

LAFCO

Local Agency Formation Commission
for the County of Los Angeles

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Donald Dear
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Gerard McCallum
2nd Vice-Chair

Kathryn Barger
Richard Close
Margaret Finlay
Janice Hahn
John Mirisch
Greig Smith

Alternate Members

Lori Brogin-Falley
Sheila Kuehl
Judith Mitchell
Joseph Ruzicka
David Ryu
Vacant
(Public Member)

Staff

Paul Novak
Executive Officer

Adriana Romo
Deputy Executive Officer

Amber De La Torre
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REGULAR MEETING

MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION FOR THE COUNTY OF LOS ANGELES

February 13, 2019

Present:

Jerry Gladbach, Chair

Kathryn Barger
Richard Close
Donald Dear
Janice Hahn
Gerard McCallum
John Mirisch
Greig Smith

Lori Brogin-Falley, Alternate
Judith Mitchell, Alternate
Joe Ruzicka, Alternate

Paul Novak, Executive Officer
Carole Suzuki, Legal Counsel

Absent:

Margaret Finlay

Sheila Kuehl, Alternate
David Ryu, Alternate

Vacant:

Alternate General Public Member

1 CALL MEETING TO ORDER

The meeting was called to order at 9:00 a.m. in Room 381-B of the County Hall of Administration by Chair Jerry Gladbach.

2 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chair Jerry Gladbach.

ANNOUNCEMENTS

Chair Gladbach announced that Los Angeles City Council President Herb Wesson appointed Greig Smith as the Voting Member representing the City of Los Angeles.

Chair Gladbach requested that Agenda Item 7.a. be taken out of order. The Commission had no objections.

3 DISCLOSURE OF CAMPAIGN CONTRIBUTION(S)

The Executive Officer (EO) read an announcement, asking that persons who made a campaign contribution of more than \$250 to any member of the Commission during the past twelve (12) months to rise and state for the record the Commissioner to whom such campaign contributions were made and the item of their involvement (None).

The EO read an announcement, asking if any Commissioner had received a campaign contribution that would require disclosure and recusal from any item on today's agenda (None).

4 SWEARING-IN OF SPEAKER(S)

The EO swore-in over ten (10) members of the audience who planned to testify.

The Commission moved to Agenda Item 7.a.

7 PUBLIC HEARING(S)

The following item was called for consideration:

- a. Dissolution No. 2018-09 of the Sativa County Water District.

The EO indicated that a letter was received by the State Water Resources Control Board (dated February 11, 2019) after the posting of the Agenda which was e-mailed to the Commissioners and hard copies were provided at today's meeting. The letter was in support of the dissolution of the Sativa County Water District and appointment of the County of Los Angeles as the successor agency.

The EO noted that there was a numbering error in the resolution (Exhibit "J"). A revised resolution was provided to each of the Commissioners.

The EO summarized the staff report on Dissolution No. 2018-09 of the Sativa County Water District ("District" or "Sativa").

The public hearing was opened to receive testimony.

Dan Lafferty (Deputy Director, Los Angeles County Department of Public Works) came before the Commission. Mr. Lafferty stated that the Los Angeles County Department of Public Works (LACDPW) supported the staff recommendation and conditions within the resolution to dissolve the Sativa County Water District. Mr. Lafferty provided an overview of the District's progress. He indicated that LACDPW's goals are to rebuild the trust of the Sativa ratepayers through transparency, move the District into a better position financially, and address the brown water issues. He stated that the LACDPW terminated contracts and agreements that were not in the best interest of the District. The Los Angeles County Board of Supervisors approved a \$1.4 million loan (line of credit) to Sativa, which has been managed by LACDPW as Administrator. A portion of the loan has helped balance the District's operating budget and pay outstanding debt which were caused by the lack of bookkeeping and lack of financial controls by Sativa's prior management. The LACDPW is actively seeking grant loans from the State Water Resources Control Board (SWRCB). Mr. Lafferty indicated that water wells were not properly maintained, and that sediment is not the primary cause of the brown water. He indicated that the LACDPW has created an interconnection with a neighboring system in order to take each water well off-line, one-by-one, to inspect each well, and identify the cause of the problems; and the necessary corrective actions.

Commissioner Mirisch asked if the lack of bookkeeping and lack of financial controls is criminal. Mr. Lafferty indicated that all questionable items have been flagged and documented. Commissioner Mirisch suggested that the Los Angeles County District Attorney's Office be notified regarding the possibility of criminal intent by Sativa's prior management.

