

**MINUTES OF February 28, 2007**

**STATE OF CALIFORNIA, COUNTY OF EL DORADO**

**1. CALL TO ORDER AND ROLL CALL**

The meeting of the Local Agency Formation Commission held February 28, 2007, was called to order at 5:30 p.m. by Vice Chair Loftis in the meeting room, Building C of the Government Center, 2850 Fair Lane, Placerville, California. Regular Members present were: City Member Carl Hagen, District Member Gary Costamagna, County Members James R. Sweeney and Ron Briggs and Public Member Francesca Loftis. Others present were: Alternate City Member Roberta Colvin, Alternate Public Member Norm Rowett, Alternate District Member Robert Larsen, Executive Officer José C. Henríquez, Policy Analyst Erica Sanchez, Commission Clerk Allison Parsons and LAFCO Counsel Carlyn M. Drivdahl.

***ROLL CALL - VOTING MEMBERS:***

Loftis, Briggs, Costamagna, Colvin, Hagen, Larsen  
Commissioner Sweeney arrived at the dias at 5:37pm.

**2. CONSENT CALENDAR**

- A. ADOPTION OF AGENDA
- B. MINUTES OF THE MEETING OF JANUARY 24, 2007
- C. APPROVAL OF CLAIMS
- D. RATIFY RESOLUTION L-2007-01; RESOLUTION OF APPRECIATION FOR RUSTY DUPRAY
- E. COMMISSIONERS' TERMS OF OFFICE REALIGNMENT AND CHANGES TO THE COMMISSION'S POLICIES AND GUIDELINES

The Commission requested to pull consent item E to consider and vote on seperately.

**MOTION**

Commissioner Costamagna moved to adopt the consent calendar as amended, second by Commissioner Hagen.

**ACTION**

The motion passes with a 6-0 vote.

**3. PUBLIC FORUM/PUBLIC COMMENT**

Vice Chair Loftis opened the public forum.

No member of the Public addressed the Commission.

**4. PUBLIC HEARING TO CONSIDER THE ENVIRONMENTAL REVIEW AND THE NAEF REORGANIZATION TO EL DORADO IRRIGATION DISTRICT AND THE EL DORADO HILLS COMMUNITY SERVICES DISTRICT (LAFCO PROJECT NO. 05-06)**

Mrs. Sanchez reviewed the staff report with the following recommendations:

- 1. Recognize that El Dorado LAFCO, as the lead agency for the reorganization, conducted an

- Environmental Review for the Naef and Christensen parcels (APNs 110-430-04 and 126-100-22) under the California Environmental Quality Act (CEQA) and determined that a Categorical Exemption #19 [CEQA Guideline §15319(a)] was the appropriate Environmental Review document for this portion of this reorganization; and direct staff to prepare a Notice of Exemption pursuant to Title 14, Chapter 3, Section 15062 (Lead Agency) of the California Code of Regulations for this action.
2. Recognize that El Dorado LAFCO, as the lead agency for the reorganization, conducted an Environmental Review for the Mitchell and County-owned parcels (APNs 110-020-30 and 126-100-21) under the California Environmental Quality Act (CEQA) and determined that a General Exemption [CEQA Guideline §15061(b)(3)] was the appropriate Environmental Review document for the County-owned turnout portion of this reorganization; and direct staff to prepare a Notice of Exemption pursuant to Title 14, Chapter 3, Section 15062 (Lead Agency) of the California Code of Regulations for this action.
  3. Adopt LAFCO Resolution L-2007-03 (Attachment E), adding any additional conditions the Commission finds appropriate and approve the Naef Reorganization; LAFCO Project No. 05-06.
  4. Waive the Conducting Authority Proceedings subject to Government Code §56663 and local policies.
  5. Direct the Executive Officer to complete the necessary filings and transmittals as required by law.
  6. Determine the effective date of the approval of this agreement to be five (5) working days after recordation by the County Recorder of the Executive Officer's Certificate of Completion once the imposed conditions are met.

After no questions from the Commission, Vice Chair Loftis opened item to Public Comment. No member of the Public addressed the Commission. Vice Chair closed the Public hearing and brought the item back to the Commission for consideration.

