



LOCAL AGENCY FORMATION COMMISSION
FOR LOS ANGELES COUNTY

MINUTES OF THE MEETING OF THE LOCAL AGENCY
FORMATION COMMISSION OF THE COUNTY OF LOS ANGELES
FINDING, TERMS & CONDITIONS SUB-COMMITTEE
JANUARY 7, 2002

HENRI F. PELLISSIER
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STAFF
LARRY J. CALEMINE
EXECUTIVE OFFICER
SANDOR L. WINGER
DEPUTY EXECUTIVE OFFICER
JUNE D. SAVALA
EXECUTIVE ASSISTANT

Present: James DiGiuseppe
Carol Herrera
William Wentworth
Zev Yaroslavsky, Chairman

Larry J. Calemine, Executive Officer
John Krattli, Legal Counsel

Absent:

1. On behalf of The City of Los Angeles, Mr. Al Pak of R.J. Rudden Associates presented their findings regarding Cash Flow Evaluation of the Valley Area Special Reorganization proposal. Chairman Yaroslavsky inquired as to whether or not the City of Los Angeles also contracted with R.J. Rudden Associates to provide a plan for solving cash flow issues. Mr. Pak indicated that the City did not contract with them for solutions. Chairman Yaroslavsky requested that the presentation be tabled until such time as the City was ready to present solutions to the cash flow issue. The Executive Officer indicated the cash flow problems are one of many that he expects the applicant and the city to address in their respective proposals for terms and conditions.
2. The Executive Officer introduced Craig Hoshijima of PFM to give a brief review of Michael Nadol's Summary of the Negotiation Meetings held during the months of November and December. Mr. Hoshijima identified some key findings. He indicated that consensus was reached on the transition period where contracts would be developed between the applicants and the City of Los Angeles for provision of services until the new cities are able to provide services.

Mr. Hoshijima stated that equally important as things agreed upon were those things not agreed upon, as expected, the division of assets. However, the sessions allowed the parties to express their ideas and in that expression they were better able to define their positions. Mr. Hoshijima indicated that there were problems with obtaining data from the parties involved. There were a lot of positions stated and had that data been submitted in a timely manner it would have facilitated the process and in the future perhaps more attention could be paid to that aspect of negotiations. Chairman Yaroslavsky had questions regarding assets and liabilities. His impression was that agreement had been reached regarding assets physically located in the Valley and that agreement being for those assets located in the Valley would transfer to the new city and the new city would also assume the liability associated with the asset.

The Executive Officer clarified the issue indicating that the applicants were on board to assume the liabilities associated with the assets located in the Valley and it was at that point in the last negotiation meeting that the City of Los Angeles stated that the applicants needed to assume their proportionate share of liabilities city wide. The applicants responded that if that was the case then they wanted their proportionate share of city wide assets.

3. Beverly Burr gave a brief overview of the study she conducted on terms and conditions of recent California incorporations. The highlight of study are those incorporations that occurred after the legislature made provisions for mitigations. The standard seem to be a written agreement between the parties attached to the LAFCO resolution containing the terms and conditions. Without the agreement there is a pattern of litigation involving points that were not explicitly agreed upon in writing. Chairman Yaroslavsky inquired whether or not there were terms and conditions that the parties could not agree on that the respective LAFCOs had to set the terms. The Executive Officer indicated that the successful incorporations were those where the parties involved were able to hammer out tight agreements in the revenue neutrality agreement negotiations and the incorporation proposals that failed were those that could not come to an agreement during the negotiation process.

The Executive Officer also indicated that the in flow of data during the negotiation meetings was slow in coming from both the city and the applicants and in light of the timeline the Commission has adopted it is critical that all parties involved speed up the flow of data during the revenue neutrality negotiations. Chairman Yaroslavsky asked Beverly Burr to elaborate on some of the issues involving Citrus Heights and Elk Grove incorporation proposals. Ms. Burr highlighted those issues, and they are the effective date of the incorporations (the preference is July 1), the transition period, and cash flow. Critical to the new city of Citrus Heights was the missed filing deadlines for receipt of the sales and property tax revenues.

4. County Counsel gave a brief overview of various opinions issued from the County Counsel's Office and from the Valley applicant's legal advisor. Chairman Yaroslavsky issued the directive that the final CFA compare the Harbor area to like sized cities within the County of Los Angeles and solicited an opinion from County Counsel to determine if such a directive was in compliance with Cortese-Knox-Hertzberg.
5. The Valley applicant gave an overview of their expectations in the Terms and Conditions phase of special reorganization and are in general agreement with the stated positions noted on the Terms and Conditions matrix. The Valley applicants clarified their position on local assets. Specifically, the Van Nuys airport, subject to FAA approval would transfer in its entirety to the New Valley City. All local service assets would be transferred as of the effective date. Chairman Yaroslavsky inquired as to how the applicants proposed to handle regional liabilities such as improvement to the sewer system. The applicants responded that they would indeed pay their proportionate share of all such liabilities. The Chairman pointed out that their documentation did not coincide with that position. That in fact, the documentation stated the applicants interest in setting up joint ownership of regional utility assets/liabilities related to the sewer systems, DWP and the airport.

