

**2.**  
**1/22/2015**

**MINUTES**  
**DECEMBER 11, 2014**

Present:           Nancy Wright, **Chair**  
                  Douglas Hanson, **Vice Chair**  
                  John Benoit  
                  James Cioffi  
                  Kevin Jeffries  
                  Eugene Montanez  
                  Stephen Tomanelli

Absent:           Phil Williams

Present Staff:   George J. Spiliotis, Executive Officer  
                  Crystal Craig, Local Government Analyst  
                  Adriana Romo, Local Government Analyst  
                  Elena Medina, Executive Assistant  
                  Elizabeth Valdez, LAFCO Secretary  
                  Tiffany North, Legal Counsel

**1.1   CALL TO ORDER AND SALUTE TO THE FLAG.**

The meeting was called to order by Chair Wright at 9:30 a.m.

**1.2   ROLL CALL.**

**1.3   SELECTION OF OFFICERS.**

Moved (Hanson) seconded (Montanez) to appoint Commissioner Wright as Chair of the LAFCO Commission.

AYES:           Jeffries, Hanson, Cioffi, Benoit, Montanez, Tomanelli and Wright.  
NOES:           None.  
ABSENT:         Williams.  
ABSTAINED:     None.

Moved (Benoit) seconded (Jeffries) to appoint Douglas Hanson as Vice-Chair of the LAFCO Commission.

AYES:           Jeffries, Hanson, Cioffi, Benoit, Montanez, Tomanelli and Wright.  
NOES:           None.  
ABSENT:         Williams.  
ABSTAINED:     None.

**1.4 COMMITTEE ASSIGNMENTS.**

a. Administrative Review Committee.

Moved (Montanez) seconded (Benoit) to appoint Commissioner Tomanelli and Commissioner Hanson to the Administrative Review Committee in addition to the Chair.

AYES: Jeffries, Hanson, Cioffi, Benoit, Montanez, Tomanelli and Wright.  
NOES: None.  
ABSENT: Williams.  
ABSTAINED: None.

b. Legislative Committee.

Moved (Cioffi) seconded (Benoit) to appoint Commissioner Williams and Commissioner Wright to the Legislative Committee.

AYES: Jeffries, Hanson, Cioffi, Benoit, Montanez, Tomanelli and Wright.  
NOES: None.  
ABSENT: Williams.  
ABSTAINED: None.

**2. APPROVAL OF MINUTES OF SEPTEMBER 25, 2014.**

Moved (Jeffries) seconded (Tomanelli) to approve the Minutes of the September 25, 2014 meeting.

AYES: Wright, Jeffries, Hanson, Montanez, and Tomanelli.  
NOES: None  
ABSENT: Williams  
ABSTAINED: Cioffi and Benoit

**3. CONSENT (NON-HEARING ITEMS).**

There were no consent items.

**4. PUBLIC HEARINGS:**

**CONTINUED:**

There were no continued items.

**NEW:**

a. LAFCO 2014-05-3&5-Sphere of Influence Review and Potential Amendments - Valley-Wide Recreation and Park District.

Ms. Craig presented the sphere of influence review for Valley-Wide Recreation and Park District as outlined in the staff report.

Chair Wright opened the public hearing.

Dean Wetter, General Manager, Valley-Wide Recreation and Park District, 901 W. Esplanade, San Jacinto, Ca 92582. Mr. Wetter gave a brief history of the services Valley-Wide Recreation and Park District provides to the residents of the area. Mr. Wetter thanked staff for their help and commented that he was available to answer any questions the Commission might have.

Commissioner Jeffries asked Mr. Wetter if he could give the Commission more information in support of expanding their sphere of influence. Commissioner Jeffries expressed concerned about the City of Menifee opposing the request for expansion of their sphere.

Mr. Wetter responded that the sphere of influence review was only a technical boundary change. Mr. Wetter stated that from staff's and policy perspective, the technical boundary change was a logical change.

Commissioner Montanez asked to see on the map the areas to be added to the district's sphere.

Mr. Wetter stated that the District's sphere of influence followed the County's service area boundaries that were in place at one time. He said that the existing boundary did not include the Quail Valley area which was the adjustment suggested by the LAFCO staff.

Mr. Spiliotis stated that the last time the District's sphere was reviewed was prior to the incorporation of the City of Menifee. He said that as Mr. Wetter indicated, the current sphere boundary aligned with the former County Service Area 145 which provided park and recreation services to that area. Mr. Spiliotis stated that this was a clean-up boundary change placing the remainder of the City within the District's sphere of influence.