**MOTION**

Commissioner Hagen moved to adopt staff recommendations, second by Commissioner Costamagna.

**ACTION**

The motion was unanimously approved by the Commission and adopted LAFCO Resolution #L-2007-03.

**CONSENT CALENDAR**

**E. COMMISSIONERS' TERMS OF OFFICE REALIGNMENT AND CHANGES TO THE COMMISSION'S POLICIES AND GUIDELINES**

Vice Chair asked for any discussion on consent item E as Commissioner Sweeney took his place at the dias. Commissioner Sweeney had no comment or discussion on item.

**MOTION**

Commissioner Briggs moved to adopt Item E of the consent calendar, second by Commissioner Costamagna.

**ACTION**

The motion was unanimously approved.

**5. PUBLIC HEARING TO CONSIDER THE ENVIRONMENTAL REVIEW AND THE KREGOSKI ANNEXATION TO EL DORADO IRRIGATION DISTRICT (LAFCO PROJECT NO. 2006-02)**

Mrs. Sanchez reviewed the staff report with the following recommendations:

1. Find that the project is exempt from provisions of the California Environmental Quality Act under Section 15319(a) of the Public Resources Act and direct staff to file the Notice of Exemption in compliance with CEQA and local ordinances implementing the same.
2. Adopt LAFCO Resolution L-2007-02 (Attachment F), adding any additional conditions the Commission finds appropriate and approve the Kregoski Annexation to the El Dorado Irrigation District; LAFCO Project No. 2006-02.
3. Waive the Conducting Authority Proceedings subject to Government Code §56663 and local policies.
4. Direct the Executive Officer to complete the necessary filings and transmittals as required by law.
5. Determine the effective date of the approval of this agreement to be five (5) working days after recordation by the County Recorder of the Executive Officer's Certificate of Completion once the imposed conditions are met.

Commissioner Sweeney requested staff to number the Commission packet consecutively.

Commissioner Sweeney also pointed out the project name on the Auditor's response letter shows the Marble Valley Reorganization.

Vice Chair Loftis opened item to public comment. No member of the Public addressed the Commission. The public hearing was closed.

**MOTION**

Commissioner Sweeney moved to adopt staff recommendations, second by Commissioner Hagen.

**ACTION**

The motion was unanimously approved by the Commission and adopted LAFCO Resolution #L-2007-02.

**6. PUBLIC HEARING TO CONSIDER AND ADOPT THE PROPOSED WORK PLAN FOR FISCAL YEAR 2007-2008**

Mr. Henriquez reviewed the staff report with the following recommendations:

1. Receive the information related to the Proposed Work Plan for Fiscal Year 2007-08
2. Adopt the Proposed Work Plan for 2007-08

Commissioner Hagen asked Mr. Henríquez the status of digitizing project files and freeing office space. Mr. Henríquez replied that staff would still have to retain the files at a location but that digitizing would be a back up in case of a catastrophic loss and would be used as a search tool. Staff is currently considering rental of storage space for office supplies as well as boxes.

Commissioner Sweeney requested staff to review the records management policy. He believes LAFCO should not keep records for over ten years and that the districts involved in the action should be responsible for keeping records on the projects. Mr. Henriquez replied that the public and districts both request information from LAFCO that can be over 10 years old. Some districts retain little, or cannot locate records concerning, information or actions pertaining to their district.

Commissioner Sweeney asked Mr. Henriquez if the Municipal Service Reviews required by law are Prop 90 claimable. Mr. Henriquez replied that it is an unfunded mandate. Commissioner Sweeney responded LAFCO should be reimbursed for the additional work and staff should file a claim that could possibly be reimbursed.

Commissioner Sweeney asked if Mr. Henriquez had an estimate of staff hours that would be spent on the items in the work plan, to which he replied that he did not. Due to the unpredictability of LAFCO projects, he said it would be difficult to estimate.

Commissioner Sweeney asked for clarification on an item concerning tax rate area clean-up. Mr. Henriquez explained that there are several tax rate areas that were created for specific purposes and that the purpose no longer exists. For example, a parcel has overlapping fire protection from two districts. On the map, the parcel is clearly only in one district. Once a determination for the correct agency is identified, the State Board of Equalization will need to be involved to clean up these areas.

