

Lake Local Agency Formation Commission

Regular Meeting Agenda

March 16, 2016 -- 9:30 AM

City of Lakeport – City Council Chambers

225 Park Street, Lakeport , California

Website: 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)
Joyce Overton (City Member)
Stacey Mattina, Chair (City Member)
Gerry Mills, (Special Dist. Member)
Anthony Farrington (County Member)
Jim Comstock , Vice Chair (County Member)

Commission Alternate Members

Jeff Smith (County Alternate)
Bruno Sabatier (City Alternate)
Suzanne Lyons (Public Alternate)

Staff

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

1. Call to Order – Roll Call

2. Approval of Minutes – January 20, 2016 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 January and February 2016

Public Hearings:

5. **Public Hearing regarding the Proposed Lafco Budget for Fiscal Year 2016-2017.**
 - a) *Receive Executive Officer's report, conduct public hearing and consider Resolution 2016-0005 adopting the LAFCO proposed budget for fiscal year 2016-2017*
6. **Public Hearing regarding the dissolution of the East Lake and West Lake Resource Conservation Districts and concurrent formation of the Lake County Resource Conservation District.**
 - a) *Receive Executive Officer's report, conduct public hearing and Consider Resolution 2016-0006 approving the dissolution of the East Lake and West Lake Resource Conservation Districts and concurrent formation of the Lake County Resource Conservation District to be coterminous with the Boundaries of Lake County.*

Other Items:

7. **Letter to the Calafco Board of Directors regarding City of Patterson v. Turlock Irrigation District ((2014) 227 Cal.App.4th 484.**

a. Receive report from Counsel and authorize the Chair to sign and mail the letter to the Calafco Board of Directors.

8. **Executive Officer's report**

Special District Member recruitment: Nominations Due April 1, 2016

700 forms are due to the County Clerk by April 1st, 2016

9. **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.

10. **Correspondence**

Resignation of Jim Abell as special district alternate member

11. **Closed Session**

<i>Subject: Performance Evaluation March 2015-March 2016 Title: LAFCO Executive Officer</i>

12. **Adjourn to LAFCO's next regular meeting: Wednesday May 18, 2016 in Clearlake**

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:

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 or by fax at (916) 797-7631. Agenda items are located on the Lake LAFCO Webpage at www.lakelafco.org

LAKE LOCAL FORMATION COMMISSION

MINUTES

JANUARY 20, 2016

REGULAR MEETING

Present:

Stacey Mattina, Chair
Jim Comstock, Vice-Chair
Ed Robey, Public Member
Frank Gillespie, Special District Member
Gerry Mills, Special District Member
Joyce Overton, City Member
Jeff Smith, County Alternate

Staff Present:

John Benoit, Executive Officer
P. Scott Browne, Legal Counsel
Kathleen Moran, Clerk

Absent: Anthony Farrington, County Member; Suzanne Lyons, Public Alternate;
Martin Scheel, City Alternate; Jim Abell Special District Alternate

1. Call to order/Roll Call

Chair Mattina called the meeting to order at 9:30 a.m. in the City of Clearlake Council Chambers.

2. Approval of Minutes - November 18, 2015 Special Meeting

Motion by Commissioner Comstock, seconded by Commissioner Robey to approve the Minutes of the November 18, 2015 Special Meeting. Motion carried.

3. Period of Public Comment. None were heard.

4. Consent Agenda

Motion by Commissioner Robey, seconded by Commissioner Overton to authorize payment of expenses for November and December 2015. Motion carried.

5. Public Hearing – Amendment to the Clearlake Oaks County Water District and CSA #16 (Paradise Valley) Spheres of Influence and Annexation of the territory within CSA #16 (Paradise Valley) into the Clearlake Oaks County Water District and concurrent dissolution of County Service Area #16 (Paradise Valley)

EO stated this was requested by the County and Clearlake Oaks County Water District. The proposal would allow Clearlake Oaks Co. Water District to extend its domestic water sphere to include the territory currently within CSA #16, authorize Lake Local Agency Commission to dissolve CSA 16 (Paradise Valley) and annex that area within CSA #16 to the Clearlake Oaks Co Water District for domestic water services. Wastewater/sanitation services would continue to be provided by Lake County Sanitation District.