Commissioner Hahn thanked the LACDPW for agreeing to "step in" as the State administrator and thanked the County of Los Angeles for providing the \$1.4 million loan. Commissioner Hahn asked when will the LACDPW release the Request for Proposal (RFP) for a new service provider.

Russ Bryden (Principal Engineer, LACDPW) came before the Commission. Mr. Bryden indicated that the LACDPW is currently working to create an RFP and that it should be released to bidders in July of 2019.

Commissioner Hahn asked if Condition 9.s. in the resolution is for Commissioners to evaluate the RFP or to evaluate the bids. Carole Suzuki (Legal Counsel) stated that the condition would serve to have LAFCO participate in evaluation of the bids.

Commissioner Hahn asked if the Commission can be involved with reviewing what is included

in the RFP before it goes out to the bidders. Mr. Lafferty indicated that the LACDPW would be open to receive input from the Commission. The EO stated that there are four keys points within the resolution as Condition 9.u. that must be addressed in the RFP. Commissioner Hahn requested that a future item be agenized for the Commission to review the Request for Proposal before it goes out to the bidders.

Commissioner Hahn asked if it is the strategy of the LACDPW to get the District in the “best shape” possible before the new service provider assumes responsibility. Mr. Lafferty stated that the goal is for the LACDPW to address the brown water issues before a new provider assumes water service and have the system as attractive as possible.

Commissioner Barger asked what the reasoning is for utilizing an RFP instead of opting for a Request for Information (RFI). Carole Suzuki (Legal Counsel) indicated that an RFI is used to solicit information which is then used to formulate the RFP. The RFP is the solicitation relied on to get bids and proposals from the future service provider. Ms. Suzuki indicated that an RFP would be more appropriate for this situation unless the County determines otherwise.

Commissioner Mitchell asked how the system will be upgraded without imposing financial burden on the ratepayers. Mr. Lafferty stated that the SWRCB is interested in providing grants funding opportunities to fix the various problems with the water system, such as failure to meet fire flow and brown water issues.

Commissioner Hahn asked if no rate increases can be stipulated within the RFP. Mr. Lafferty indicated the LACDPW had discussions with the California Public Utilities Commission (CPUC). There are limitations to what the County could require in the RFP process and the CPUC has jurisdiction over rate setting and increases.

Commissioner Mitchell suggested that the Commission request special legislation to consider no rate increases (assuming the new service provider may seek approval of rate increases from the CPUC). The EO indicated that the Commission can draft letters to the offices of Assembly Speaker Rendon and Assemblyman Gipson, respectively, to request special legislation addressing no rate increases from the CPUC. Carole Suzuki (Legal Counsel) stated that, potentially, the LACDPW could consider whether the RFP can include the rates as an evaluated category (proposers are to project anticipated rates according to Condition 9.u. of the resolution).

Commissioner Mirisch asked if the LACDPW can have franchising agreements with a private utility company as a subcontractor to operate the water system but remain under the control and leadership of the LACDPW. Mr. Lafferty indicated that is a potential approach. Carole Suzuki (Legal Counsel) indicated that such a hybrid approach (a public agency subcontracting with a public utility company regulated under the CPUC) would require further legal review. The EO indicated that the Commission’s authority, when an agency is dissolved, is that it can designate a successor agency which is a public agency. The EO indicated that Commissioner Mirisch’s question can be referred to the County, as this will be a County contract.

Mr. Lafferty indicated that if the County were to remain in control of the water system, and

subcontract to a public utility, all of the expenses incurred by the County and the public utility would be passed on to the ratepayers of the District. He stated that one benefit of having a private entity is that the costs and charges that are incurred can be spread over a larger customer base.

Commissioner McCallum indicated that he believed the Commission and the District's customers were continuously misled by District officials.

Eddie Lamont (resident of the District and a previous Board member of Sativa) came before the Commission. Ms. Lamont stated that she was concerned that water rates would increase if a private water company gained control of the system.

Tony Hicks (resident of the District and a previous Board member of Sativa) came before the Commission. Mr. Hicks indicated that he is concerned about the ratepayers of the District. It is a low-income area and fears that water rates will increase if a private water purveyor takes over the system. He indicated that the District should remain as a public agency, as much as possible.