Commissioner Rowett said he would like to see a review of the special districts that are not performing their public services and determine when and how to remove them from special district status. Mr. Henriquez replied that is part of the sphere of influence determinations as a zero sphere district. Staff can identify those districts and make recommendations.

Commissioner Costamagna stated that the most difficult part for a small district is conforming with the Legislature's mandates on special districts. Most small districts don't have a staff or even a Board and are not able to hold regular meetings. Any money in the district goes to expenses for procedures that are required by the Legislature leaving little to none left to provide the functions the district is empowered to provide.

Commissioner Rowett suggested consolidating several small districts even if they are not contiguous to each other. Commissioner Costamagna states there will be more problems with the residents in the districts if they consolidate. He thinks the best solution would be to dissolve the district and have a Homeowners Association as the successor agency. He points out even to dissolve, the LAFCO fees are \$10,000. Mr. Henriquez points out that is the initial deposit to which the Commission could waive or reduce.

Commissioner Sweeney asked for clarification regarding the number of Municipal Service Reviews that are still outstanding and how many staff is outsourcing. Mr. Henriquez stated that the Commission outsourced two MSR's. The first being Water, Wastewater and Power Services and the second is Road and Road Maintenance MSR. Staff is currently working on the Cemetery MSR. Two others have been completed and adopted.

Commissioner Sweeney asked whether the MSR reviews the individual districts and the services they provide, or the service and what districts provide those services. Mr. Henriquez stated the MSR's review the services. For a multi service district, one would need to look at several documents in order to see all services a specific district provides.

Commissioner Sweeney stated that he would like to see a summary of how staff plans to finish the MSR's and what the status is on each. Mr. Henriquez stated he will email to the Commissioners the staff report from the December 6, 2006 meeting, outlining the order of completion for the MSR's voted on by the Commission.

Commissioner Rowett voiced his concern that there will not be one document that shows how well a district is providing its services. Mr. Henriquez stated that one would have to look at various reports and piece them together for one specific district but that staff will be providing a summary for each district referring them to a specific document, the correct page and section. Commissioner Rowett believes there should be a way to examine the information and give the districts a rank.

Commissioner Sweeney stated that he didn't feel like he could vote to adopt a work plan until he knew what expenses were to be paid. Mr. Henriquez replied the work plan is fluid, so that the objectives in the work plan can be achieved even with minimal funding.

Vice Chair Loftis opened item to public comment. After no one from the public spoke, the hearing was closed.

#### **MOTION**

Commissioner Costamagna made the motion to adopt the work plan to include implementing a records storage policy, research SB 90 rebate for the Municipal Service Review costs and review districts to determine if they are providing adequate services, second by Commissioner Colvin.

#### **ACTION**

The motion carries by the following vote:

AYES: Loftis, Briggs, Colvin, Costamagna, Hagen,  
Larsen  
NOES: None  
ABSTAIN: Sweeney  
ABSENT: None

### **7. PUBLIC HEARING TO CONSIDER AND ADOPT THE PROPOSED BUDGET FISCAL YEAR 2007-2008**

Mr. Henriquez reviewed the staff report with the following recommendations:

1. Receive the information related to the draft Proposed Budget for Fiscal Year 2007-2008;
2. Open the Public Hearing on this Matter; and
3. Adopt the appropriate Proposed Budget for 2007-2008, either option A, B or C, that reflects the Commission's priorities for the coming fiscal year.

Commissioner Hagen requested staff to consider the CALPERS health benefits if comparable to current health benefits.

Commissioner Sweeney reminded the Commission that the general liability insurance that covers the Commissioners on the different Boards they serve will not cover them on LAFCO. A separate policy is needed to cover the Commissioners serving on this Commission.

Commissioner Briggs asked Mr. Henriquez what the current limits on the general liability for LAFCO. Mr. Henriquez replied it is currently ten million dollars through the County.

Commissioner Briggs asked how many claims has LAFCO submitted, to which Mr. Henriquez replied there have been two claims in the last ten years submitted by LAFCO, mostly consisting of legal fees.

