



## BUTTE LOCAL AGENCY FORMATION COMMISSION

### Draft Minutes of October 3, 2019

*(A complete voice recording of the Commission's meetings can be obtained from [www.buttelafo.org](http://www.buttelafo.org))*

#### 1. CALL TO ORDER

Chair Leverenz called the meeting to order at 9:00 a.m., October 3, 2019, in the Butte County Board of Supervisors Chambers, 25 County Center Drive, Oroville, California.

##### 1.1 Roll Call

Commissioners Present: Jack Kiely (Special District)  
Bill Connelly (Vice Chair - County)  
Al McGreehan (Special District)  
Steve Lambert (County)  
Carl Leverenz – (Chair-Public)

Commissioners Absent: Nathan Wilkinson (City) and Greg Bolin (City)

Alternate Commissioners Present: Greg Steel (Public-Alt) and Debra Lucero (County-Alt)

Alternate Commissioners Absent: Bruce Johnson (City-Alt)

Vacant Seat: Alternate Commissioner (Special District)

Others Present: Stephen Lucas, LAFCO Executive Officer  
Jill Broderson, LAFCO Management Analyst  
Joy Stover, LAFCO Commission Clerk  
Marsh Burch, LAFCO Legal Counsel Representative

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##### 1.2 Welcome New Special District – Regular Non-Enterprise Member Al McGreehan

#### 2. CONSENT AGENDA

##### 2.1 Approval of the Minutes of August 1, 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 Connelly.**

**The motion was carried by the following vote:**

**AYES:** Kiely, Connelly, McGreehan, Lambert and Chair Leverenz

**NOES:** None  
**ABSENT:** Wilkinson and Bolin  
**ABSTAINS:** None

*Commissioner Bolin arrived at 9:04 a.m.*

### **3. NOTICED PUBLIC HEARINGS**

#### **3.1 19-12 – County of Butte – County Service Area No. 158 (Ishi Valley Estates) Sphere of Influence Amendment and Mandville Subdivision Annexation No. 1**

Steve Lucas stated the Mandville Subdivision was approved by the County and the developer is now building homes. One of the requirements for the subdivision approval was that a CSA be formed or an annexation to CSA 158 in order to obtain fire flow, which is basically the fire hydrants. The other functions of the CSA included street lighting, storm maintenance, etc. all operated under the CSA but the County has now transferred those functions to the permanent road division, but the one thing they could not transfer was the fire flow system. Presently this property has been finalized, lots have been sold and houses are being built. This is problematic for us for a variety of reasons. There are 26 homes approved and the fire flow has already been extended as it was a condition of the map before they could put any combustibles onsite, they had to have fire flow. Houses are being built and the fire flow system is operational yet there was no authority to extend the water service from the CSA into that subdivision until LAFCO took action to annex it. Right now we are looking at this project as an annexation to CSA 158 for the single purpose of providing fire flow.

Two of the nuances in this is that make this more complicated for the land owners is: 1) the County provided a 218 proceeding so at the time this subdivision was under common ownership, that single person had agreed to pay that charge. LAFCO staff and LAFCO Counsel are not certain at this time if that 218 proceeding is still a valid proceeding and carries on through. Steve Lucas stated he is asking the County as a condition if they will provide us a legal decision from their County Counsel's office that the 218 proceeding is legitimate. If it is not, then the County would have to perform a 218 proceeding to get that parcel charge.

The second issue is when the County originally submitted the application this would have been a 100% consent application. In this case, now we have multiple property owners and staff doesn't have confirmation if they are consenting to this application or not. We cannot approve this application without a protest proceeding unless we have written confirmation that the current property owners consent to the charges. There is nothing in the documentation that would suggest the new owners would consent.

For these two reasons, staff is asking for the hearing to be continued for 30 days so we can have the County get written confirmation of the 218 proceeding and also have the County or the developer seek a written confirmation from all the existing land owners that they consent to the application. If in November, the County does not come back with these two items, LAFCO would need to direct that a 218 proceeding be held and we would also have to hold a protest proceeding.

Chair Leverenz stated this District legally had to come to LAFCO to extend services and the County of Butte had to have issued a permit to go ahead and construct the water system and the hook-up from the District for there to be a completely built water system.

Steve Lucas stated this is his understanding.

Chair Leverenz stated we need to make sure the Department of Development Services and more importantly the people that issue the permits, have an appreciation that before they issue a permit to construct a water system from a provider, that provider has in fact the legal ability to do that. Unless there is some objection from the Commission, Chair Leverenz would like the LAFCO staff to work with the leadership at the Department of Development Services and urge them to notify and school the people issuing permits so this type of thing doesn't happen again. We also have an educational process with this District as they should have known they had to have permission before they allowed this extension of services.

Chair Leverenz opened the hearing for public comments.

Debra Lucero, Supervisor for District 2, stated she has been aware of the procedures that have not been followed but she has an additional issue and that is the flooding that is going on out there. She stated her understanding on this particular subdivision is that the map was ultimately altered to move the flood line down. They went through FEMA as an application process. Debra stated when she was out there in February the area was flooded already. She is concerned about new homes being built out there and worried about this whole process. I don't know what they have on their deeds but what should be on their deeds is that they are buying a home that is in a flood plain. I don't know how a developer hires a separate engineer to get FEMA to change a line on the map, because that occurred. Debra stated she understands that LAFCO is not involved in that process.

