

2.  
3/28/2013

**MINUTES  
JANUARY 24, 2013**

Present: Phil Williams, **Chair**  
Nancy Wright, **Vice Chair**  
Kevin Jeffries  
Terry Henderson  
Eugene Montanez  
Jeff Stone  
Stephen Tomanelli

Present Staff: George J. Spiliotis, Executive Officer  
Crystal Craig, Local Government Analyst II  
Adriana Romo, Local Government Analyst II  
Elena Medina, Executive Assistant II  
Pam Walls, LAFCO Counsel

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

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

**1.2 ROLL CALL.**

**2. APPROVAL OF MINUTES OF NOVEMBER 29, 2012.**

Moved (Henderson) seconded (Wright) to approve the Minutes of November 29, 2012 Meeting. (Commissioner Jeffries abstained).  
6/1

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

a. LAFCO 2012-16-3-Annexation 119 to County Service Area 103.

Moved (Henderson) seconded (Wright) to approve LAFCO 2012-16-3-Annexation 119 to County Service Area 103 as recommended by staff.  
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**4. PUBLIC HEARINGS:**

**NEW:**

a. LAFCO 2012-14-5-Cherry Valley Unincorporated Community Review of Five-Year Report and Potential Amendment.

Mr. Spiliotis presented the proposal as outlined in the staff report and stated that policy required that a public hearing be set if requested by any party. Mr. Spiliotis further stated that the owners of the Sunny Cal Egg

Ranch had requested a public hearing at the last LAFCO meeting because they did not want their property to be included within the boundaries of the Cherry Valley Unincorporated Community. Mr. Spiliotis stated that since the last hearing, the property had been sold and the new owner also was intending to exclude the property from the UC; however, he was not requesting that it be done at this time. He said that the owners will proceed with plans to add their property to the sphere of influence of the City of Beaumont and will pursue annexation and request removal from the UC boundaries. He said that it was somewhat of a non-issue at this time, but the five-year report had been set for a public hearing. Mr. Spiliotis stated that the only option available at this time was to receive and file the report.

Chair Williams opened the public hearing.

Mike White, CV Communities, 1900 Quail Street, Newport Beach, CA 92660. Mr. White stated that their intention with the property was to move forward with annexation proceedings and were expecting to submit an application to LAFCO in a couple of months. He thanked the Commission for their time.

Commissioner Henderson asked Mr. White if they anticipated any problems with the annexation proposal. Mr. White responded in the negative because a lot of work was done in the prior years. Mr. White stated that he looked forward to the development of the property in the coming years.

Patsy Reeley, 10065 Frontier, Cherry Valley, CA 92223. Ms. Reeley stated that they were aware of the intentions of the new property owner and although they would prefer that the property stay within the boundaries of the Cherry Valley UC, they still hoped that the new developer will consider the high density development proposed to the area.

Chair Williams closed the public hearing.

Moved (Henderson) seconded (Wright) to receive and file the Cherry Valley Unincorporated Community Five-Year Report.  
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**5. PUBLIC COMMENTS.**

There were no public comments.

**6. RECEIVE AND FILE:**

- a. Information Items: Proposals Received (Government Code Section 56857, 56751):

There were no information items.

- b. LAFCO Monthly Expenditure Review.

Moved (Henderson) seconded (Wright) to receive and file Item 6.b. LAFCO Monthly Expenditure Review.

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#### **7. COMMISSION WORKSHOP ON MUNICIPAL DISINCORPORATION.**

Mr. Spiliotis stated that disincorporation had been a topic of interest due to the State's failure to restore the vehicle license fee revenue to the newly incorporated cities. He stated that there were other cities across the State that also were experiencing financial stress. Mr. Spiliotis stated that the last disincorporation processed in the State was in Riverside County and it was the disincorporation of the City of Cabazon. This disincorporation went before the Commission in 1971 and disincorporated in 1972. The disincorporation was processed under the previous Acts governing LAFCO proposals and there had not been a disincorporation processed under current law.

Mr. Spiliotis stated that CALAFCO, our state wide association held a workshop in June of 2012 to discuss consolidation and disincorporation and it was a review of the statutes. He said it was meant to be a two-way dialogue to discuss the shortcomings in the current statutes.

He said that the process of disincorporation itself was not that much different than any other change of reorganization such as an annexation or an incorporation. Disincorporation can be initiated either by resolution of an affected agency or by petition of landowners or registered voters. The proponents have to have a good idea of what their expectations are and be able to communicate those expectations and the reasons why disincorporation is the preferred alternative. In some cases, bankruptcy might be more appropriate. Mr. Spiliotis said that disincorporation cannot eliminate or restructure debt for that was the sole function of bankruptcy.