Commissioner Rowett voiced his concern regarding the insurance coverages with deductibles. He states that LAFCO would have to pay a deductible each time it faces litigation. He states that with the County coverage, the Commission will know how much is paid for premiums each year and that amount could be inputted into the budget. It also covers any and all amounts up to ten million dollars for the year.

Commissioner Hagen asked if legal fees will be covered prior to any deductible with the options other than the County coverage. Mr. Henriquez replied he didn't present that scenario to the other insurance companies. Commissioner Hagen questioned at one point would a claim go from staff counsel to the claims office.

Commissioner Hagen suggested taking an average of the last five years of premiums to determine if staying with the County insurance plan is cost effective. Mr. Henriquez replied all three budget options before the Commission assume staying with the County general liability insurance;

however, the Commission could direct staff to bring back additional information from the last five years. The Commission could change the allocations on the adoption of the final budget.

Commissioner Sweeney speculated on the LAFCO exposure to litigation in the near future and stated he would feel more comfortable staying with the policy from the County since it provides the most coverage.

On the issue of Spheres of Influence (SOIs) and meeting the January 1, 2008 deadline, Commissioner Sweeney asked for clarification on whether they are adopted based on the district as a whole or by services to be studied. Mr. Henríquez replied they are done by district. Commissioner Sweeney asked if it is possible for some of the districts to have been partially reviewed in an already completed MSR but still require other studies, such as the Government Services MSR, to be fully reviewed. Mr. Henríquez said yes but he also stated that as more MSRs are completed for multi service districts, staff could recommend thier SOI lines.

Commissioner Sweeney stated he doesn't understand how a CSA can have a sphere of influence when the service area is the whole County. It is subordinate to the County. Mr. Henríquez replied the CSA is considered a dependent district under LAFCO law. When making decisions for a CSA, the County Board of Supervisors sits on the Commission as the Board of Directors for that CSA.

Commissioner Costamagna asked if LAFCO has any jurisdiction when the Board of Supervisors makes a decision for the expansion or dissolution of a CSA. He believes that if the Board wants to expand a CSA that is not Countywide, it should make that decision on its own. Mr. Henríquez replied that LAFCO would have to approve that type of decision.

Commissioner Larsen asked Mr. Henríquez if LAFCO could override the County on such a decision, to which he replied LAFCO could deny it if LAFCO finds the County does not have the proper resources or capacity to expand the CSA..

Commissioner Costamagna asked that if the \$19,000 in this year's budget were carried over to the next year and utilized for Government Services I MSR component I, whether it would reduce the number of services to be studied and SOIs to be determined. Mr. Henríquez said that is correct, but some of the agencies whose SOIs are not yet determined, have a lot of activity.

Commissioner Hagen speculated that due to the projects LAFCO has approved, the Commission already has information on the SOIs for those districts. He questions whether if a multi-service agency's SOI covers all of its services, including some that may not be as strong as others and whether it would be possible for that "weak" service to preclude an agency from having a certain location within its SOI simply because it is not practical to extend service to that area. Mr. Henríquez stated that if a district is actively providing a service for which it is not as "strong" as several other services it also provides, the sphere would only be to the limit of the weakest service. When an applicant annexes into a district, it is for the purpose of receiving all of the services. Commissioner Hagen asked Mr. Henríquez that if an applicant knows that because of the rural nature of the neighborhood it would not be practical to extend one of the services to the area and if it is disclosed at the time of the request for annexation, why could it not be considered a legitimate establishment of a SOI. Mr. Henríquez stated that is a position the Commission could take. The trade-off is whether the Commission pays to have all MSRs completed now and have the peace of mind or it could open LAFCO to possible litigation later.

Commissioner Hagen stated that regardless of what LAFCO spends, LAFCO will not be able to finish all MSRs by January 2008 to which Mr. Henríquez replied that it is not necessarily true. If the Commission chooses the budget option to outsource and finish all MSRs by Dec 31, 2007, the Commission could adopt a SOI for all the remaining services at the January 2008 meeting.

