

# Lake Local Agency Formation Commission

## Regular Meeting Agenda

January 21, 2015 -- 9:30 AM

City of Clearlake – City Council Chambers

14050 Olympic Dr. Clearlake, California

Website: [www.lakelafco.org](http://www.lakelafco.org)

*“Lake LAFCo oversees orderly development and protects natural resources and agricultural lands”*

### Commissioners

Ed. Robey, (Public Member)  
Frank Gillespie (Special District Member)  
Denise Loustalot , (City Member)  
Stacey Mattina, Chair (City Member)  
Gerry Mills, (Special Dist. Member)

### Alternates

Jeff Smith (County Alternate)  
Martin Scheel (City Alternate)  
Jim Abell, (Spec. District Alternate)  
Suzanne Lyons (Public Alternate)

Antoney Farrington (County Member)  
Jim Comstock , Vice Chair (County Member)

### Staff

John Benoit, Executive Officer  
P. Scott Browne, Legal Counsel  
Vacant, Clerk to the Commission

1. **Call to Order – Roll Call**
2. **Approval of Minutes** -- December 18, 2014 minutes.
3. **Public Comment**

This is the time for the public to address the Commission on any matter not on the agenda. Testimony related to an item on the agenda should be presented at the time that item is considered.

4. **Consent Agenda**

*Action: Review and authorize payment of expenses for December 2014*

**Public Hearing:**

5. **Preliminary Draft of the City of Clearlake Service Review and Sphere of Influence**
  - a. *An overview of the Process leading to adoption of the MSR and SOI for the City of Clearlake. Copies of the preliminary draft City of Clearlake Service Review and Sphere of Influence will be distributed at the for this discussion.*
6. **Draft outline for the Watershed Protection District Sphere of Influence (SOI) .**
  - a. *Review preliminary draft outline (to be handed out at the LAFCo meeting) for the WPD SOI to be included as part of the 2015-2016 work program for Lake LAFCo.*
7. **Executive Officer' s report**
  - a. *Fire Service Review*
  - b. *Policy Update*
  - c. *Public Member Recruitment*
  - d. *City Selection Committee*
  - e. *700 forms due April 1<sup>st</sup>, 2015*
  - f. *Meeting Schedule for Calendar Year 2015*
8. **Commissioner Reports**

This item is placed on the agenda for Commissioners to discuss items and issues of concern to their constituency, LAFCO, and legislative matters.

9. **Correspondence**
10. **Adjourn to LAFCO's next regular meeting: Wednesday March 18<sup>th</sup> 2015 in Lakeport**

*The Commission may take action upon any item listed on the agenda. Unless otherwise noted, items may be taken up at any time during the meeting.*



**Any member appointed on behalf of local government shall represent the interests of the public as a whole and not solely the interest of the appointing authority Government Code Section 56325.1**

Public Comment

Members of the public may address the Commission on items not appearing on the agenda, as well as any item that does appear on the agenda, subject to the following restrictions:

- Items not appearing on the agenda must be of interest to the public and within the Commission's subject matter jurisdiction.
- No action shall be taken on items not appearing on the agenda unless otherwise authorized by Government Code Section 54954.2 (known as the Brown Act, or California Open Meeting Law).
- The total amount of time allotted for receiving public comment may be limited to 15 minutes.
- Any individual's testimony may be limited to 5 minutes. Time to address the Commission will be allocated on the basis of the number of requests received.

Public Hearings

Members of the public may address the Commission on any item appearing on the agenda as a Public Hearing. The Commission may limit any person's input to 5 minutes. Written statements may be submitted in lieu of or to supplement oral statements made during a public hearing.

Agenda Materials

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda are available for review for public inspection at the City of Lakeport and City of Clearlake Community Development Departments office located at City Hall in Lakeport and Clearlake [such documents are also available on the Lake LAFCO website as noted below to the extent practicable and subject to staff's ability to post the documents prior to the meeting].

Accessibility

An interpreter for the hearing-impaired may be made available upon request to the Executive Officer 72 hours before a meeting.

The location of this meeting is wheelchair-accessible.

Disclosure & Disqualification Requirements

Any person or group of persons acting in concert who directly or indirectly contribute \$1,000 or more in support of or in opposition to a change of organization or reorganization that has been submitted to Lake LAFCO must comply with the disclosure requirements of the Political Reform Act of 1974 applicable to local initiative measures to be submitted to the electorate. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals; they may be reviewed at Government Code §§56700.1 and 81000 *et seq.* Additional information about the requirements pertaining to local initiative measures to be presented to the electorate can be obtained by calling the Fair Political Practices Commission at (916) 322-5660.

