



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

March 18, 2002

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SANDOR L. WINGER
DEPUTY EXECUTIVE OFFICER

JUNE D. SAVALA
EXECUTIVE ASSISTANT

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

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

Absent:

1. The Executive Officer reported on the staff report findings for the Harbor area. Staff has concluded that currently the Harbor area does not meet the criteria for revenue neutrality because currently the Harbor generates less in revenue than what the City of Los Angeles expends in providing services.
2. The CFA found that a new Harbor city's revenues would be significantly less than the City of Los Angeles current expenditures for services in the Harbor area. To arrive at this finding, the comprehensive fiscal analysis imposed the existing cost and revenue structure of the City of Los Angeles on the proposed city. The CFA determined that current revenues accruing to the Harbor would be \$34.2 million less than current expenditures that would be assumed by the Harbor.
3. After factoring in the effects of adjusting the debt allocations and accounting for documentary transfer tax reductions, the current revenues accruing to the Harbor would be less than current expenditures that would be assumed by the Harbor by \$37.1 million. Although the Harbor Special Reorganization is not revenue neutral, the Harbor city would not owe the City of Los Angeles any fiscal mitigation payment, nor would the City of Los Angeles owe the Harbor any fiscal mitigation payment.
4. The Executive Officer pointed out that the issue of fiscal viability was not before the sub-committee only the terms and conditions likely to be proposed to the full commission. However, Chairman Yaroslavsky pointed out that the CFA does raise a fundamental question regarding the fiscal viability of a new Harbor city.
5. Staff recommends that the Commission find that the proposed Harbor Special Reorganization would not have a negative fiscal effect on the City of Los Angeles that should be mitigated. Staff does not recommend that the Commission find that the proposed Harbor Special Reorganization would have a negative fiscal effect on the County of Los Angeles. The Commission should only reconsider this issue if the County requests mitigation.

STAFF RECOMMENDATIONS

The Commission should adopt terms agreeable to both the City of Los Angeles and the Applicant. In lieu of such agreement, staff recommends the following:

- The effective date of special reorganization should be January 1, 2003.
 - **Sub-committee recommends.**
- During the transition period, the City of Los Angeles should be obligated to provide services to the new city in such a manner as to maintain pre-incorporation service levels. The City of Los Angeles should be allowed to reduce service levels in the Harbor during the transition period only as may be required for management of emergencies or revenue shortfalls in the new city.
 - **Sub-committee recommends.**
- The transition period should conclude on June 30, 2004, except that the transition period for a particular service should terminate on the effective date of a service contract between the parties for the provision of that service.
 - **Sub-committee recommends.**
- The new city should be able to request cancellation of transition period services provided by the City of Los Angeles upon six month's notice.
 - **Sub-committee recommends.**
- If the new city cancels a transition period service with less than six months notice, the new city should continue to be obligated to pay for transition period costs for that service throughout the six month period.
 - **Sub-committee recommends.**
- The new city should be required to reimburse the City of Los Angeles for the cost of transition period services at "net cost." The net cost should exclude overhead costs that the City of Los Angeles would incur regardless of whether it services the new city. Prohibited overhead costs should include the salaries and employee benefits associated with elected officials and department heads, as well as their chiefs of staff and personal secretarial staff.
 - **Sub-committee recommends.**