Commissioner Hanson asked if there was an economic impact to either party if the change was made. Mr. Spiliotis responded that for a sphere of influence amendment there was no exchange of tax. He said that the sphere of influence change was a planning boundary.

Rob Johnson, City Manager, City of Menifee, 29714 Haun Road, Menifee, CA 92586. Mr. Johnson spoke in opposition to approving the sphere of influence amendment as recommended by staff. Mr. Johnson stated that the real issue was a local control issue. Mr. Johnson stated that the City believed that they could still have a contract with the District without the sphere of influence amendment. Mr. Johnson stated that the City had just started a

Park and Recreation and Trail's Commission and were moving forward the following week on the particulars of the formation of that Commission. He felt that local control should rest with the Council for its decisions on any matters regarding park and recreation facilities. He asked the Commission to give them the opportunity to be able to make their own decisions regarding servicing the residents of their city.

Commissioner Jeffries stated that he was under the understanding that a local entity could not provide services outside of its boundaries without LAFCO approval.

Mr. Spiliotis stated that an agency generally, is prohibited, from providing services by contract outside of its boundary unless it gets approval from LAFCO and the services provided must be within its sphere of influence. He stated that in this case, there was an exemption that existed under Section 56133 for services that were a substitute for services that were already being provided by another public agency, which was the case here.

Commissioner Montanez asked if the sphere were expanded, can the District still have a contract. Mr. Spiliotis responded in the affirmative that they could still contract and also it did not limit the ability for the City to provide services directly. He said that from staff's perspective, it was not a critical issue whether its sphere expanded or stayed the same. He said that staff was trying to keep the city and the other communities that were included as a whole.

Commissioner Benoit asked if Valley-Wide was a tax entity and if they collected a tax. Mr. Spiliotis stated that they were a tax entity within the City of Menifee. Mr. Spiliotis stated that all the areas in Menifee within Valley-Wide's district were post Prop 13 annexations. Therefore, those areas paid assessments to Valley-Wide, but no property taxes.

Commissioner Jeffries asked Mr. Johnson how long will it take before the City of Menifee made a decision on moving forward with providing park and recreation services to their city. Mr. Johnson responded that they were currently in the process of formulating the policies and procedures to move forward on this matter. Mr. Johnson stated that it could take about six to seven months.

Commissioner Jeffries asked if there was any urgency with approving this sphere of influence review. Mr. Spiliotis responded that there was no urgency at this time.

Mr. Spiliotis stated that if the Commission did not want to expand the sphere at this time, staff still recommended requesting the District to work with the City to put together a long-term plan for park and recreation services.

Commissioner Jeffries stated that it made sense to wait for the City of Menifee's decision to be made and then adjust the boundaries.

Commissioner Montanez stated that he would like to make a motion that the Commission approves all the areas other than areas 2 and 3 from staff's recommendation at this time.

Mr. Spiliotis asked if that motion also included the request to work with the City to develop a long-term plan.

Frank Gorman, Vice-President, Board of Directors of Valley-Wide Recreation and Park District, 901 W. Esplanade, San Jacinto, CA 92582. Mr. Gorman stated that his Board and District were there to serve the community of Menifee Valley and stated that his Board will work diligently with the City to do what is best for the community. He said he was available to answer any questions from the Commission.

Commissioner Benoit asked if the Commission decided to continue this item until a future time, would that decision limit their ability to provide its services to the community. Mr. Gorman responded that the decision would not affect them in any way.

Chair Wright closed the public hearing.

Commissioner Jeffries asked if the Commission were to exclude Areas 2 and 3 from staff's recommendation, how those areas would come back to LAFCO in the future.

Mr. Spiliotis responded that this was a Commission initiated sphere review, therefore, the Commission could bring it back at a later time, or if the City or District wanted to apply for a sphere amendment later, they could do so at that time. Mr. Spiliotis stated that a continuance was not necessary at this time.

Commissioner Montanez stated that his motion was for staff's recommendation along with recommendation number five.

Legal Counsel Tiffany North stated for clarification that the motion was to approve staff's recommendation finding that the project was exempt from CEQA, amend the sphere to include Area 1, amend the sphere to remove Areas 4 and 5, request the District to develop a plan with the City and adopt the Statement of Determinations as reflected in staff's recommendation as well as the adoption of the resolution reflecting the same findings.