A LAFCO Commissioner must disqualify herself or himself from voting on an application involving an "entitlement for use" (such as an annexation or sphere amendment) if, within the last twelve months, the Commissioner has received \$250 or more in campaign contributions from the applicant, any financially interested person who actively supports or opposes the application, or an agency (such as an attorney, engineer, or planning consultant) representing the applicant or an interested party. The law (Government Code Section 84308) also requires any applicant or other participant in a LAFCO proceeding to disclose the contribution amount and name of the recipient Commissioner on the official record of the proceeding.

Contact LAFCO Staff LAFCO staff may be contacted at (707) 592-7528 or by mail at Lake LAFCO c/o John Benoit, Executive Officer P.O. Box 2694, Granite Bay, CA 95746 or by email at [johnbenoit@surewest.net](mailto:johnbenoit@surewest.net) or by fax at (916) 797-7631. Agenda items are located on the Lake LAFCO Webpage at [www.lakelafco.org](http://www.lakelafco.org)

LAKE LOCAL AGENCY FORMATION COMMISSION  
MINUTES OF SPECIAL MEETING  
December 18, 2014

PRESENT:

Ed Robey, Public Member  
Frank Gillespie, Special Districts  
Denise Rushing, County  
Stacey Mattina, Chair, City  
Denise Loustalot, City  
Jim Comstock, Vice-Chair County Member  
Gerry Mills, Special Districts Member

ALSO PRESENT:

Suzanne Lyons, Public Alternate  
Jeff Smith, County Alternate  
Martin Scheel, City Member Alternate  
John Benoit, Executive Officer  
Scott Browne, Legal Counsel

ABSENT: Jim Abell, Special Districts Alternate

**1. Call to Order/Roll Call**

The meeting was called to order at 2:15 p.m. There was a quorum present.

**2. Approval of Minutes – November 19, 2014**

Commissioner G. Mills made the motion to approve the November 19, 2014 minutes, second by Commissioner D. Loustalot; motion carried unanimously.

**3. Public Comment – No public comment received.**

**4. Consent Agenda**

Commissioner Ed Robey moved to authorize payment of the November 2014 expenses in the amount of \$8,755.49, second by Commissioner Jim Comstock; motion carried unanimously.

**5. Continued Public Hearing regarding the Service Review for the Watershed Protection District.**

Executive Officer John Benoit spoke of the Draft Service Review given to the Commissioners at the November 19<sup>th</sup> 2014 meeting and that he had emailed a revised copy of the Service Review including the County's comments, which were given to LAFCo staff on December 11<sup>th</sup>, 2014, as requested by the Commission. Mr. Benoit explained the annotations in the draft. Two days prior to the meeting the Commissioners were emailed a copy of the Service Review including those county suggestions that were accepted or rejected by staff. For the most part, the County's comments were accepted with a few exceptions. The bold text in the latest draft show Staff's final comments on the Public Review Draft Service Review dated December 11<sup>th</sup>, 2014. This draft includes the County's Comments, the MSR Committee's comments and Staff comments, which

are in bold type and recommended the public hearing be opened up and have an interactive discussion on the pages with the bold comments and explained the Resolution and discussed the Sphere of Influence (SOI) and the issue of the authority of LAFCo regarding the Sphere of Influence. The SOI update Work Program will be determined in the Commission's FY 2015-2016 Annual Work Plan, in March, 2015.

Commissioner Mattina opened the public hearing at 2:23 pm and asked if the MSR Committee had any comments. Mr. Benoit mentioned the Committee prepared a report that was emailed to the Commission, which is posted at the LAFCo Webpage with the other documents and stated having taken to account the Committee's report in preparing the (bold) comments on the Public Hearing draft.

Betsy Cawn brought up a major issue on Page 8 (3<sup>rd</sup> paragraph on the 2<sup>nd</sup> revision). The most important concern is the County's comment that because the permit is "more specific and leaves little or no room for interpretation of implementation measures, there has been no need for the Advisory Council to meet." In the documentation provided to the Commission (posted on the LAFCo website), we [explained] the original Stormwater Agreement, which is a Joint Powers Agreement between the Cities and the County, and also bylaws of the Advisory Council that were formed by that Agreement. In the report that was prepared for the Commission, there are eight substantiating claims made in support of our objection to that particular response. We do not believe that the Council can be just ignored. It is an agreement between three legislative bodies to comply with a state permit, and it has, at least, ministerial authority to implement the program in all three jurisdictions.