Chair Leverenz stated LAFCO staff is asking the Commission to continue this for at least 30 days to allow the County Counsel to verify certain information as far as the status of the application and if the manner in which it has been progressed sufficient in order for LAFCO to proceed.

Debra Lucero stated she realizes that there are two separate issues going on here and she just appreciates the continuance to get things clarified.

**Commissioner Kiely moved to continue this item to the November meeting. The motion was seconded by Commissioner Bolin.**

**The motion was carried by the following roll call vote:**

**AYES:** Bolin, Kiely, Connelly, McGreehan, Lambert and Chair Leverenz

**NOES:** None

**ABSENT:** Wilkinson

**ABSTAINS:** None

### **3.2 20-02 – Cemetery Districts Municipal Service Review and Sphere of Influence Update**

Steve Lucas stated he has a PowerPoint presentation he can present but everything in the PowerPoint is also in the staff report.

Chair Leverenz stated the item that gave him concern is the Paradise Cemetery District. If they were problems because of the fire he would understand that. But it appears that they haven't done any auditing for four years prior to the fire. He is concerned with their leadership, their board and their manager. The MSR is supposed to as a check and balance and we've identified the problem with no responses from the district.

Chair Leverenz opened this item to the public for comments. No comments received. The public portion of the hearing was closed.

Chair Leverenz stated it appears the district has a substantial amount of money in their budget but no real reporting as to what they are doing with that money for five or six years.

Commissioner Bolin states he feels if there is a reporting issue, we need to take care of it, whatever that is.

Steve Lucas stated LAFCO has great authority to identify issues, but very little authority to force issues.

It was decided the best approach would be to have staff attempt a meeting with the District Board and management and try to find a solution.

**Commissioner Connelly moved to adopt Resolution No. 04 2019/2020 approving the Municipal Service Review and Sphere of Influence Plan Update. The motion was seconded by Commissioner Kiely.**

**The motion was carried by the following roll call vote:**

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

#### **4. REGULAR AGENDA**

##### **4.1 Items Removed from the Consent Agenda – None**

##### **4.2 20-01 – Lake Oroville Area Public Utility District – Ophir Road Annexation No. 1**

Steve Lucas stated this project has been in the works for years, is pretty straightforward and staff recommends approval of the annexation.

Chair Leverenz opened this up for public comment. None received.

**Commissioner Connelly moved to adopt Resolution No. 03 2019/2020 approving the annexation. The motion was seconded by Commissioner Lambert.**

**The motion was carried by the following roll call vote:**

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

##### **4.3 19-05 – (1212 Glenwood Ave) and 19-06 (1417 Glenwood Ave) – City of Chico – Request Time Extensions for Sewer Service Extension Approvals**

Steve Lucas stated these services of extensions were approved earlier and the projects were conditioned to have the City of Chico submit an application of annexation for these

parcels or the entire island area. The City of Chico is now requesting an extension of one year as they are in the process of working out an annexation plan for the remaining island areas. Steve stated he feels it is appropriate to give the City an extension for one year to hopefully get the entire island annexed.

Chair Leverenz opened this item to the public for comment.

Brendan Vieg, Community Development Director for the City of Chico, shared the City's progress on the City's comprehensive annexation plan that will address the remaining five islands within the City, including the Glenwood Avenue island area. The City is committed to get these island areas annexed.

There was discussion on the possible timeframe associated with the comprehensive plan.

**Commissioner McGreehan moved to authorize an extension of the submittal of the annexation applications for these two projects until May 2020. The motion was seconded by Commissioner Connelly.**

**The motion was carried by the following roll call vote:**

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

#### **4.4 Consideration of CALAFCO Dues Increase**

Steve Lucas stated his two biggest concerns comes down to what the base dues were set at and the population factor being capped at 700 thousand. CALAFCO needs to close a very large gap in its budget. CALAFCO clearly needs to increase the dues.

Commissioner Connelly stated CALAFCO wants to represent all 58 counties, it has been a continuous struggle to get to where we are today and what we have is a compromise.

Steve Lucas stated this issue will be on the agenda for the CALAFCO board to revisit the per capita and the factors used to set the dues.

**Commissioner Bolin moved to authorize Steve Lucas to support the dues increase and authorize Steve Lucas to exercise his discretion in implementing a review of the process. The motion was seconded by Commissioner Kiely.**

**The motion was carried by the following roll call vote:**

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

#### **5. Public Comment on Items not on the Agenda - None**

#### **6. Reports and Communications**

## **6.1 Executive Officer's Report.**

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

Debra Lucero stated she was at the Water Commission meeting yesterday and she did put Paul Gosselin on notice that she will be bringing to the Board, as she was on the prevailing side of that vote to do the study, it was predicated on the fact that Cal Water Service would be revealing their study, their technical slides and all the things they had been working on for 7 years. She went back and looked at what was said and according to Supervisor Ritter, who sit down with the head of Cal Water and Paul Gosselin; they have no intention of turning over that stuff. She will be rescinding her vote on that feasibility study and she is just letting this body know what it was predicated on.

## **6.2 Correspondence - None**

## **7. ADMINISTRATION**

## **8. ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:35 a.m. to the next LAFCO meeting scheduled for November 7, 2019.

## **LOCAL AGENCY FORMATION COMMISSION**

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**By: Stephen Lucas, Executive Officer**

Minutes prepared by Joy Stover, Commission Clerk