Mr. Spiliotis stated that as with any other proposal, LAFCO would require a plan of services. The plan of services would be the heart of the proposal for it will provide most of the information staff and the Commission will need to base their decision. The plan of services should compare the current city services to those services that will be provided by the successor agencies. The plan of services should indicate as well any services that will be discontinued as a result of the disincorporation. The proposed successor or successors to those services really have a stake in the preparation of the plan of services and absolutely needed to be involved. The fiscal analysis should also identify all the city's assets and any debt or other significant obligations that the city might have at that time. Mr. Spiliotis stated that the plan of services would be transmitted to all affected agencies for review and comment.

Mr. Spiliotis stated that the Commission can approve the proposal and would likely have some terms and conditions attached with the approval or it can deny the proposed disincorporation. The Commission has to name a single successor which will act as the successor, much like the executor of an estate.

Mr. Spiliotis stated that ultimately if the disincorporation was approved by the Commission, the Board of Supervisors was required to set the proposal for election. A simple majority of the voters will determine the outcome of the disincorporation. The process itself, from the time the proposal is submitted to when it actually comes to the voters, can take approximately nine months to well over a year depending on a number of circumstances.

If the disincorporation was ultimately confirmed by the voters at the election, the County is required to prepare a financial statement indicating any of the city's debts, the city's assets and the balance in the city's treasury. On the effective date, the successor agency was in charge of winding up the affairs of the disincorporated city. All the city's revenues and assets will go into that fund and any of its obligations will be paid out of that special fund. Mr. Spiliotis said that the intent was that the successor agency will not use its general revenues to pay off any of the outstanding obligations of the disincorporated city.

Mr. Spiliotis acknowledged that there was a problem with the current statutes, which pre-dates Prop 13 and Prop 218. Currently, the statute states that if there is not enough money to pay the indebtedness that was incurred by the former city then the Board of Supervisors simply will levy a tax in the area. The Commission could condition the approval of disincorporation upon voter passage of a tax measure in an amount sufficient to pay those obligations. If the measure failed, then disincorporation would not occur and it would be up to the City Council to continue running the city in whatever way they could.

Commissioner Henderson stated that most of the time when a city files for bankruptcy, it was for the purpose of getting rid of the debt they could not afford to cover. Commissioner Henderson said she was trying to figure out why a community would approve a tax measure to cover the debt incurred by a city council that was somewhat derelict in incurring debt that they should not have. Commissioner Henderson commented that this was a very chaotic process. Mr. Spiliotis said that there maybe cases or circumstances where it would be more appropriate to disincorporate and there would be other instances when pursuing bankruptcy was a better avenue.

Legal Counsel Pam Walls stated that sometimes there could be a catastrophic judgment in a lawsuit that would necessitate the inability to make payments or obligations and that could result in bankruptcy. Ms. Walls stated that the issue that could be ongoing was the inability to get the VLF share payments preventing a city from continuing to operate and provide services at the existing level.

Commissioner Henderson asked if anyone was working on cleaning the statutory language that references Prop 218. Mr. Spiliotis stated that it had been discussed but at this time it was not a high priority.

Mr. Spiliotis stated that if there were funds remaining after all the obligations have been paid off, the requirement of the Board of Supervisors was to transfer the remaining assets to the school districts, community college districts or special districts that existed within the boundaries of the former city. He said that the focus had primarily been on the recent incorporated cities and the problems with the vehicle license fee revenue.

Mr. Spiliotis said that it was possible that throughout the state, we will see other more established cities pursuing dissolution. Mr. Spiliotis said that dissolution of a new city certainly was not a simple process but disincorporation of an older more established city would be a much more complex process.

Mr. Spiliotis stated that he mentioned briefly in the staff report the possibility of consolidating two cities. He said that this would be consistent with Commission policy. Mr. Spiliotis stated that anyone who was pursuing disincorporation should present to the Commission the reasons the option of consolidation was ruled out. Mr. Spiliotis said that the Commission did not have any ability to require people to look at consolidation and the Commission could not initiate consolidation either. Mr. Spiliotis stated that the disincorporation process was not to be taken lightly. He said that the process required a large commitment of resources not only from the city but also from the successor.

Mr. Spiliotis stated that it was staff's position that disincorporation should be considered the avenue of last resort and should only be looked at when all the other reasonable alternatives have been considered. Mr. Spiliotis said that the Commission did not have any policies or procedures in place that specifically address disincorporation. Mr. Spiliotis stated that if staff was presented with a disincorporation proposal, staff will proceed as stated in his presentation. Mr. Spiliotis stated that if the Commission desired specific policies to address a disincorporation proposal it should direct staff to work on said policies. Mr. Spiliotis noted that he had included in the staff report materials from the CALAFCO Disincorporation workshop for their information.

Commissioner Henderson stated that at this time it might not be cost effective to work on said policies. Commissioner Henderson commented that if an application was submitted for disincorporation perhaps at that time a policy could be set in place.