When the Chairman further inquired about the logic of being in the perpetual minority in such a joint ownership the applicants responded that there constitutional protection in place to prevent these organizations from charging one area a different rate than another. The Chairman pointed out that the rates could be set in the terms and conditions. The discussion continued with both legal counsel and the Executive Officer pointing out that there was no time to create a municipal utility district and meet deadline requirements for a November 2002 election and legally LAFCO cannot impose a joint powers agreement without the existence of a legal entity (an elected new valley city government) to enter into such an agreement.

The discussion ended with the Chairman stating that there are two ways to do things. There's the easy way and the hard way and the easy way would be to leave the sewer system intact, contract with the City of Los Angeles for services and impose conditions that protect the people in the new city from greed and avariciousness otherwise you will run into a myriad of problems. The applicants agreed that if the citizens of the new city could be protected in the long term that leaving the sewer system intact and wholly owned by the City of Los Angeles. Commissioner DiGiuseppe then commented that if the sewer system remained with the City of Los Angeles could in fact charge higher rates to the citizens of the new city than what is charged to citizens of the City of Los Angeles. The Chairman posed the question to County Counsel as to whether or not the Commission could impose a term and condition that like citizens in the valley could not be charged more than like citizens in the City of Los Angeles.

The Executive Officer pointed out that issues like this could be handled in the Revenue Neutrality negotiations. Commissioner Herrera then inquired that if we could impose the same rates; for how long would the set rates be in effect? The Executive Officer then pointed out that it's not a matter of how long the condition would last, but it's a question of enforcement. LAFCO cannot effectively enforce the terms and conditions and that's why it's important for the City and the Applicants to deal with these issues in the Revenue Neutrality agreement. County Counsel indicated that while not prepared to give a definitive opinion on this matter, the Executive Officer was correct in that it would be appropriate for the parties involved to have this issue set forth in the Revenue Neutrality agreement.

6. The representatives for the City of Los Angeles, Ron Deaton and Tim McOsker addressed the Sub-Committee. With respect to whether the Terms and Conditions imposed by the Commission or the Revenue Neutrality agreement has more enforceability it was the City's opinion that the Terms and Conditions could be enforced with a Writ of Mandate that arguably is a swifter method of enforcing compliance and the Revenue Neutrality agreement could be viewed as a contract enforceable by the courts also. The City contends that as far as the assets and liabilities are concerned, the City has no problem turning over the

assets to the new city once the liability issues have been resolved. The City also contends that in the case of local assets that have liabilities attached, it is not possible for the applicants to assume the liability along with the asset because the initial liability was incurred by a bond with the City of Los Angeles not the new valley city. The City of Los Angeles adopts an ordinance every year to use the monies from the property taxes to pay the bond debt and it would have no ability to adopt an ordinance for the new valley city to do the same and without some fail safe assurances that the debt would be paid, the City would not transfer the asset.

7. The Harbor applicant reiterated its position that the size of the Harbor special reorganization area demands that it be treated differently than the larger valley area. There were still some questions outstanding regarding the State Lands Commission's position on the boundary of a new Harbor city that includes the tidelands. He also requested that LAFCO consolidate all of the parties involved positions into one document to make it easier to see on paper where there is agreement or disagreement rather than to keep speaking in theoretical or philosophical terms.
8. The Executive Officer gave a brief overview of the LAFCO timeline. The Chairman requested clarification of what is expected of the Sub-Committee in relation to the timeline. The Executive Officer explained that the Sub-Committee would have to be prepared to make recommendations to the regarding the Terms and Conditions by February 9th and final recommendations to the full commission by March 29th. During the interim between February 9th and March 29th that will provide the parties involved the opportunity to object to any of the Terms and Conditions recommended by the Sub-Committee.
9. The Chairman reiterated the need for cooperation among all the parties in order to meet the November 2002 election deadline. The City of Los Angeles objected to the characterization and the Chairman reiterated that he was speaking to all parties involved and from this point forward the process cannot withstand any delaying tactics or ambiguity in positions.
10. The meeting of the next Sub-Committee was set for Wednesday, January 23, 2001 at 10:00 a.m.
11. The meeting adjourned at 3:20 p.m.