Reading the County's comment led Betsy to her conclusion that the Administration does not understand the permit, which is understandable from the lack of Administrative representatives in Council meetings. Such lack of participation may have contributed to the existing gap in communications.

Betsy distributed copies of the monthly newsletter she has produced for the Clean Water Program as the appointed representative (volunteer) providing Public Education & Outreach and Public Involvement & Participation legal requirements of the permit. Betsy explained that she engages in a monthly telephone conference call with over 190 municipalities statewide, all of them struggling with how to implement the stormwater permit compliance requirements given that all of the rural municipalities are kind of on "hold" waiting for decisions of the regulatory agencies to move forward. However, there are tasks on the permit requirement for Year One, which has already elapsed, all of the [municipal] staffs are meeting previous permit requirements. But there are really new and different requirements in the [current] permit and the Cities and County have not yet gotten together with your staffs to address the needs for the coming year. Every part of that permit has to do with what we need to do to protect the watershed, restore the beneficial uses of the lake, and meet that TMDL issued in 2006. She asked the Commission to consider the replacement of the paragraph (County's comment) with the language provided by the Executive Director.

Following discussion of which paragraph was being referred to in the proposed new language offered by Mr. Benoit, he explained that "one of the points of confusion is that

it's a moving target, and all of these pieces are not reconciled, and as a result nobody knows what's going on".

Commissioner Lyons commented that if nobody knows what's going on, that's one really important reason to have people get together and meet. If you don't have a committee that meets and discusses it, the information doesn't get out to everybody and it certainly doesn't get out to the public. That is one of the programs that is required, Mr. Benoit agreed and stated it is a requirement for the IRWM also.

Commissioner Smith arrived at 2:29 pm. Commissioner Smith requested a consultation with Attorney Scott Browne, which ensued during continuation of the MSR review.

Commissioner Rushing had a question regarding the primary phrase Betsy objected to, is that, "due to this change there has not been a need -- is that the [issue]? Betsy responded that this is representative of a more profound lack of understanding of the program itself; it says "the previous permit required the Advisory Council's review." In reality, the previous permit required that the lead agency, responsible agencies and the three co-permittees file a notice of intent to comply; how they comply is up to the agencies. The people at the Central Valley RWQCB only know that we have told them we are going to comply and here's how because we have an Advisory Council, a JPA, and Bylaws, and we are going to take the multi-jurisdictional process approach to comply with the permit.

[Mike Dunlap requested a Point of Order and stated there appears to be a conversation between Jeff Smith and Scott Browne was distracting and requested to hear the conversation Jeff Smith is having with Scott Browne (Attorney) if it were a question of Brown Act compliance. Scott Browne responded regarding having a newly elected member of the BOS present at this meeting is fine provided he represents himself as a private citizen and does not attempt to meet and reach a collective decision with other members of the Board here. It was clarified that the Supervisor elect is subject to the Brown Act also.]

Commissioner Lyons asked, regardless of whether [the permit] requires it or not, the Joint Powers Agreement requires it, doesn't it? The Joint Powers Agreement that the Cities and the County made require there to be meetings, and you can't just have one of the Joint Powers members saying we don't have to do this anymore. The important thing that everybody needs to know is there was an agreement made that is not this agreement, it's the Joint Powers Agreement.

Scott De Leon, the Water Resources Director, asked to approach and asked the question regarding on page 7 where it states "there has not been a need for Advisory Council meetings" and it is being suggested that we are proposing that we get rid of or stop the Advisory Council. The inference is taken that the members do not know what they are doing and so we need to meet to figure out what we're doing and that is not accurate, either. The bottom line is that the state has a permit that they haven't defined and it's a moving target. We heard those terms used. We're still waiting on something from the state to give us some clear direction on how to proceed. Until we receive that information we haven't seen the need to have the Advisory Council meetings. That's

what the document says. It does not read in the document anywhere that there is no need for the advisory council. With respect to the proposed language Scott DeLeon has no objection. He just wanted to be clear that it's not the staff or [members] that don't know what we're doing, it's that we're looking for some direction and we haven't felt the need to have meetings.