Move (Montanez) seconded (Jeffries) to approve LAFCO 2014-05-3&5-Sphere of Influence Amendments - Valley-Wide Recreation and Park District and finding that the project was exempt from CEQA, amend the sphere to Include Area 1 and remove Areas 4 and 5, request the District to develop a plan with the City and adopt the Statement of determinations as reflected in staff's recommendation as well as the adoption of the resolution reflecting the same findings.

AYES: Wright, Jeffries, Benoit, Cioffi, Hanson, Montanez and Tomanelli.  
NOES: None.  
ABSENT: Williams  
ABSTAINED: None.

b. LAFCO 2014-15-2-Municipal Service Review - City of Jurupa Valley.

Mr. Spiliotis presented the Municipal Service Review as outlined in the staff report. Mr. Spiliotis stated that the recommendation was for the Commission to adopt a resolution incorporating the determinations in the MSR, and receive and file the municipal services review.

Commissioner Hanson asked for clarification regarding the revenue neutrality agreement. He stated he was not familiar with this term.

Mr. Spiliotis responded that back in the mid-nineties, the Legislature adopted the revenue neutrality requirement stating that LAFCO could not approve an incorporation of a new city if it had a negative fiscal impact on the County unless that impact was mitigated with terms and conditions or an agreement between the proponents and the County.

He further stated that in the case of Jurupa Valley the agreement did call for payments of approximately two million dollars per year through Fiscal Year 2016-17. He said that the deferred amount of payments right now were around five or six million dollars. After that, a percentage of property tax and sales tax will be required to be paid to the County in perpetuity.

Commissioner Hanson stated that because of this, the City was now in debt to the County for \$21 million dollars.

Commissioner Hanson asked if the City was to disincorporate because of its inability to pay its debt, would the City have to file for bankruptcy.

Mr. Spiliotis stated that filing for bankruptcy was an expensive process to go through. Mr. Spiliotis said that disincorporation would be a better process to go through financially and repayment to the county could be accomplished through the terms and conditions of that process.

Chair Wright opened the public hearing.

Gary Thompson, City Manager, City of Jurupa Valley, 8304 Limonite Avenue, Jurupa Valley, CA 92509. Mr. Thompson stated that the City was in full support of staff's recommendation and was available to answer any questions the Commission might have.

Commissioner Benoit asked Mr. Thompson if there was no help from the State how did he foresee the outcome of this situation. Mr. Thompson stated that quite frankly if there was no resolution one way or the other, they anticipate filing for disincorporation in June or July of 2015.

Laura Roughton, Mayor Pro-Tem, City of Jurupa Valley, 8304 Limonite Avenue, Jurupa Valley, CA 92509. Ms. Roughton thanked staff for their time and effort staff put into the report presented to the Commission today.

Chair Wright closed the public hearing.

Moved (Benoit) seconded (Tomanelli) to receive and file LAFCO 2014-15-2-Municipal Service Review - City of Jurupa Valley and the adoption of the resolution reflecting the Commission's action.

AYES: Wright, Jeffries, Benoit, Cioffi, Hanson, Montanez and Tomanelli.  
NOES: None.  
ABSENT: Williams.  
ABSTAINED: None.

- c. LAFCO 2014-21-4-Reconsideration of Resolution 08-14 approving LAFCO 2014-08-4-Reorganization to Include Concurrent Annexations to the City of Cathedral City (North City Extended Specific Plan) and the Cathedral City Community Services District (subsidiary) and Concurrent Detachment from the Riverside County Waste Resources Management District.

Mr. Spiliotis stated that State Law allowed for any party to request reconsideration of the Commission's action within 30 days of its approval. He stated that staff received a valid Request for Reconsideration from the County of Riverside. He said that the request was limited to the language adopted by the Commission regarding the condition requiring an agreement for fire protection.

He stated that if the Commission did take action to approve the County's request that he would recommend one other modification. He said that the Commission had another condition requiring a new easement for a temporary detention basin. He said that the current easement was accepted by the County as part of the County maintained road system and when the roads transfer to the City of Cathedral City the County easement will transfer along with that, therefore, the condition was unnecessary.

Chair Wright opened the public hearing.

Tina Grande, representing the County of Riverside, 4080 Lemon Street, 4<sup>th</sup> Floor, Riverside, CA 92501. Ms. Grande asked the Commission to respectfully approve the reconsideration before them from the County of Riverside. She reiterated that the reconsideration was limited to the fire condition as Mr. Spiliotis had stated in his presentation. Ms. Grande said that Riverside County and the City of Cathedral City had executed an amendment to the original agreement in the hopes that it will not delay the approval of the annexation proposal. She further stated that Riverside County will continue to provide fire services to the area at the level that was currently being serviced.