#### **8. DESIGNATION OF DISADVANTAGED UNINCORPORATED COMMUNITIES (DUCs) WITHIN WESTERN RIVERSIDE COUNTY.**

Chair Williams informed the Commission that staff had prepared a fly over presentation from Google Earth for the Commission if they so desired to view said presentation.

Mr. Spiliotis stated that this item had been on the agenda several times whereby the entire concept and requirement for identification and analysis of the DUCs was discussed. Mr. Spiliotis stated that at the last meeting staff identified the DUCs within the spheres of influence of the Coachella Valley and Palo Verde Valley. Mr. Spiliotis said that staff had presented a brief fly over as an example to show the process and the methodology that was employed to identify those DUCs. Mr. Spiliotis stated that if the Commission had any questions regarding the DUCs identified for the Western County, staff was prepared to present the fly over. He said that there were a few instances where staff identified DUCs just outside of the spheres of influence of the cities. He said that in the process of going through the

analysis of the block groups, the spheres of influence lines were straddled and since staff was working in that area; staff went ahead and identified the DUCs that were just outside of the spheres of influence of those cities.

Moved (Henderson) seconded (Tomanelli) to confirm the Disadvantaged Unincorporated Communities (DUCs) within the Western County as presented by staff.

6/1 (Jeffries voted No)

Commissioner voted no because the law was very poorly written.

#### **9. FISCAL YEAR 2012-13 MID-YEAR BUDGET STATUS REPORT.**

Mr. Spiliotis stated that this fiscal year staff had instituted several cost-saving measures that were approved by the Commission last year. Mr. Spiliotis commented that these measures had a positive impact on the budget. Mr. Spiliotis stated that staff had continued to participate in furloughs this fiscal year. Mr. Spiliotis stated that staff had contracted out for IT Services and had entered into a new copier lease that saved quite a bit of money. Mr. Spiliotis stated that at the mid-point of the fiscal year, operating expenses were about 44% of budget. Mr. Spiliotis stated that the estimated year-end was projected to come in at about 98% of budget for operating expenditures. Mr. Spiliotis stated that the fee revenue currently was about 52.5% and were conservatively projecting that staff will end up at about 8% below what was budgeted. Mr. Spiliotis stated that the total revenues were expected to be about 1% below budget. Mr. Spiliotis stated that the end result was that staff was looking at carrying over about \$25,000 into next fiscal year. Mr. Spiliotis stated that staff was currently working with the Administrative Review Committee in developing next year's budget and any significant changes will be reported to the Committee.

Moved (Henderson) seconded (Wright) to receive and file the Mid-Year Budget Status Report as presented by staff.

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#### **10. COUNTY MANAGEMENT RESOLUTION CHANGES.**

Mr. Spiliotis stated that staff positions fell under the County Management Resolution for unrepresented employees. Mr. Spiliotis stated that when the Board of Supervisors took action on anything that would affect those positions such as COLAs, staff reports those changes to the Commission. Mr. Spiliotis stated that those changes were reflected on the staff report and will be incorporated into the FY 13-14 budget.

##### **10.1 DELEGATE COMMISSION AUTHORITY TO THE CHAIR FOR THE EXECUTION OF A NEW OFFICE LEASE.**

Mr. Spiliotis asked the Commission to delegate authority to the Chair to execute a new or amended office lease. Mr. Spiliotis stated that at this point it looked like staff might be able to stay in the same building at a very favorable rate and staff was asking for that authority so that staff can move early and start saving money before the current lease expired.

Moved (Wright) seconded (Tomanelli) to delegate authority to the Chair to execute a new office lease and direct staff to report the details of the lease to the full Commission at its next available meeting.  
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**11. REPORT ON PROTEST PROCEEDINGS (Oral Report)**

- a. LAFCO 2007-31-4-Reorganization to Include Annexation 86 to the City of Indio (Citrus Ranch) and Concurrent Detachment from the Riverside County Waste Resources Management District.

Mr. Spiliotis stated that the proposal was approved by the Commission last summer. Mr. Spiliotis stated that the protest hearing was conducted and since that time, the proposal had been recorded.

- b. LAFCO 2012-12-4-Reorganization to Include Annexation to the City of Rancho Mirage (I-10-Commercial) and the Rancho Mirage Community Services District and Concurrent Detachment from the Riverside County Waste Resources Management District.

Mr. Spiliotis stated that this proposal was recently approved by the Commission and the protest hearing was set for January 29, 2013.

**12. MISCELLANEOUS REPORTS.**

There were no miscellaneous reports.

**13. COMMISSIONER COMMENTS/FUTURE AGENDA ITEMS.**

There were no Commission comments.

**14. ADJOURNMENT.**

The meeting was adjourned to March 28, 2013 at 10:21 a.m.

Respectfully submitted,

George J. Spiliotis  
Executive Officer