EO reviewed report to the Commission, four proposed resolutions with attachments, and a "Pre-Annexation and Annexation Agreement" signed by the Lake County BOS and the Clearlake Oaks County Water District Board of Directors.

EO referred to letter submitted this day from Alan Gardner, General Manager, Clearlake Oaks County Water District, and Mark Dellinger, Lake County Special District Director. Copies were distributed to the Commission and to those in attendance. EO reviewed letter and expressed agreement with the contents. Counsel requested the letter be attached to Resolution 2016-003 as "Exhibit E".

Commissioner Robey asked EO for confirmation that approval of the four resolutions does not complete the process. EO confirmed that when all conditions have been met a Certificate of Completion is filed and recorded, completing the process. The dissolution documents and the annexation documents will be recorded concurrently and sent on the Board of Equalization.

Commissioner Mills asked about representation from CSA # 16 Paradise Valley on the Clearlake Oaks Water Board. EO responded that when the process is finalized, there will be an election and those qualified could run.

9:43 Chair opened the Public Hearing.

Mr. Gardner expressed his appreciation to the district managers and their staffs for their cooperative efforts. He stated that board member Richard Kuehn wanted the Commission to be aware that at some point the board would like a physical connection between the two districts, noting Mr. Kuehn understands that is a separate matter and a separate proceeding.

Mike Dunlap asked to be on record as continuing to object to what he sees as an expenditure of public funds for the benefit of a developer. He stated that if the water line is going to be used to build out a subdivision it should be paid for by the developer. He also expressed objection that the line is being run under the ground on Highway 20 with no fire hydrants, and that he does not see anything in the documentation that that requires sprinklers for new homes. Chair Mattina responded that any new development would require sprinklers, per code.

Mr. Gardner responded that four water hydrants are included in the project, as recommended by the Fire Marshall. The Fire Marshall had told the Interim General Manager that the provision was adequate, and that based on the location of the hydrants a pipe could be run from the Lake.

Jan Coppinger Compliance Coordinator for Lake County Special Districts responded to Mr. Dunlap's comments re: developer. She stated that CSA #16 has been under a connection moratorium for approximately 10 years. Property owners have been unable to build homes. The annexation/dissolution will benefit the CSA and property owners within the CSA. She stated that the developer has provided funds to help CSA #16 get to the point where the issue can be addressed, adding that all of the properties are privately owned, not developer owned.

Mark Dellinger made further statement re: input from Fire Chief Jay Beristianos on the number and location of hydrants.

Chair Mattina closed Public Hearing.

a. Motion by Commissioner Comstock, seconded by Commissioner Robey to adopt Resolution 2016-0001 A Resolution Making Determinations and Approving a Sphere of Influence Plan Amendment for Domestic Water Services provided by the Clearlake Oaks County Water District.

Counsel recommended the following amendments to the Resolution:

1. Add "whereas the district has adequate water to service this area".
2. Attach the Managers Letter as "Exhibit E" to the Resolution package.

The maker of the motion and the seconder agree to amendments as shown above.

Resolution passed and adopted by the following vote:

AYES: Commissioners Mattina, Comstock, Robey, Gillespie, Mills, Overton, and Smith.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Farrington.

b. Motion by Commissioner Comstock, seconded by Commissioner Robey to adopt Resolution 2016-0002 A Resolution Making Determinations and Approving an Amendment to the Sphere of Influence for County Service Area #16 – Paradise Valley to a zero Sphere of Influence, with additional amendments as shown in motion to approve Resolution 2016-0001.

Resolution passed and adopted by the following vote:

AYES: Commissioners Mattina, Comstock, Robey, Gillespie, Mills, Overton, and Smith.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Farrington.

c. Motion by Commissioner Comstock, seconded by Commissioner Robey to adopt Resolution 2016-0003 A Resolution Making Determinations and Approving the Annexation of 181 acres more or less to the Clearlake Oaks County Water District – LAFCO File 2015-0005, with additional amendments as shown in Resolution 2016-0001. Resolution passed and adopted by the following vote:

AYES: Commissioners Mattina, Comstock, Robey, Gillespie, Mills, Overton, and Smith.