Commissioner Hagen asked Mr. Henríquez what he believed is the likelihood a new project would be set aside due to staff's work load from the MSRs. Mr. Henríquez stated that is another issue to consider if the Commission chooses not to fund the MSRs for the next fiscal year. If the MSRs are being completed in-house, then staff would mostly be concentrating on finishing LAFCO petitions and would very likely miss the January deadline because of finite resources or if staff is assisting applicants with other projects. If the Commission chooses to fully or partially fund the MSR, then the staff involvement with the MSR will diminish to just monitoring and working with the

consultants. Commissioner Hagen speculated that even such efforts takes a lot of time. Mr. Henriquez stated it does but not nearly as much as staff having to research and write the MSR.

Vice Chair Loftis asked if the Commission chose to fund the first part of the Government Services MSR, how much time it would take to complete.

Commissioner Costamagna asked for the dollar amount is to fully fund the MSR with all components.

Commissioner Sweeney asked for clarification of the budget options and which option would fully fund the Government Services MSR. Mr. Henriquez stated that it was Option C. Commissioner Sweeney asked Mr. Henriquez if the Commission will be hearing MSRs and SOIs for all of the fifty-six districts. Commissioner Sweeney does not believe the Commission can hear them all by December 31, 2007. Mr. Henriquez replied staff plans to bring information on a district to the Commission as soon as it is available so they would not be hearing all of them at once.

Commissioner Costamagna stated that to adopt the budget, the Commission first needs to know the premiums for CALPERS healthcare plans. He believes there is a consensus of the Commission to stay with the County for general liability and for contracting out the audit. Mr. Henriquez said the only difference really is the funding for the MSRs. He suggests the Commission adopt the budget as is. As soon as the audit contract is approved by the Commission, they can take action to remove the difference or allocate it to something else. Mr. Henriquez reminded the Commission they are adopting a proposed budget and a final budget would be adopted later.

Commissioner Sweeney asked for clarification between the fund balance and the actual balance of the budget. Mr. Henriquez stated that in order to make a cash forecast, staff had to have a firm ending point of November 28, 2006. Then staff calculated the best estimate of what LAFCO's expenditures and revenues would be after that date but before the end of the fiscal year.

Vice Chair Loftis noted that LAFCO's cash forecast is less than what was budgeted for the fiscal year 2006-07. Mr. Henriquez stated that when the books are closed for the current fiscal year, staff will be giving the Commission a report that shows the budgeted amount for the fiscal year and what the actual balance was at the time the books were closed.

Vice Chair Loftis stated to the Commission that if the agency contributions are not increased this year, there will not be a carry over into the next fiscal year. She states an increase is inevitable. Mr. Henriquez replied that is correct unless LAFCO sees an increase in applicant revenue. Vice Chair Loftis also added that since LAFCO has changed how fees are calculated and charged less revenue will be collected.

Commissioner Rowett stated that a breakdown of the carry over and where it is coming from would be helpful. Mr. Henriquez replied the large amount of carry over is coming from staff salary savings from the current staff and the staff of the previous year. Commissioner Rowett said he would like an explanation included with the budget as to where the carry over is coming from.

Commissioner Hagen pointed out that there is also a ten percent contingency included in the budget that may not have been completely used.

Vice Chair Loftis and Commissioner Costamagna stated the amount included in the carry over is also cumulative from years before. Commissioner Rowett said he understood but would still like to see an explanation.

Mr. Henriquez stated that staff provides most of that information on the profit and loss statement received in the Commission packet every month. This report shows the amount and percentage the agency spends every month per budgetary item.

Vice Chair Loftis stated the Commission has previously discussed the carry over and were concerned about the large amount from previous years. She also said LAFCO was fortunate to have had it in fiscal year 2006-07 as it has funded the majority of the MSRs.

Commissioner Rowett states that he has been monitoring LAFCO's budget for the last eight years and there has been a consistent carry over every year. Mr. Henriquez agrees but states that the

large drop in carry over from last year's budget to this year's is an indicator of the Commission's efforts to decrease the carry over and fund the agency at the appropriate level.

Commissioner Sweeney expressed his concern that LAFCO is going to retain the carry over for the next year and then ask the agencies to contribute more money.

Commissioner Costamagna pointed out that the carry over is just a projected number and the only revenue amount that LAFCO actually controls is the payment from the agencies.

Commissioner Sweeney asked if the projected carry over is expected to be spent this year, to which Mr. Henriquez replied that it is. It goes into a pool of revenues that is used for the Commission's expenditures.