Commissioner Robey wanted to bring up a point regarding the second paragraph on page 8, at the bottom of the paragraph that starts with the word "however," it says: "The District's scope of work includes implementation of the program management capacity, under the direction of the multi-jurisdictional Advisory Council." Commissioner Robey does not believe that Advisory Councils give direction; he thinks Advisory Councils make "recommendations." Betsy Cawn explained that this is a subject that came up back in July, when Supervisor Rushing said that County Counsel would have to address this because staff disagreed, but we haven't seen anything from County Counsel. The question is does the Council direct staff? She recommends looking at the Stormwater Agreement and the bylaws, because it allows the Council to meet and make decisions. The staff then goes ahead and implements these decisions to implement the program on a continuous basis. She does not disagree with anything Scott DeLeon previously stated.

Mr. Benoit requested that Betsy find the section of the Joint Powers Agreement relevant to the discussion, and while she was looking that up, Commissioner Rushing asked, "who does the Advisory Council advise? Is it advising the Board of the Watershed Protection District, is it advising the JPA, who is it advising?"

Attorney Scott Browne said that would require looking at the precise language of the Joint Powers Agreement. Mike Dunlap does not disagree with what Scott [DeLeon] said, necessarily, but states that part of what the Council is supposed to do in meetings and having a record is have access for the public. If the Council meets to say that the state has not clearly delineated to us what we have to do to be in compliance with the permit, that is a method for the two Cities and the County to convey to the public in that meeting that the state is not doing what it needs to do, and yet it is holding us responsible. Members of the public in receipt of that information can then act independently to ask the state why they aren't doing their job. We are not trying to imply that the County or Cities aren't doing their job except to say that those meetings haven't taken place, and they have to take place in order to create the record.

Commissioner Lyons explained that she used to be the Public Education & Outreach committee [workgroup] Chair when the City of Lakeport did a cleanup and found a bunch of garbage caught underneath a bridge. The property owner did not want to grant access to the property so the city could clean up the debris. Had there been regular Advisory Committee meetings the City would have found out the WPD had the ability and jurisdiction to go onto the property to do the clean up. The City needed to know that information, and we didn't.

Betsy provided the requested Stormwater Agreement citation: On page 3, it says each party shall be responsible for implementing the Stormwater Management Plan within their jurisdiction as recommended by the Advisory Council and as adopted by the Parties. The bylaws say that there will be an annual event where the legislative bodies that are Party to the Agreement will go to their legislative bodies and provide them an update of what they need to be doing. In her experience (during 5 years of involvement) and reviewing the minutes available online, what occurs isn't illegal. The legislative bodies met in 2002 and agreed to have this agreement made so that their Advisory Council could implement the program. It by default delegated authority to

the Council, through this Agreement, which more explicitly says "The Advisory Council is hereby created to make recommendations for overall program management and coordination, strategic planning, review, budget considerations, conflict resolution with respect to the NPDES permit on behalf of all parties for the program. Advisory Council recommendations adopted by the County Board of Supervisors and the Cities Councils shall become binding upon all Parties."

Commissioner Rushing commented that cited language confirms her assumption that the Advisory Council advises the entities that have come together, it comes up with recommendations, and it goes back to the jurisdictions (Boards or whatever) to vote on and implement. Commissioner Comstock observed that the issue is that Advisory Councils do not direct, they advise. The Commissioners agreed that the word (on Page 8, in the first full paragraph, the word "direction" shall be replaced with the word "recommendations."

Betsy Cawn suggested adding a recommendation (in the MSR) that encourages the Council members to go back to their legislative bodies as created in their bylaws, because that step does not happen.

Commissioner Rushing commented that if the MSR is saying that it's recommending that we look at the JPA to ensure that all the entities are still in agreement with the JPA and that all those purposes are being fulfilled, I don't think we need to duplicate the JPA in here but the MSR should reference to the JPA and make sure the Parties are still in agreement..

Commissioner Lyons asked how many people read the JPA? Commissioner Rushing responded that "You're making a recommendation because you think it hasn't been read." She thinks it needs to be read if it hasn't been. Commissioner Lyons opined that what she thinks that the public is saying here is the information is not being freely given, and that seems to be the problem and what ends up happening is you end up not getting your public voting to give you the money to manage this watershed and the lake because they don't know what's going on, they're suspicious, and they don't understand. She sat on the (Lakeport) City Council and does not recall anybody making that kind of report. It would be good if we said something here about the fact that there is reporting that is supposed to happen annually.

Commissioner Rushing asks if Commissioner Lyons is suggesting that the Advisory Council produce the reports to the various jurisdictions. Betsy adds, "as required by their bylaws."

Attorney Scott Browne stated "It's actually fairly clear in the JPA itself. They have significant advisory responsibilities that are mandatory advisory responsibilities. Which means that this committee [Advisory Council] has to act, but its actions are in the form of recommendations.

