

MINUTES OF FEBRUARY 27, 2013

STATE OF CALIFORNIA, COUNTY OF EL DORADO

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting of the Local Agency Formation Commission held February 27, 2013 was called to order at 5:30 p.m. by Chair Briggs in the Board of Supervisors Chambers, Building A of the Government Center, 330 Fair Lane, Placerville, California and at the South Lake Tahoe City Council Chambers, 1901 Airport Road, South Lake Tahoe, California. Regular Members present were: City Member Carol A. Patton, District Members Ken Humphreys, County Members Ron Briggs and Ron "Mik" Mikulaco, and Public Member Don Mette. Others present were: Alternate County Member Brian Veerkamp, Alternate District Member Shiva Frentzen, Executive Officer José C. Henríquez, Policy Analyst Erica Sanchez, and LAFCO Counsel Andrew Morris.

Prior to roll call, pursuant to California Government Code Section 54953, Chair Briggs made clear for the record of the meeting that one member of the Commission would be participating in the meeting by speaker phone. In accordance with the Brown Act, the teleconference location had been identified in the public notice and agenda for the meeting.

Chair Briggs briefly went through some special procedures required by the Brown Act. City of South Lake Tahoe Clerk Susan Alessi made the following statements:

- (1) City Clerk Susan Alessi confirmed she could hear Chair Briggs.
- (2) City Clerk Susan Alessi confirmed she could hear the proceedings occurring on the Placerville site.
- (3) City Clerk Susan Alessi confirmed she had a copy of the agenda.
- (4) City Clerk Susan Alessi confirmed the LAFCO agenda was posted at her location.
- (5) City Clerk Susan Alessi confirmed that her location was reasonably accessible to the public, such that any member of the public could participate in the teleconference from her location if he or she wished to do so.
- (6) City Clerk Susan Alessi indicated that there were no members of the public who wanted to participate in the public comment portion of the meeting, or otherwise address any agenda item for the meeting.

After confirming with the members in the Placerville location, Chair Briggs stated that the record should reflect that all Commissioners present had indicated that they were able to hear City Clerk Susan Alessi clearly.

After confirming with the members present at the Placerville location, Chair Briggs stated that the record should reflect that no Commissioner had expressed doubt that City Clerk Susan Alessi was the party participating by teleconference.

2. ROLL CALL

VOTING MEMBERS:

Briggs, Frentzen, Humphreys, Mette, Mikulaco, Patton

3. ADOPTION OF AGENDA

Chair Briggs opened the public forum.

Joe Harn, El Dorado County Auditor-Controller, formally asked that Agenda Item #9, the CalPERS Contract, be continued until for one month because he believed there were numerous factual errors in the staff report.

Chair Briggs stated that the item was noted as a hearing, so they would hear in sequence of the agenda and at that time the commission would make a decision as to whether to continue the item.

MOTION

Commissioner Humphreys moved to adopt the Agenda, second by Commissioner Mette.

ACTION

The motion was approved by the following vote:

AYES: Frentzen, Humphreys, Mette, Mikulaco, Patton, Briggs

NOES: None

ABSTAIN: None

ABSENT: Cole

4. CONSENT CALENDAR

- A. MINUTES OF THE REGULAR MEETING OF DECEMBER 5, 2012
- B. REVIEW OF CLAIMS
- C. APPROVAL OF COMMISSIONER FLEEGE'S REQUEST TO WAIVE MILEAGE REIMBURSEMENT
- D. RATIFY RESOLUTION L-2013-01; RESOLUTION OF APPRECIATION FOR BRUCE GREGO
- E. RATIFY RESOLUTION L-2013-01; RESOLUTION OF APPRECIATION FOR CARL HAGEN
- F. RATIFY RESOLUTION L-2013-01; RESOLUTION OF APPRECIATION FOR RAY NUTTING
- G. RATIFY RESOLUTION L-2013-01; RESOLUTION OF APPRECIATION FOR JAMES R. SWEENEY
- H. RECEIVE AUDIT FOR FISCAL YEAR 2011-2012 AND REPORT FROM MATSON & ISOM
- I. APPROVAL OF A ONE-YEAR TIME EXTENSION FOR COMPLETION OF CONDITIONS: CLARKSVILLE BUSINESS PARK ANNEXATION TO THE EL DORADO IRRIGATION DISTRICT (LAFCO PROJECT NO. 2009-01)
- J. APPROVAL OF A ONE-YEAR TIME EXTENSION FOR COMPLETION OF CONDITIONS: LA CANADA ANNEXATION TO THE EL DORADO IRRIGATION DISTRICT (LAFCO PROJECT NO. 2010-03)

Chair Briggs opened the public forum. No member of the public addressed the Commission.

MOTION

Commissioner Mette moved to adopt the consent calendar, second by Commissioner Humphreys.

ACTION

The motion was approved by the following vote:

AYES: Frentzen, Humphreys, Mette, Mikulaco, Patton, Briggs

NOES: None

ABSTAIN: None

ABSENT: Cole

5. PUBLIC FORUM/PUBLIC COMMENT

Chair Briggs opened the public forum. No member of the public addressed the Commission.

6. PRESENTATION BY CHARLENE CARVERTH, AGRICULTURAL COMMISSIONER

Charlene Carverth, Agricultural Commissioner of El Dorado County, gave a presentation on the mission and operations of the department.

Chair Briggs opened the public forum. No member of the public addressed the Commission.

7. PUBLIC HEARING TO RECONSIDER THE ENVIRONMENTAL REVIEW AND THE SHINGLE SPRINGS RANCHERIA REORGANIZATION TO THE EL DORADO IRRIGATION DISTRICT (LAFCO PROJECT NO. 2012-04)

Mrs. Sanchez reviewed the staff report with the recommendation that the Commission consider and take action on the following three items:

1. Consider the written request to waive the LAFCO fees associated with the reconsideration; and
2. Consider the written request for reconsideration of the Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District and determine whether reconsideration of the project is warranted; and

If the reconsideration request receives a majority vote, staff recommends the Commission:

3. Receive any oral or written testimony from the applicant or any other interested party and approve or disapprove with or without amendment, wholly, partially, or conditionally, the Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District.

Chair Briggs requested the proponent speak.

Mr. Henríquez stated he wanted to make two clarifications; one that the Commission approved the project in December by she wished to be removed as a proponent to the petition; however, nothing in writing had been submitted.

Chair Briggs opened the public forum.

Kristen Mackey, representing herself and speaking as a concerned citizen, stated that the Shingle Springs Band of Miwok Indians have acquired a federal court order, a permanent injunction, prohibiting her from speaking on the issue.

Commissioner Mikulaco asked if any of the criteria have been met for the reconsideration request.

Chair Briggs stated that in the staff report it was staff's opinion that none of the criteria or reasons for the reconsideration had been met; there is no new evidence that the commission did anything wrong.

Andy Morris, LAFCO Counsel, agreed with staff's opinion, which he shares, there is no new evidence; there are no new circumstances and no sign that LAFCO did not follow its own procedures. As far as they can tell, everything was done correctly.

1st MOTION

Commissioner Humphreys moved to deny the reconsideration request, second by Commissioner Mette.

1st ACTION

The motion was approved by the following vote:

AYES: Frentzen, Humphreys, Mette, Mikulaco, Patton, Briggs
NOES: None
ABSTAIN: None
ABSENT: Cole

Mr. Henríquez explained the process of costs that are incurred by staff for processing applications. He stated at a minimum a cost of \$1,389 had already been incurred so far for processing the reconsideration request. At the time of his submittal of the reconsideration request, the applicant was made aware that there would be fees associated with his request.

Commissioner Mikulaco stated that since the application was denied, he would support waiving the fees.