- The scope of transition period services should be defined to exclude the functions of certain City departments—Aging, Neighborhood Empowerment, Cultural Affairs, Disability, Environmental Affairs, Emergency Preparedness, Commission on the Status of Women, and Commission for Children, Youth & Their Families. The scope of transition period service may be further defined to exclude non-essential functions of City departments if such functions are specifically identified by the Applicant for the Commission's consideration.
 - **Sub-committee recommends.**
- Staff recommends against imposing any employee leasing (or "seconding") arrangements on the parties in the LAFCO resolution.
 - **Sub-committee recommends**
- The City of Los Angeles should extend revenue credit toward the transition period service costs for any revenues that are generated in the Harbor after the effective date of incorporation, but still collected and retained by the City during the transition period.
 - **Sub-committee recommends**
- Staff recommends that the Commission accommodate the recommended January 1 effective date by requiring that one-half of the fiscal year 2002-03 property and business license tax receipts generated in the Harbor are allocated to each party.
 - **Sub-committee recommends**
- Both the new city and the City of Los Angeles should remit all revenues collected by or on behalf of the new city to a third party fiscal agent throughout the transition period. The new city should remit all property tax revenues collected on behalf of the new city to a third party fiscal agent until all bonded indebtedness existing as of the effective date is retired or the parties agree otherwise. The new city should reimburse the third party fiscal agent for the costs of collecting and remitting tax revenues. The third party fiscal agent should be acceptable to both the new city and the City of Los Angeles.
 - **Sub-committee recommends**
- The third party fiscal agent should serve as the custodian of Harbor funds during the transition period, and make payments to the City of Los Angeles on a monthly basis for transition period service costs and liabilities, and for outstanding debt until retired.
 - **Sub-committee recommends**

- The Commission should adopt standard provisions relating to city name, council member terms of office, ordinance adoption, tax authorization, appointive positions, sphere of influence, a provisional appropriations limit and development agreements.
 - **Sub-committee recommends**

- With respect to employee transfers, both the City of Los Angeles and the new city are required to comply with the provisions of Government Code section 56844.2, and therefore, staff recommends against imposing any terms and conditions regarding employee transfers.
 - **Sub-committee recommends**

- The Commission should not impose a term and condition requiring the new city to adopt the City of Los Angeles civil service system.
 - **Sub-committee recommends**

- Any transfer of the administration of any redevelopment area located in the detached territory should be in accordance with the California Health and Safety Code, sections 33214-33217. The City of Los Angeles should not expand the boundaries of any redevelopment project area within the Harbor nor should it establish any new redevelopment project area during the transition period without official consent of the Harbor city council.
 - **Sub-committee recommends**

- That portion of Landscaping and Street Lighting District number 96-1 (Proposition K) within the Harbor should be detached from the District and formed into a new Harbor district, authorized to continue collection of the assessment, with a proportionate limit on the total amount assessed. The Harbor district should be governed by the new city council consistent with the responsibilities, powers and limitations of District 96-1. The Harbor district would continue to be liable for a pro rata share of the outstanding bonds of District 96-1, and will be obligated to carry out those specified projects located in the Harbor unless the new city council determines that they are infeasible.
 - **Sub-committee recommends**

- Assessment districts located within the Harbor city should be transferred to the Harbor city council on the effective date of incorporation. To the extent that such assessment districts are partially within the Harbor city the Harbor portion should be detached and the portion within the Harbor city shall become the responsibility of the Harbor city.

- **Sub-committee recommends**

- The costs of election on the question of special reorganization should be allocated pursuant to Government Code section 57150(e).
 - **Sub-committee recommends**
- The City of Los Angeles, the Harbor and any other cities formed pursuant to these special reorganization proceedings should be obligated to pay in proportionate shares the costs of redistricting the City of Los Angeles.

Set forth below is a summary of the staff recommendations for assets, enterprises and liabilities. In certain instances staff sets forth alternative recommendations based upon the legal opinions of the County Counsel (CC) and Legislative Counsel (LC), as indicated. As with the previous valley staff report the commission approved the LC recommendations.

- **Sub-committee recommends**

- Trust Account Funds and Liquid Assets:
 - (CC) The Commission should require the transfer of trust account fund balances for projects specific to the Harbor Special Reorganization area, but no general or special fund balances should transfer unless the City of Los Angeles agrees to a transfer; or
 - (LC) The Commission should require the transfer of trust account fund balances for projects specific to the Harbor Special Reorganization area, and 3.47 percent (proportion of Harbor general fund revenue) of any unexpended general fund balances (including reserves) and special fund balances, except for:
 - Water Revenue Fund
 - Power Revenue Fund
 - Sewer Construction & Maintenance Fund
 - Convention Center Revenue Fund
 - Zoo Enterprise Trust Fund
 - Special Police Communications/911 System Tax Fund
 - City Employees Retirement Fund
 - Fire and Police Pension Fund
 - El Pueblo de Los Angeles Historical Monument Revenue Fund
 - Staples Arena Special Fund, and
 - Bond Redemption & Interest Funds.