Betsy explained that the bylaws say that the Council will work with the jurisdictional bodies to develop budgeting to implement the program, which also has not been done. The program has no budget as a consequence. Mike Dunlap commented that the task of the Commission is to adopt the MSR today, and if there is an issue that the Advisory Council is not doing what it is supposed to do, all the Commission has to do is state that. It's not the Commission's job to create the language to fix that problem today. That needs to go to the Board of Directors of the Watershed Protection District, that's the only thing you need to say.

The Commission agreed to change the word "direction" to "recommendations" in the last sentence of the first paragraph on Page 8 of the draft. ~~John~~ Mr. Benoit stated that the last comment (from Mike Dunlap) should be included in the findings.

Joan Moss asked if there were copies of the Service Review. Benoit stated copies are in the



public review binder (a member of the public provided his to Ms. Moss). She also commented that there are no available print copies of the Clean Water Program Annual Report (on display at the LC Department of Water Resources, and hopes that there are copies available at the public libraries. She also and requested Betsy be given funds to print copies. Betsy clarified the Department of Water Resources pays for the printing.

Benoit discussed the language at the bottom of page 13 removing the following language:

“One alternative would be to have separately identified, publically noticed meetings for District business. However, the Board has only met to consider District items, or items closely related to District business, only 13 times during calendar year 2014. Based on the limited number of business items considered, the efficiency and cost effectiveness of separate meetings does not appear feasible at this time. At such a time where a significant increase in District related items are brought before the Board, consideration should be given to separate public meetings.”

Benoit discussed Page 17 and the addition of the following language:

**“Nevertheless, as a separate legal entity, clarity as to the source or destination of operating revenues and expenses along with an identification of the district’s assets and liabilities, costs of specific programs and services and a statement of revenue requirements to meet specific permit requirements could advance the public’s understanding of district operations.”**

Matt Perry, County Administrative Officer, pointed out three minor corrections on the same page (1) a stray mark should be deleted; (2) in the phrase “published separately from the CAFR not” needs the word “would” inserted between “CAFR” and “not”; (3) at the bottom of that page, before the footnote, the title of Budget Unit 8109 is “Watershed Protection District” (it’s no longer the Flood Control & Water Conservation District).

Mr. Perry does not have any problems with the proposed language change and believes we [County Administration] have made great strides in providing information to the public and expressed concerns regarding the cost of an audit.

Commissioner Lyons requested clarification of the language. The paragraph was reread for clarification purposes.

Joan Moss would like to know where the money comes from and what it goes to for the WPD. Wanted to know how much of the Watershed Protection District’s funds go into each of the [program] categories. Matt explained on page 22 there is a list of revenues and operating expenses. Suzanne requested clarification of Budget Unit 8107. Matt clarified by reading the paragraph that appears just above the chart on Page 22.

Mr. Benoit commented on page 21 where the “Watershed Protection District” is referred to as a “program,” not a division [of the Department of Water Resources]. For the sake of discussion he is referring to all of the separate organizational parties (County, District, Department) as “entities.” And deleted the word “has” per Martin Scheel’s request.

Benoit referred to section 3.6 on page 23 and clarified changes referring to the LCWPD as a “dependent” special district in the first paragraph and in the third paragraph

explained that the word “District’s” was changed to “County’s” regarding its website.

Mr. Benoit discussed the findings, beginning on page 30. Finding 3-2, Page 31, has a note as follows:

*(Note: This determination supports the District’s need to perform its management duties in a similar fashion as should other districts (both dependent and independent), as well as to provide credibility for potential grant funding agencies)*

There were no comments on this item.

On page 32, item 3-11, Mr. Benoit inserted additional language (indicated in bold face) as follows:

The Shoreline Protection Ordinance was last revised in 2003, at the time of the first Stormwater Management Permit issuance, and requires updating along with *other or* all authorities respective to implementation of the **permit (note: Permit WQO 2013-0001 has specific update standards)**. A Habitat Conservation Plan in accordance with related ordinances and the approved Wetlands Policy should be considered.

On page 33, Determination 4-4 there is the question of whether the Watershed Protection District should have its own audit. We all know that if they have their own audit, things would be clearer but right now it’s not legally required, so Mr. Benoit added “at this time” to the statement there is no independent audit requirement.

Mr. Perry commented that he thinks what the difference is whether it is published under a separate cover. There would be no additional information; he talked with (County Auditor-Controller) Cathy Saderlund. There would be no additional information, it’s just that the financial statements would be printed under a separate cover. That would cost a minimum of \$5,000. We could easily pull out that section of the combined financial statements, but the separate publication would not include the formalities of the CPA’s analysis and cover letter, etc.