Commissioner Patton stated staff had still incurred the costs, no matter which way the commission votes.

Chair Briggs opened the public forum on the fee waiver.

Ms. Mackey said the situation is a very unique one regarding the fee waiver, in that the person who asked for reconsideration and other interested parties were then barred from speaking at the hearing. In her opinion, the fees should be forgiven because they were not able to present their point. At the time the reconsideration applicant asked for reconsideration, the permanent injunction had not been created. So he did not know when he submitted that he would be in this situation.

2nd MOTION

Commissioner Humphreys moved to deny the fee waiver, second by Commissioner Patton.

2nd ACTION

The motion was approved by the following vote:

AYES: Frentzen, Humphreys, Mette, Patton, Briggs
NOES: Mikulaco
ABSTAIN: None
ABSENT: Cole

8. PUBLIC HEARING TO CONSIDER AND ADOPT THE ENVIRONMENTAL REVIEW AND THE SOUTH TAHOE PUBLIC UTILITIES DISTRICT MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE STUDY (LAFCO PROJECT NO. 2012-01)

Mr. Henríquez reviewed the staff report with the recommendation that the Commission:

1. Receive and discuss the information related to the municipal services review and sphere of influence update for South Tahoe Public Utilities District;
2. Open the public hearing on the matter;
3. Accept statutory exemption §15061(b)(3) from environmental review as the appropriate environmental review;
4. Adopt Resolution L-2013-05, adopting the municipal service review and sphere of influence update for the South Tahoe Public Utilities District; and
5. Direct staff to complete the necessary filings and transmittals as required by law.

Chair Briggs opened the public forum. No member of the public addressed the Commission.

MOTION

Commissioner Humphreys moved to accept staff's recommendation and adopt Resolution L-2013-05, second by Commissioner Frentzen.

ACTION

The motion was approved by the following vote:

AYES: Frentzen, Humphreys, Mette, Mikulaco, Patton, Briggs
NOES: None
ABSTAIN: None
ABSENT: Cole constraint

9. PUBLIC HEARING TO CONSIDER AND ADOPT A RESOLUTION OF INTENTION TO APPROVE A CONTRACT BETWEEN EL DORADO LAFCO AND THE CALIFORNIA PUBLIC RETIREMENT SYSTEM

Mr. Henríquez reviewed the staff report, which included a recap of events, delays in the process, and contract highlights. He also clarified several points in the staff report:

- The main differences between the LAFCO CalPERS contract and the County's contract with CalPERS is the Capital Fellowship Service Credit and the 1959 Survivor Benefit
- The Capital Fellowship Service Credit was included in the CalPERS contract as a recruitment tool
- That the reports to CalPERS were stopped at CalPERS' direction
- Whether LAFCO could be an administrator under the old CalPERS reporting system called ACES

Mr. Henríquez recommended that the Commission take two actions: first, approve the Resolution of Intent to enter into a contract with CalPERS. He reiterated that it would not be an adoption of the contract; it is only setting a process in motion so that they can come back at a later date and consider adopting the contract. The second item is that they approve Resolution 2013-07, indicating that the commission is picking up the employee portion of retirement benefits, which is something that they have grandfathered to existing staff.

The Commission discussed the terms of the contract, the assumptions CalPERS had made in determining the employer rate, the contract effective date, the direction CalPERS gave to LAFCO staff during the negotiations process, the process for adopting the contract and whether the Commission should continue the item.

Auditor-Controller Joe Harn addressed the Commission expressing his concern about the terms of the LAFCO CalPERS contract and its effective date. He also stated his opinion that LAFCO should not seek its own contract, but instead continue to be under the County's CalPERS contract.

1st MOTION

Commissioner Humphreys moved to adopt a resolution of intention to approve a contract between El Dorado LAFCO and the California Public Retirement System.

1st ACTION

Motion failed for lack of a second.