NOES: None.

ABSTAIN: None.

ABSENT: Commissioner Farrington.

d. Motion by Commissioner Comstock, seconded by Commissioner Robey to adopt Resolution 2016-0004 A Resolution Making Determinations and Approving the Dissolution of County Service Area #16 – Paradise Valley, with additional amendments as shown in Resolution 2016-0001.

Resolution passed and adopted by the following vote:

AYES: Commissioners Mattina, Comstock, Robey, Gillespie, Mills, Overton, and Smith.

NOES: None

ABSTAIN: None.

ABSENT: Commissioner Farrington.

6. Designation of a Complex Project, Dissolution of CSA #16 and Annexation to the Clearlake Oaks County Water District and related Sphere of Influence.

Motion by Commissioner Robey, seconded by Commissioner Comstock to designate the Dissolution of CSA #16 and Annexation to the Clearlake Oaks County Water District and related Sphere of Influence as a Complex Project due to extraordinary staff time required for preparation of the EO reports and completion of the project thereby allowing Counsel and Staff to bill for the annexation at their respective hourly rates. Motion carried.

7. Authorize staff to attend the Calafco Annual Staff Workshop in Los Angeles March 30 through April 1, 2016.

Motion by Commissioner Robey, seconded by Commissioner Overton to authorize staff to attend the Calafco Annual Workshop to be held in Los Angeles March 30 through April 1, 2016, cost of which is to be shared between EO's LAFCO's. Motion carried.

8. Executive Officer's report

EO reported on the following projects:

Cobb Area reorganization

Lake Local Agency Formation Commission
Minutes of January 20, 2016 Regular Meeting

WPD Sphere of Influence
Hidden Valley Lakes CSD MSR and SOI update
Lake County Vector Control MSR and SOI update

Reminder: Form 700's due April 1st, available electronically at www/fppc.ca.gov.

Special District members' terms expire in May. EO reviewed process.

EO reported that he submitted a legislative proposal to Calafco to allow electronic delivery of notices and it was accepted.

9. Commissioner Reports

Commissioner Comstock reported on the January 19, 2016 Recovery Task Force Meeting. Discussion was held.

10. Correspondence - None.

Mr. Dunlap reported that the Watershed Protection District still has not met.

Meeting adjourned at 10:16 a.m.

Next regular meeting: Wednesday March 16, 2016 in Lakeport.

By: _____

Kathleen Moran, Clerk

Lake Local Agency Formation Commission

CLAIMS

January 2016 and February 2016

<u>Date of Claim</u>	<u>Description</u>	<u>Amount</u>
Feb 1, 2016	Staff Services Jan 2016	\$ 4,940.67
Feb 1, 2016	Special Projects – Jan 2016	
	Lkpt/Fire/WPD SOI	\$ 1,312.06
Jan 20, 2016	Commission Mtg. Stipend	\$ 420.00
Jan 31, 2016	County Auditor Accounting Svcs	\$ 2,500.00
12.16-15 to 1.15.2016	Browne- Legal	\$ 525.00
March 1, 2016	Staff Svcs Feb 2016	\$ 4,590.67
Jan 1, 2016	Special Projects	
	WPD SOI	\$ 1,155.00
	Calafco Workshop Reg	\$ 290.00
1.16-16 to 2.15-16	Browne Legal	\$ 1,837.00
Feb 2, 2016	Public Notice 16-17 P budget & RCD Consolidation	\$ 118.38
12.28.15	DPW Inv 2014-05 for # 2015-004 Middletown Rancheria-Surveyor	\$ 283.92
TOTAL:		\$ 17,972.70

DATED: March 16, 2016

APPROVED: March 16, 2016

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

Attest:

John Benoit
Executive Officer

Lake Local Agency Formation Commission

March 16, 2016

CALAFCo Board of Directors
1215 K Street, Suite 1650
Sacramento, CA 95814

SUBJECT: City of Patterson v. Turlock I.D.