Mark Ravis (attorney) came before the Commission. Mr. Ravis indicated that he contacted the Los Angeles County District Attorney's office to follow-up with possible criminal charges against District representatives and that residents want to submit impact statements; he stated that the District Attorney representative he spoke with did not seem to know anything about the allegations against the Sativa County Water District.

The EO indicated that a letter was mailed to the Los Angeles County District Attorney's Office (dated July 26, 2018) which noted public testimony regarding possible criminal and civil violations at Sativa.

Commissioner Hahn asked if there is a conflict of interest with the Los Angeles County Department of Public Works creating the RFP, and the LACDPW responding to the RFP as a bidder. The EO indicated that the LACDPW could look further into this matter.

There being no further testimony, the public hearing was closed.

The Commission took the following actions:

- Adopted the Resolution Making Determinations, including the California Environment Quality Act determinations, Approving and Ordering Dissolution No. 2018-09 of the Sativa County Water District; Resolution No. 2019-02RMD; and
- Directed the Executive Officer to draft letters, signed by Chair Gladbach, to Assembly Speaker Rendon and Assemblyman Gipson, respectively, to request special legislation addressing no rate increases granted from the California Public Utilities Commission.

MOTION: Hahn SECOND: Mirisch APPROVED: 9-0-0

AYES: Barger, Close, Dear, Hahn, McCallum, Mirisch, Mitchell (Alt. for Finlay), Smith, Gladbach

NOES: None.
ABSTAIN: None.
ABSENT: Finlay

5 INFORMATION ITEM(S) – GOVERNMENT CODE §§ 56751 & 56857 NOTICE

- a. Annexation No. 2018-11 to the Los Angeles County Waterworks District No. 37, Acton.

The Commission took the following action:

- Received and Filed.

MOTION: Dear SECOND: McCallum APPROVED: 9-0-0
AYES: Barger, Close, Dear, Hahn, McCallum, Mirisch, Mitchell (Alt. for Finlay), Smith, Gladbach
NOES: None.
ABSTAIN: None.
ABSENT: Finlay

6 CONSENT ITEM(S)

The Commission held Agenda Item 6.d. in order to receive public testimony (see page 7).

The Commission took the following actions under Consent Items:

- a. Approved Minutes of December 12, 2018.
- b. Approved Operating Account Check Register for the months of December 2018 and January 2019.
- c. Received and filed update on pending proposals.

MOTION: Dear SECOND: Barger APPROVED: 9-0-0
AYES: Barger, Close, Dear, Hahn, McCallum, Mirisch, Mitchell (Alt. for Finlay), Smith, Gladbach
NOES: None.
ABSTAIN: None.
ABSENT: Finlay

6 CONSENT ITEM(S)

The Commission took the following action:

- d. Resolution Making Determinations Disapproving Annexation No. 2014-04 to the City of Calabasas (West Agoura Road).

Commissioner Close stated that the February 12, 2019 letter from the City of Calabasas (City) addresses legal issues, and he asked Legal Counsel to address those issues. Carole Suzuki (Legal Counsel) indicated that what is before the Commission today is to review the resolution (which is sufficient under the law), and to approve the content of the resolution as appropriately documenting the Commission's determinations at last month's meeting. Ms. Suzuki stated that many of the issues addressed in the City's letter are legal arguments which amounted to the City of Calabasas requesting that the Commission reconsider its determination to disapprove the annexation. A request for reconsideration was not timely and not before the Commission at this hearing.

Commissioner Close asked if the Commission should restrict public testimony to only non-legal issues. Ms. Suzuki indicated that this a consent item, not a public hearing (the public hearing was closed at last month's meeting). She indicated that members of the audience have filled out speaker cards for this consent item and are permitted to provide testimony about the item.

Commissioner Mitchell asked what the requirements are for reconsideration. Ms. Suzuki stated that the requirements for reconsideration are outlined in the statute and in LAFCO's policy. In sum, the applicant must present new or different facts that could not have been presented previously at the hearing on the annexation.

The item was opened to receive testimony.

Illece Buckley-Weber (Mayor Pro Tem, City of Agoura Hills) came before the Commission. Ms. Buckley-Weber indicated that members of the audience who planned to testify agreed with the analysis made by the Commission, that reconsideration was not before the Commission, and therefore withdrew their speaker cards. A total of five (5) members of the audience who planned to testify withdrew their speaker cards.