2nd MOTION

Commissioner Frentzen moved to bring the item back to the March meeting with an updated staff report, updated MOU between LAFCO and the County and updated contract between LAFCO and CalPERS, second by Commissioner Mikulaco.

2nd ACTION

The motion was approved by the following vote:

AYES: Frentzen, Mette, Mikulaco, Patton, Briggs
NOES: Humphreys
ABSTAIN: None
ABSENT: Cole

Commissioner Briggs clarified for the record his voting "yes" on the motion was because he wanted to have these issues resolved as soon as possible.

10. PUBLIC HEARING TO CONSIDER AND ADOPT THE PROJECT PLAN FOR THE NEXT CYCLE OF MUNICIPAL SERVICES REVIEWS

Mr. Henríquez reviewed the staff report with the recommendation that the Commission consider the information on the various options for the next municipal service review cycle and direct staff to implement the Commission's preferences. Staff's recommendations include:

1. Continue to conduct MSRs on a per-agency basis;
2. Adopt an eight-year project plan schedule; and
3. Continue to fund MSR studies as part of the agency's administrative functions.

The Commission discussed the project's eight-year timeline within the context of the MSR/SOI statutes and the the impacts to staff.

Chair Briggs opened the public forum.

Maria Capraun, representing Georgetown Divide Public Utility District, stated she loves the studies and participated in 2006 with one of the fire districts. She added that going with the 8-year cycle would benefit staff because of the time consumed to complete the study and going through the whole process. She would like their district reviewed because of their budget deficits for the last four years. The previous staff passed budgets with deficits for the next four years.

MOTION

Commissioner Humphreys moved to adopt an eight-year cycle, second by Commissioner Patton.

ACTION

The motion was approved by the following vote:

AYES: Humphreys, Mette, Patton, Briggs
NOES: Frentzen, Mikulaco
ABSTAIN: None
ABSENT: Cole

11. OTHER BUSINESS

- A. LEGISLATION
- B. COMMISSIONER ANNOUNCEMENTS
 1. Report from Budget Ad Hoc Committee

The Commission's direction to the Budget Ad Hoc Committee was to budget four people to attend the CALAFCO Conference in September 2013.

The Committee looked at building up a reserve. Chair Briggs asked Mr. Henríquez to agendize the item.

2. Mr. Henríquez informed the Commission of the Fire Workshop which will be held at the March meeting; thereby, changing the start time to 5:00 pm.

- C. COUNSEL REPORT
- D. EXECUTIVE OFFICER REPORT

12. ELECTION OF LAFCO OFFICERS FOR 2013

1st MOTION

Commissioner Humphreys moved to nominate Commissioner Mette as Chair, second by Chair Briggs.

1st ACTION

The motion was approved by the following vote:

- AYES: Frentzen, Humphreys, Mette, Mikulaco, Patton, Briggs
- NOES: None
- ABSTAIN: None
- ABSENT: Cole

2nd MOTION

Commissioner Frentzen moved to nominate Commissioner Humphreys as Vice-Chair, second by Commissioner Mikulaco.

2nd ACTION

The motion was approved by the following vote:

- AYES: Briggs, Frentzen, Humphreys, Mikulaco, Patton, Mette
- NOES: None
- ABSTAIN: None
- ABSENT: Cole

3rd MOTION

Commissioner Humphreys moved to nominate Commissioner Veerkamp as one of the three signatories, second by Commissioner Briggs.

3rd ACTION

The motion was approved by the following vote:

- AYES: Briggs, Frentzen, Humphreys, Mikulaco, Patton, Mette
- NOES: None
- ABSTAIN: None
- ABSENT: Cole

13. ADJOURNMENT

Chair Mette adjourned the meeting at 9:30 pm.

The next regularly scheduled LAFCO meeting will be March 27, 2013.

**APPROVED BY THE COMMISSION
AUTHENTICATED AND CERTIFIED**



Interim Clerk to the Commission



Chairperson