of Supervisors.

Marilyn confirmed this.

Chair Leverenz stated because that development had already proceeded there isn't much LAFCo can do. The group's role in the future is important to monitor development in the north part of the county to avoid many of the problems that you have banded together to deal with. The Department of Development Services with the County of Butte is the real focal point.

Marilyn stated they have met with the Department of Development Services and they did not mention the latest development to them nor were they notified after they requested to be notified. So they will keep doing their best to encourage the county communicate ahead of their decisions.

Hank Wallace stated lived at the end of Bosc Dr., which is a street in the Autumn Park Subdivision where we underwent a little bit of flooding last February. I would like to lend my support

to LAFCo's willingness to work with Marilyn and the committee in the future. There are a number of issues that have been dealt with miserably in his opinion for the last 25 years including flooding, traffic and groundwater use and abuse and things of that nature that really do need to be addressed in the future.

James Ring residing on Andrew Court in the Autumn Park Subdivision and most recently commonly referred to as CSA 172, stated he wanted to comment on the flooding issues in the neighborhood. He wanted to thank the Butte County Public Works Division for the actions they took this past February with bringing a large supply of equipment and workers. Their prompt and efficient response clearly saved a lot of the owners from more property damage. At issue now is who is responsible to pay for their efforts. Actions need to be taken to deter a possible reoccurrence. Infrastructure has failed to keep up with development in the area. He would like to see a moratorium in place to keep new development from happening until these issues are dealt with.

There being no further business, the meeting was adjourned at 10:12 a.m. to the next LAFCO meeting scheduled for January 2, 2020.

LOCAL AGENCY FORMATION COMMISSION

By: Stephen Lucas, Executive Officer

Minutes prepared by Joy Stover, Commission Clerk