Ms. Buckley-Weber; Deborah Klein Lopez (Councilmember, City of Agoura Hills); and Lloyd "Bill" Pellman (Partner, Nossaman LLP) who served as Special Counsel to Sachi Hamai (Chief Executive Officer, County of Los Angeles) came before the Commission. Each of them stated that they supported the resolution disapproving Annexation No. 2014-04 to the City of Calabasas.

Matthew Summers (Assistant Attorney, City of Calabasas) came before the Commission. Mr. Summers indicated that the City of Calabasas does not support the resolution disapproving Annexation No. 2014-04. Mr. Summers suggested that the Commission return with a resolution approving the annexation that was originally before the Commission at last month's meeting to avoid possible litigation.

Ms. Suzuki indicated that the City has an opportunity under the statute to seek reconsideration (during a 30-day reconsideration period) after the resolution is approved by the Commission.

Commissioner Smith stated that he voted against disapproving the annexation at last month's meeting and he does not support the original determination.

There being no further testimony, the Commission closed this item.

The Commission took the following action:

- Adopted the Resolution Making Determinations Disapproving Annexation No. 2014-04 to the City of Calabasas (West Agoura Road); Resolution No. 2019-01RMD.

MOTION: McCallum SECOND: Mitchell (Alt. for Finlay) APPROVED: 9-0-0
AYES: Barger, Close, Dear, Hahn, McCallum, Mirisch, Mitchell (Alt. for Finlay), Smith, Gladbach
NOES: None.
ABSTAIN: None.
ABSENT: Finlay

8 PROTEST HEARING(S)

None.

9 OTHER ITEMS

- FY 2018-19 Mid-Year Budget Status Report.
-
- Alternate Public Member

The Commission continued Agenda Items 9.a. and 9.c. until next month's meeting.

[Commissioner Brogin-Falley left at 10:29 a.m.]

9 OTHER ITEMS

The following item was called up for consideration:

- As-Needed Alternate Legal Counsel.

The EO summarized the staff report on As-Needed Alternate Legal Counsel.

The Commission took the following action:

- Directed the Executive Officer to execute contract amendments, for a new term of three years and adjusting billing rates, with no other changes, with the law firms of Best Best & Krieger; Meyers Nave; Nossaman LLP; and Renne Sloane Holtzman Sakai LLP; and bring back the contracts to the Commission for approval at a future meeting.

MOTION: Dear SECOND: Mitchell (Alt. for Finlay) APPROVED: 9-0-0
AYES: Barger, Close, Dear, Hahn, McCallum, Mirisch, Mitchell (Alt. for Finlay), Smith, Gladbach

NOES: None.
ABSTAIN: None.
ABSENT: Finlay

10 LEGISLATION

- a. Legislative Update.

The Commission continued Agenda Item 10.a. until next month's meeting.

11 MISCELLANEOUS CORRESPONDENCE RECEIVED

- a. Letter from Los Angeles City Council President Herb J. Wesson, Jr., appointing City Councilman Greig Smith as a voting member on the Commission representing the City of Los Angeles, dated January 23, 2019; and
- b. Letter from City of Los Angeles City Clerk Holly L. Wolcott informing LAFCO that Los Angeles City Council President Herb J. Wesson, Jr. of the appointment of Councilman Greig Smith as a voting member on the Commission representing the City of Los Angeles, dated January 23, 2019.

12 COMMISSIONERS' REPORT

Commissioner Dear and Chair Gladbach stated that they attended the Southern Region of CALAFCO on January 14th, and that it was an informative meeting.

13 EXECUTIVE OFFICER'S REPORT

The EO announced that the Form 700 filing (elected officials are required to file as Form 700 which provides transparency and ensures accountability) is due April 2, 2019.

14 PUBLIC COMMENT

None.

15 FUTURE MEETINGS

March 13, 2019
April 10, 2019
May 8, 2019
June 12, 2019

16 FUTURE AGENDA ITEMS

Commissioner Hahn requested that a future item be agenzized for the Commission to review the

Los Angeles County Department of Public Works Request for Proposal before it goes out to the bidders as it relates to the Sativa County Water District.

17 ADJOURNMENT MOTION

On motion of Commissioner Hahn, seconded by Commissioner Smith, the meeting was adjourned at 10:32 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Novak".

Paul Novak, AICP
Executive Officer