Betsy Cawn commented on the existence of a “language barrier” present in the discussion of audit services: The MSR Committee understands that the table produced in the Comprehensive Annual Financial Report is adequate for the budget management system of the County Administration. It does not explain the assets and liabilities, regulatory requirements and the costs of delivering those programs, it does not include a master service plan, and it does not include a long-term budget that identifies revenues set aside for future program requirements.

On page 34, Mr. Benoit discussed changing determination 6-3 regarding a forensic audit, as follows:

*Without a specific fiscal analysis, forensic audit and cost benefit study, Currently the efficiencies achieved though the District’s organization as a dependent district administered by the Department of Water Resources **may or may not** provide ~~significant~~ cost savings which are critical to responsible utilization of District resources, **albeit likely**. Another governance structure option would be the transformation of LCWPD into an independent special district with a governing body separate from the Board of Supervisors. This option has several advantages and*

disadvantages *yet remain unknown in the absence of a specific fiscal analysis, forensic audit and cost benefit study.* Further study of this *and other* options could be considered to determine if it would be cost effective and beneficial to the programs and services offered as the District's responsibilities continue to expand. *Alternatively, prior to any new study, forensic audit or analysis it is recommended the district clarify its abilities to generate additional revenues and develop financial processes, which are clear to the public and its decision makers.*

Joan Moss stated on page 23 it is stated "the full extent of the District's services is unclear to the general public" and "the explanation of the purpose of each program is listed in the following table." She suggested it would be good to know at the budget hearings how much grant funding we (the county) received for various projects and what each department completed and what did it cost. And she agreed with the conclusion in the finding and believed the state or federal government would want to know.

Jim Steele, Supervisor Elect disclosed he has not discussed this with any of the supervisors and is speaking as an individual. Having done watershed protection work all over the state in the past he noticed a missing component. Mr. Steele asked "Is this the right place to put those missing components in or are you going to have an additional review of what the Watershed Protection District does?" He further stated that there is a circular reasoning that goes on here, and that is that everything you've looked at is everything that the District *should* be doing, and so you're word-smithing the document as to what it is, rather than perhaps what it should be doing. One of those things for example is to protect the soils from farming and running off, for flooding, and we know what those protections should be. When looked at from the standpoint of the lake, you're not protecting the watershed anymore for the purposes of the lake, you're protecting the lake from the watershed. Watershed management for the purposes of runoff is for the purpose of the receiving water, so you have to have receiving water thresholds. He asks if there is going to be an additional place where the criteria can be added. He is trying to establish the importance of having a threshold for the lake, in this particular section.

Commissioner Rushing suggested this issue should be addressed by the Advisory Committee. Jim asked can the MSR state there is a missing component in your service, to develop the information so that the Advisory Committee [Council] can function?

Commissioner Robey noted that on page 27, under watershed planning, that states "The Clearlake Integrated Watershed Management Plan is anticipated to be updated in 2014," and that would be the place for this to be considered. Jim discussed the need for thresholds of impact, so that you know how much the stormwater runoff is affecting the lake, because you haven't established what is a concern.

On page 34, Mr. Benoit discussed changing determination 6-4, as follows:

The District may benefit from a local enabling ordinance that defines LCWPD's policies, services, resources, management structure and statutory regulations under its authority. *In addition, a local enabling ordinance should identify implementation measures ensuring clarification of the District's obligations to meet local, state and federal standards and regulations.* (An example of such an ordinance was enacted by the County of Ventura in 2012).

On page 35, Mr. Benoit discussed changing determination 6-5, as follows:

*As a component of the District's Annual budget, the District should consider creating and continuously maintaining a work program component that clarifies its obligations for state and federal compliance requirements. District priorities are currently a continuation of previously established workloads for the Flood Control & Water Conservation District.*

On page 35, Mr. Benoit discussed changing determination 6-6, as follows:

*Over the years several Committees, Subcommittees and Advisory Boards have been created. To enhance public involvement, under its direction, the Board of Directors could consider centralizing District programs under the umbrella of an advisory council or body and be made continuously consistent with current permit requirements and district operations.*

On page 35, Mr. Benoit explained the addition of a new determination (6.7) as Scott will propose. Discussion occurs as follows:

“It is recommended that the District staff regularly convene and facilitate meetings of the JPA Advisory Council so that it may perform its duties as required by the Joint Powers Agreement.” The word facilitate was discussed because of concerns that the facilitation should be conducted by a non-stakeholder agency. The recommendation is that the Advisory Council should consider meeting more frequently and provide the annual update to the Board of Directors, as required by the JPA.