- **Local Service-Related Assets:**
 - (CC) The Commission should require local service-related assets that are held pursuant to a public trust transferred on the effective date or upon their identification by the parties; other local service-related assets should only transfer upon the payment of compensation or on terms agreed to by the parties; or
 - (LC) The Commission should require the transfer of title to all service-related local assets (itemized in Attachment A) on the effective date; during the transition period, the City of Los Angeles should be entitled to use service-related assets, at no cost, for the provision of services to the new city.
- **Leases:** Staff recommends against requiring the Harbor city to accept lease assignments.
 - **Sub-committee recommends**
- **Streets and Highways:** The Commission should require that, upon the effective date of incorporation, all right, title, interest and responsibility for any and all public roads, adjacent slopes, medians, sidewalks, trails, bikeways, landscaped areas, open space, street lights, signals, and bridges located within the boundaries of the special reorganization area shall vest in the new city, except that the City of Los Angeles shall retain title to all assets, property, rights of way, easements, and other property interests (including, but not limited to, those that may be on, under, or adjacent to those roads and highways) related to operation of the water system, power system, wastewater system, and communications or other centralized systems.
 - **Sub-committee recommends**
- **Storm Water Facilities:** The Commission should require the transfer of all storm drain facilities and easements to the new city.
 - **Sub-committee recommends**
- **Miscellaneous Assets:**
 - The Commission should require the transfer of property-related easements; and
 - (CC) The Commission should require that other miscellaneous assets located within the Harbor Special Reorganization area that are held pursuant to a public trust be transferred on the effective date or upon their identification by the parties; other miscellaneous assets located within the Harbor Special Reorganization area should only be transferred upon the payment of compensation or on terms agreed to by the parties; or

- (LC) The Commission should require the transfer, without compensation, of all other assets owned by the City of Los Angeles and located within the Harbor Special Reorganization area, but not transferred or excluded from transfer elsewhere in the resolution.
- Utilities: Staff recommends that no public utility assets transfer to the new Harbor city. Staff recommends that these integrated systems remain under single ownership.
 - **Sub-committee recommends**
- Water and Power Utility Services: The Commission should require that the City of Los Angeles continue to provide water and power public utility service to customers located in the new city, and that the new city be required to enter into agreements for water and power with the City of Los Angeles for terms that end no sooner than the latest maturity date of bonded indebtedness for debt issued prior to the effective date.
 - **Sub-committee recommends**
- Wastewater Services: The Commission should require that the City of Los Angeles continue to provide wastewater collection and treatment service to customers located in the new city, and that the new city enter into an agreement for wastewater services with the City of Los Angeles for a term that ends no sooner than the latest maturity date of bonded indebtedness for debt issued prior to the effective date.
 - **Sub-committee recommends**
- Utility Services and Rates: The Commission should require that the City of Los Angeles provide the same level of service as is provided to each particular type of customer within the City of Los Angeles to customers of the corresponding type within the new Harbor city, and to charge the same utility rates as are charged to each particular type of customer within the City of Los Angeles to customers of the corresponding type in the new Harbor city, with no rate differential based upon the location of the customer within one city or the other, such that while the City of Los Angeles may adjust rates and differentiate between different types of customers based on usage or cost of service, the rates charged to a particular type of customer in the remaining City will always be the same as the rate charged to the corresponding type of customer in the new Harbor city, and to the extent that there are additional costs associated with the provision of utility services to a particular type of customer in either area, those additional costs shall be borne uniformly across the two cities by that type of customer, without any differentials based upon the location of the customer within one city or the other.