Charlie McClendon, City Manager, City of Cathedral City, 68-700 Avenida Lalo Guerrero, Cathedral City, CA 92234. Mr. McClendon stated that the

City had no objection to the reconsideration and was in full support of the amended language.

Chair Wright closed the public hearing.

Commissioner Benoit stated that all issues of concern have been addressed between the City and the County and with that, he moved to approve the reconsideration request and the proposal.

Moved (Benoit) seconded (Tomanelli) to approve LAFCO 2014-21-4-Reconsideration of Resolution 08-14 approving LAFCO 2014-08-4-Reorganization to Include Concurrent Annexations to the City of Cathedral City (North City Extended Specific Plan) and the Cathedral City Community Services District (subsidiary) and Concurrent Detachment from the Riverside County Waste Resources Management District and adoption of the resolution reflecting the Commission's action.

AYES: Wright, Jeffries, Benoit, Cioffi, Hanson, Montanez and Tomanelli.  
NOES: None.  
ABSENT: Williams.  
ABSTAINED: None.

## 5. PUBLIC COMMENTS.

There were no public comments.

## 6. RECEIVE AND FILE:

- a. Information Items: Proposals Received (Government Code Section 56857, 56751):
- i. LAFCO 2014-13-3&5-Reorganization to Include Annexations to Murrieta Valley Cemetery District and Temecula Public Cemetery District and Detachments from Perris Valley Cemetery District, Temecula Public Cemetery District and Wildomar Cemetery District.
  - ii. LAFCO 2014-14-5-Municipal Service Review - City of Beaumont.
  - iii. LAFCO 2014-15-2-Municipal Service Review - City of Jurupa Valley.
  - iv. LAFCO 2014-16-2-Sphere of Influence Review and Potential Amendments - City of Jurupa Valley.
  - v. LAFCO 2014-17-3-Municipal Service Review - City of Murrieta.
  - vi. LAFCO 2014-18-1-Annexation 22 to County Service Area 134 (TR 36317).
  - vii. LAFCO 2014-19-1-Municipal Service Review - City of Wildomar.



viii. LAFCO 2014-20-5-Reorganization to Include Annexation to the City of Beaumont (ASM Beaumont Business Center), Concurrent Annexation to the Beaumont Cherry Valley Water District, and Concurrent Detachments from County Service Area 152 and the Riverside County Waste Resources Management District.

ix. LAFCO 2014-21-4-Reconsideration of Resolution 08-14 approving LAFCO 2014-08-4-Reorganization to Include Concurrent Annexations to the City of Cathedral City (North City Extended Specific Plan) and the Cathedral City Community Services District and Concurrent Detachment from the Riverside County Waste Resources Management District.

x. LAFCO 2014-22-2-Annexation to Rubidoux Community Services District (Limonite).

b. LAFCO Monthly Expenditure Review.

Moved (Hanson) seconded (Cioffi) to receive and file items 6.a. Information Items and 6.b. Monthly Expenditure Review as recommended by staff.

AYES: Wright, Jeffries, Benoit and Cioffi, Tomanelli, Montanez, and Hanson.

NOES: None.

ABSENT: Williams.

ABSTAINED: None.

**7. POLICY FOR WAIVER OF PROTEST PROCEEDINGS.**

Mr. Spiliotis stated that Government Code Section 56662 allowed the Commission to waive protest proceedings in cases where the proposals were inhabited and had 100% consent from the property ownership. Mr. Spiliotis further stated that Section 56663 allowed the Commission to waive protest proceedings that would not otherwise qualify for a waiver under Government Code Section 56662. He stated that this provision had not been utilized by Riverside LAFCO. He stated that pursuant to that Section, the Commission could waive protest proceedings for proposals that were legally inhabited or when consent has not been received from all the affected landowners. He said that the requirements that the Legislature put on this type of waiver, included that a notice of public hearing be sent out to all landowners and registered voters which this LAFCO routinely already did. He said that a different form of notice disclosing that unless any written opposition is received, the Commission intends to waive protest proceedings. He said that the notice will also have to include a statement that there will be a potential for an extension or continuation of any previously authorized tax, assessment, charge or fee by the subject agency. He said that if any written opposition from a registered voter or landowner that was received, a protest hearing will have to be conducted. He also stated that if staff did not receive any written opposition at the time of the Commission's hearing, then the Commission can go ahead and waive the protest proceedings. He said that this was not a complete elimination of due

process but it was a streamlining of the process. He said that a discussion came up with regards to a County Water Company proposal when an extra-territorial service extension had been approved for Elsinore Valley Municipal Water District. He said that staff was going to be bringing the annexations of that area to the Commission in January. He said that the District had been looking for a way to bring those areas into the districts as soon as possible and waiving protest proceedings for those proposals will shorten the time by a couple of months. He asked the Commission to give staff policy direction on this matter.