Betsy Cawn commented that the MSR is advice to the Board of Directors of the Watershed Protection District and the City Councils. The Board of Directors would direct the Watershed Protection District staff, and the Board of Supervisors and the City Councils would direct the Clean Water Program Advisory Council voting members and staffs to do what you (Commissioner Rushing) just said. This doesn't go to the Advisory Council, this goes to the legislative bodies.

Attorney Scott Browne stated that the Advisory Council itself has its own responsibilities to meet, and it is much an error of the Chair in not convening meetings as it is for the staff. Commissioner Lyons suggested that that is the reason why someone who is not a stakeholder is responsible for this, so you don't have one of the members the Council hold everybody else up by not convening meetings or by running the meeting in a way that is to their advantage rather than everybody's advantage.

Attorney Scott Browne stated that “everybody in the County is a ‘stakeholder.’” It's a matter of not having a specific agency member since a member of the public would represent everyone not just a specific agency. The JPA very specifically says that they have to meet at least once a year and give advice, that's very explicit in the Joint Powers Agreement. So, again, the committee itself [Advisory Council] should review its bylaws to consider how it's functioning or not functioning. It has responsibilities, it's not just the agencies.

Mike Dunlap suggested to focus on the critical mission of the Commission here is to adopt a Service Review and send it to the Board of Directors of the Watershed Protection District. They are one of the entities that make up the Council.

Attorney Browne suggested that part of the MSR's determinations, one of our duties is to look at governance, and this is a governance issue. Scott reiterated the parties of the JPA are not performing their duties.

Joan Moss had a comment on pages 39 and 40 (in the appendix) regarding the former Clear Lake Advisory Committee and the Resource Management Committee. According to this document it's a current permit requirement for the Aquatic Plant Management Plan. Commissioner Rushing stated that the Board in its January meeting is appointing members of the RMC, and in its meetings this year has agreed to re-form the RMC.

Commissioner Mattina requested Attorney Scott Browne to draft the new 6-7 language.

Benoit explained setting the Sphere of Influence as the endgame to doing a Service Review and briefly discussed alternatives and discussed preparing an outline defining what LAFCo is going to include in the SOI, taking into account the specific legislation and what it means in terms of LAFCO determination of the sphere of influence. As the next step we need to put that into our work program for the next year's budget and determine how we're going to accomplish this. An outline needs to be developed, we may need to attend a JPA meeting, we may need to talk to all the NPDES permittees, to determine what we're going to do and then set the budget.

Scott DeLeon recommended various corrections to Budget Unit numbers beginning on pages 24, 26, and 27. The Middle Creek Marsh Budget Unit should be 8109 (not 8108); Item 13 on page 26 the Budget Unit should be changed to 8109, and Item 14, Water Quality Monitoring Program, same change (to 8109); and on page 27, Items 17, 18, and 19, the Budget Units should also be 8109.

Commissioner Robey offered a two-part question re: the issue that Supervisor elect Steele said is a good idea as it focuses attention on the lake. Do we want to add a sentence or a recommendation? And, if there were enough interest in this recommendation, where would it be placed?

Commissioner Rushing agreed because the watershed is not all under the control of the County. Some is controlled by the Forest Service. Also, the County has undertaken many actions over the last decade to look at the whole watershed, including the grading ordinance and the Full Circle Project that might be included in a future service review. Commissioner Rushing referred to Supervisor-elect Steele's suggestion that protection of the watershed should include criteria for the lake being protected from those impacts of the watershed, and those criteria should include the monitoring performance data that would then be given to the committees they have something they can review as to the performance of the District.

Betsy commented that there are two difficulties with this are that under the CVWRCB TMDL stakeholder committee MOU between the federal, state and local agencies to meet the TMDL requirements you have that, and the Central Valley determination of the storm sewer system within which the storm water management program occurs. They have not come to a decision of what that boundary is. Those two different boundaries have to be reconciled in order for the Watershed Protection District us understand where it needs to

deliver services and where it does not.

Mr. Steele suggests there has to be some way of you suggesting this since this is their performance criteria, so how would you tell any group who is going to advise you since you have not given them any numbers. No direction can be given since there are no numbers to discuss. That is a whole weakness in this whole thing. Betsy reiterated that we have been collecting data for 20 years but nothing has been accomplished with it.