Dear CALAFCo Board Members:

As authorized by the Lake Local Agency Formation Commission, Lake LAFCo requests the CALAFCo Board to reconsider its decision not to pursue legislation this year with respect to amending §56653 to overcome the ruling in a recent case involving the City of Patterson and the Turlock Irrigation District (TID). We believe the holding of this case presents significant difficulties and risks for LAFCo's throughout the state and that amendment of the statute should be one of the highest legislative priorities for CALAFCo.

As it has been explained by our legal counsel, the 5th District Court of Appeal in the recent case of City of Patterson v. Turlock Irrigation District ((2014) 227 Cal.App.4th 484, held that the language of section §56653 only permits applications for annexation or other reorganizations which include a plan to extend services to the area to be annexed. If no extension of services is proposed than no valid application for the change of organization can be made. Based on this, the Court invalidated the City of Patterson's request for annexation to the Turlock Irrigation District because the area was already being served under contract by TID and no new extension of services was being proposed. The Court itself apparently reached this result reluctantly. It noted that the language could be easily modified to allow such extensions for areas already being served, but as written, the plain meaning of the existing language compelled invalidation of the annexation application.

The Patterson court's interpretation of §56653 is in a published court of appeal decision, making it applicable law throughout California. Consequently, if the holding is followed, no annexation to a special district or city of areas already being served is permitted unless the application includes a plan to extend additional services to the area beyond what is already being provided. This would preclude annexations particularly to single-purpose special districts of areas they are already serving under contract.

The decision also has implications for LAFCo approval of out-of-agency contracts under §56133. Section 56133 only allows approval of contracts to extend services outside an agency's boundaries "in anticipation of annexation". The Patterson ruling precludes such later annexations. If no such annexation can occur, than §56133's requirement cannot be

Lake Local Agency Formation Commission

met and LAFCo should not be approving any such contracts for extension of services in the first place.

We know of no LAFCo in the state that is complying with the Patterson decision as it runs directly contrary to normal practice and policy. Consequently, it is only a matter of time before some smart attorney notices the Patterson ruling and successfully challenges such non-complying LAFCo actions.

We should not wait until one of our member agencies loses and faces a big attorney's fee bill. A legislative fix is needed as soon as possible as the clock is ticking on this legal time bomb. We therefore ask the CALAFCo Board revisit its legislative priorities and put fixing §56653 back on the list as a legislative priority for CALAFCo.

Very Truly Yours,

Stacey Mattina
Chair, Lake LAFCo

From: jim abell <abelljimchip@yahoo.com>
Subject: Letter of Resignation
Date: February 12, 2016 at 12:07:51 PM PST
To: "johnbenoit@surewest.net" <johnbenoit@surewest.net>

To the Members of LAFCO Commission:

I have thought long & hard about writing this letter. With the loss of my home in Cobb during the Valley Fire and my resignation from the South Lake County Fire District, I feel I can no longer serve on the LAFCO Commission and devote the time it requires to do a good job. It is with heavy heart that I render my resignation from LAFCO effective immediately.

Respectfully yours, James Abell

Sent from my iPad

**LAKE LAFCO
REPORT OF PERFORMANCE EVALUATION**

Date: March 16, 2016

Position: LAFCO Executive Officer

Name : John Benoit

Rating Period: March 2015 through March 2016

A= Superior B = Very Good C = Satisfactory D = Needs Improvement F = Unacceptable

Item	Rating	Comments
Accuracy of Work	_____	_____
Knowledge of LAFCO	_____	_____
Adaptability	_____	_____
Resourcefulness	_____	_____
Organization of Work	_____	_____
Leadership	_____	_____
Professional Interest	_____	_____
Knowledge of County	_____	_____
Other	_____	_____

In light of fiscal constraints, what would the Commission desire staff to do during the upcoming year?

1. _____
2. _____
3. _____

Signature (Chairperson) _____

Signature of person being evaluated _____