Commissioner Loftis points out that even with the amount of carry over, it is still not enough to pay for the MSR's without increasing the fees.

Commissioner Larsen expressed his concern that if the Commission fully funds the MSR's, the agency contributions will have to be increased. He states there has not been a repercussion set by the state for not completing the MSR's, so he wondered what would happen if the Commission does not finish the MSR's. If the Commission does fully fund the MSR's, he wonders about staff's workload if the number of projects for the fiscal year 2007-08 is minimal. He questioned the need to increase agency contributions by thirty-three percent when there is no definitive and identifiable repercussion to not completing the MSR's. To which Mr. Henriquez replied that it is a risk either way: There is a risk by either angering the agencies by increasing the contributions or not completing the MSR's and be potentially challenged in court.

Commissioner Loftis asked Mr. Henriquez if it would be possible to take a "special" increase to the agencies for this year only. He replied the Commission could do so with the caveat that the next year's contributions be reduced or reduced to what the contributions were before. Mr. Henriquez said another option would be to incorporate a schedule into the work plan where the Commission can prioritize what MSR's are to be done in the next five-year cycle and designate or declare the types of services it chooses to study, along with a funding mechanism.

Commissioner Sweeney requested a schedule for every five year block, so that the Commission goes through the MSR process with some organization and the Commission can staff accordingly. Mr. Henriquez said he would like to do that in the next round of MSR's as well as conduct the studies by agencies as opposed to services.

Commissioner Hagen speculated that because the fire MSR is completed that all staff would have to do is update occasionally without having to do the report over again. Mr. Henriquez agreed that for the next five-year cycle the Commission would just need to update the information from the last MSR to the current one.

Commissioner Larsen expressed his concern that all or most of the agencies have already set up their budgets for the next year and because LAFCO is changing their budget, the agencies will have to go back and change their budgets. Mr. Henriquez replied most agencies go by a fiscal year and adopt their budgets in May or June after LAFCO has adopted theirs. By law, LAFCO is required to notify those agencies when it adopts their budget.

Commissioner Sweeney stated to the Commission that after hearing the discussion he was prepared to fully fund the MSR's. He said he sees the staff making efforts to direct the current Commission on a long-term work plan for the MSR's. He believes in the coming year, staff will be receiving more project applications come in and will have less time to spend on the MSR's. This would create a backlog that would compound the current situation. He says his fear is if the Commission does not give staff the extra financial help, that the Commission may not get on a long term work plan.



Vice Chair opened item to Public Comment. Seeing as no one addressed the Commission, the Public hearing was closed.

**MOTION**

Commissioner Hagen made the motion to adopt budget Option C as amended, second by Commissioner Sweeney.

**ACTION**

The motion passes unanimously.

**OTHER BUSINESS****A. LEGISLATION**

Mr. Henriquez reviewed the staff report.

**B. COMMISSIONER ANNOUNCEMENTS**

1. Commissioner Briggs requested staff and legal counsel look into including an indemnification clause to all contracts. He also requested staff to consecutively number all pages in the Commission packet.
2. Commissioner Costamagna reminded the Commission the adoption of the budget was only a preliminary budget and adjustments can be made before the final budget is adopted.
3. Commissioner Hagen asked Mr. Henriquez on the type of fees the project applicants have to pay for the projects that came before the Commission. Mr. Henriquez replied the applicants had to pay the initial deposit and the hourly rate according to the fee schedule.
4. Commissioner Hagen stated the types of projects before the Commission tonight are the ones the Commission needs to annex with as little controversy and time as possible. Mr. Henriquez replied staff is working on improving the internal process for non-controversial projects and getting the projects before the Commission as soon as possible.

**C. COUNSEL REPORT**

None

**D. EXECUTIVE OFFICER REPORT**

Mr. Henriquez gave an update on the Special District Election.

Mr. Henriquez reviewed a new project submitted to LAFCO.

**ADJOURNMENT**

Vice Chair Loftis adjourned the meeting at 8:30 pm.

The next regularly scheduled LAFCO meeting will be March 28, 2007.

**APPROVED BY THE COMMISSION  
AUTHENTICATED AND CERTIFIED**

  
Clerk to the Commission

  
Chairperson