Jim Comstock suggested the upper reaches of Putah Creek are administered by the County of Napa, which is a similar situation. The problem being is Putah Creek has a lack of water not flooding.

Mike Dunlap agreed that South County has nothing to do with Clear Lake. This all has to be addressed by the WPD and should be directed to do so, and that your finding is that after two years of having a committee work for you, the Committee has not found the evidence anything has been done.

Suzanne referenced new finding 6-7, which addresses not just the lake, but also the entire County. Commissioner Rushing agreed that finding 6-7 would address this but stated that it is LAFCo's job to find out the boundaries of the District. The watershed does not include Lake Pillsbury, that goes into the Eel River watershed. There are 3 watersheds in Lake County and the district is currently the Lake County line. That is why the Sphere is so important.

Attorney Scott Browne proposed the following language for determination 6-7:

- 6-7) **To improve the governance and accountability of the District, the District Staff, Council members and Joint Powers Members are encouraged to comply with the Joint Powers Agreement and regularly convene meetings of the Advisory Council and provide adequate support to the Advisory Council so that it may perform its important advisory review and recommendation functions.**

The Commission agrees with this determination.

Jim Steele suggested you could modify that language with the following two points, which are the WPD is encouraged to include plans for monitoring that would be specific to the lake impacts and performance monitoring so that they could provide information to the Advisory Council.

Commissioner Mattina stated that the Commission would wait for this to be included at a later time, and asked for other public comments.

Mr. Benoit explained we will be delving into some of these issues during the SOI process.

Commissioner Mattina closed the public hearing at 3:44 pm and asked for a motion.

Commissioner Rushing thanked the Committee for their hard work and Commissioner Mattina called for a motion on the resolution. Commissioner Rushing stated she would

offer the resolution assuming the Commission has captured the amendments by consensus as we have gone along and formally offered the resolution (Resolution 2014-0002) with that in mind. (Commissioner Comstock stated a second to the motion is not required for a resolution offered).

Commissioner Mattina therefore asked for a Roll Call vote:

Robey – Yes  
Mills – Yes  
Gillespie – Yes  
Comstock – Yes  
Rushing - Yes  
Loustalot – Yes  
Mattina – Yes

Resolution 2014-0002 was adopted by a 7-0-0 vote.

Commissioner Robey asked if the Commission needs to take any action regarding the Committee or take a formal action to dissolve the committee or does it happen automatically? Commissioner Comstock noted that “that’s illegal.” Attorney Scott Browne advised that as an ad hoc committee for a specific purpose, and the Committee itself, under its own terms the Committee has ceased to function. Commissioner Robey stated “There you go, Mike, you’re a free man.”

Mr. Benoit added that he would like to reserve the right to utilize them in the future.

**6. Executive Officer’ s report**

1. RCD consolidation is on hold due to a grant matching issue between federal funds.
2. Still need a LAFCo Clerk.
3. Lakeport is circulating a draft EIR right now, on the General Plan, which addresses a lot of the comments on the Sphere update that was considered a year or so ago.
4. This is Commissioner Rushing’s last LAFCo meeting and we should all offer her congratulations.

**7. Commissioner Reports**

Suzanne asked about the WPD SOI being in the FY 2015-2016 work plan. Commissioner Comstock stated that was in the Resolution.

**8. Correspondence**

Other than Christmas cards there is nothing to report

- 9. Adjourn to LAFCO’s next regular meeting: Wednesday January 21, 2014 in Lakeport. (Note: the January 21<sup>st</sup>, 2015, meeting will be in Clearlake).**

Meeting adjourned at 3:50 PM

# Lake Local Agency Formation Commission

## CLAIMS

December 2014

<u>Date of Claim</u>	<u>Description</u>	<u>Amount</u>
Jan 1, 2015	Staff Services Dec 2014	\$ 4,799.00
Jan 1, 2015	Special Projects -Dec 2014	
Jan 1, 2015	City of Clearlake MSR/SOI	\$ 1,485.00
Jan 1, 2015	Special Projects -Dec 2014	
	WPD MSR	\$ 1,858.88
11.16-14 to 12.15.2014	Browne- Legal	\$ 1,750.00
Dec 18, 2014	Commissioner Stipend 12.18.14	\$ 600.00
TOTAL:		\$ 10,499.88

DATED: Jan 21, 2015

APPROVED: Jan 21, 2015

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Stacey Mattina, Chair or Jim Comstock Vice-Chair  
Lake Local Agency Formation Commission

Attest:

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John Benoit  
Executive Officer