Greg Morrison, General Manager, Elsinore Valley Municipal Water District, 31315 Chaney Street, Lake Elsinore, CA 92530. Mr. Morrison reiterated Mr. Spiliotis' presentation. He stated that this was not an attempt to circumvent any public protest. He said that this was simply to streamline the administrative process. He thanked staff for all their support in this matter.

Commissioner Hanson asked how specific did the policy have to be. Mr. Spiliotis responded as specific as the Commission feels comfortable with.

Commissioner Benoit suggested giving the latitude to the Executive Officer to use it as he deemed appropriate. Mr. Spiliotis stated that he would probably use it in very limited circumstances with inhabited proposals.

Mr. Spiliotis stated that he will put together something formal for the Commission's approval. He stated that he would like for the Commission to give him general concurrence to use for next month's proposal.

Legal Counsel, Tiffany North stated that her recommendation was to have the general consensus of the Commission at this time without a formal policy and have a policy come back for the Commission's consideration at a later date.

Moved (Benoit) seconded (Hanson) to approve Item 7. Policy for Waiver of Protest Proceedings as recommended by staff and have a formal policy come back for the Commission's consideration at a later date.

AYES: Wright, Jeffries, Benoit, Cioffi, Tomanelli, Montanez, and Hanson.

NOES: None.

ABSENT: Williams.

ABSTAINED: None.

#### **8. LOCAL AGENCY SHARE STATUS REPORT FOR FISCAL YEAR 2014-15.**

Mr. Spiliotis stated that every agency had paid their local agency share and no action was required from the Commission at this time.

#### **9. LEGISLATIVE REPORT: UPDATE ON CURRENT LEGISLATION. (Oral Report)**

Mr. Spiliotis stated that he was on the CALAFCO Legislative Committee and he was also on a sub-committee of the Legislative Committee that was looking at a rewrite of the disincorporation statutes. He said that they

were outdated and inadequate. He said that he wanted to let the Commission know that this was something they were working on at this time.

Mr. Spiliotis said that the Commission may recall that about a year ago, the Commission had before them a very controversial proposal that required hiring outside counsel. He said that when staff attempted to recover the cost for outside counsel, which appeared to be allowed by statute, the City came up with an argument that the way the law was written; it did not include representational conflict of interest by counsel under the definition of Conflict of Interest which allowed LAFCO to recover the costs. He said that in researching this, it was one of those unintended consequences by an amendment to the statute back in 2000. He said that he had talked to two attorney members of the Commission on Local Governance for the 21<sup>st</sup> Century where the changes originated from and they both confirmed that it was not their intention to limit the conflict of interest. Prior to that time LAFCOs had full ability to recover its costs in conflict situations. Mr. Spiliotis stated that he had a proposal in and it would probably go into the Omnibus Bill.

Commissioner Jeffries asked if it would be retroactive and Mr. Spiliotis responded that it will not be retroactive.

#### **10. REPORT ON PROTEST PROCEEDINGS (Oral Report).**

- a. LAFCO 2014-08-4-Reorganization to Include Concurrent Annexations to the City of Cathedral City (North City Extended Specific Plan) and the Cathedral City Community Services District (subsidiary) and Concurrent Detachment from the Riverside County Waste Resources Management District.

Mr. Spiliotis stated that staff had to continue the protest proceedings pending the reconsideration proposal. He said that the protest hearing for this proposal will be continued to January 13, 2015.

#### **11. MISCELLANEOUS REPORTS.**

There were no miscellaneous reports.

#### **12. COMMISSIONER COMMENTS/FUTURE AGENDA ITEMS.**

The Commission wished everyone a happy holiday season.

#### **13. ADJOURNMENT.**

The meeting was adjourned at 11:30 a.m. to January 22, 2015.

Respectfully submitted,

George J. Spiliotis  
Executive Officer