- **Sub-committee recommends**

- **General Obligation Bonds:** The Commission should require the new city to pass an ordinance each year adopting the GO property tax rate established by the City of Los Angeles for repayment of GO debt outstanding on the effective date, and require that the new city authorize the Los Angeles County Tax Collector to remit to the City of Los Angeles all Harbor property owners' payments for GO debt outstanding on the effective date.
 - **Sub-committee recommends**
- **Assessment and Special Tax Bonds:** The Commission should require that the parcels that are currently encumbered with such assessments remain encumbered until the bonds are paid in full.
 - **Sub-committee recommends**
- **Judgment Obligation Bonds:** The Commission should require that the new city make monthly debt service payments to the City of Los Angeles for the debt based upon a 3.47 percent share of the annual debt service, unless and until the new city pays the City of Los Angeles for its share of the outstanding debt.
 - **Sub-committee recommends**
- **General Fund Lease Obligations and Certificates of Participation:** The Commission should require that the new city make monthly debt service payments to the City of Los Angeles for the debt that is secured or backed by the general fund, based upon a 3.47 percent share of the annual debt service, unless and until the new city pays the City of Los Angeles for its share of the outstanding debt, and if the debt-financed equipment cannot be transferred to the new city, the Commission should require that the City of Los Angeles provide the new city with access to, and use of, an equitable share of this debt-financed equipment during its useful life. Staff recommends that the new city not bear responsibility for debt paid by special funds, in particular, the portion of debt paid by Convention Center revenues, the Staples Arena developer or the Pershing Square special taxes.
 - **Sub-committee recommends**

- Sanitation Equipment Charge Revenue Bonds: The Commission should require that the new city make monthly debt service payments to the City of Los Angeles for the debt based upon a 4 percent share of the annual debt service, unless and until the new city pays the City of Los Angeles for its share of the outstanding debt.
 - **Sub-committee recommends**

- Parking Revenue Bonds: The Commission should require that the new city make monthly debt service payments to the City of Los Angeles for the debt based upon a 1.2 percent share of the annual debt service, unless and until the new city pays the City of Los Angeles for its share of the outstanding debt.
 - **Sub-committee recommends**

- Workers' Compensation: The Commission should require that the new city pay on a monthly basis a share of the City of Los Angeles workers' compensation attributable to workplace injuries that occurred prior to the effective date, as well as all claims filed prior to the effective date, where the Harbor's share of these costs is equivalent to the percentage the Harbor contributed to the City of Los Angeles general fund in the most recent fiscal year.
 - **Sub-committee recommends**

- Liability Claims: The Commission should require that the new city pay on a monthly basis a share of the City of Los Angeles liability claims attributable to injuries that occurred prior to the effective date, as well as all claims filed prior to the effective date, where the Harbor's share of these costs is equivalent to the percentage the Harbor contributed to the City of Los Angeles general fund in the most recent fiscal year.
 - **Sub-committee recommends**

- Debt Audit Rights: The Commission should require that the new city have audit rights with respect to the City of Los Angeles' fiscal management of all outstanding debt service and other liabilities for which the new city shall be proportionately liable as provided for in the terms and conditions, including but not limited to workers' compensation claims and legal liability claims. The City of Los Angeles should be required to maintain all records related to the outstanding debt service and other liabilities for a period of at least three years from the date of retirement of a debt or payment of a liability claim. The new city's right to audit should terminate two years after the date of retirement of a debt or payment of a liability claim. The new city should bear all expenses related to any audits.
 - **Sub-committee recommends**

- Revenue and Transition Costs Audit Rights: The Commission should require that the new city have audit rights with respect to transition period service costs and any revenue collected by the City of Los Angeles within the Harbor during the fiscal year 2002-2003 and during the remainder of the transition period. The City of Los Angeles should be required to maintain all revenue records for a period of at least three years from the date when the transition period ends. The new city's right to audit should terminate two years after the last day of the transition period. The new city should bear all expenses related to any audits.
 - **Sub-committee recommends**
6. 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.
 7. The meeting of the next Sub-Committee was set for Monday, March 25, 2002 at 2:00 p.m.
 8. The meeting adjourned at 3:35 p.m.