

LAKE LOCAL AGENCY FORMATION COMMISSION
MINUTES OF REGULAR MEETING
MAY 20, 2015

Present:

Stacey Mattina, Chair
Jim Comstock, Vice-Chair
Anthony Farrington
Ed Robey
Frank Gillespie
Gerry Mills
Jim Abell, Special District Alternate
Suzanne Lyons, Public Alternate
Jeff Smith, County Alternate

Staff Present:

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

Absent: Joyce Overton, Martin Scheel, City Alternate.

1. Call to Order/Roll Call

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

2. Selection of public member and public member alternate (if necessary) to serve a four-year term ending in May 2019

EO reviewed the commission's options including making the appointment today, establishing an ad hoc committee for further deliberation, or republish Notice of Appointment if the commission wanted additional applicants.

Chair Mattina asks the members how they would like to proceed, the consensus being to interview the candidates today. Ed Robey and Suzanne Lyons recused themselves to the audience.

The following applicants were interviewed:

Michael J. Dunlap presented an overview of his work and business qualifications, community involvement, and volunteer experience past and current, including work with Lake LAFCo and the Watershed Protection District MSR. He has been a regular attendee at Commission meetings. He stated his reasons for wanting to serve as a voting Public Member and represent the public perspective on the Commission, particularly the underprivileged and disadvantaged populations. (Letter application dated 4/22/2-015 on file)

Ed Robey reviewed his experience with LAFCo and his reasons for applying for another term. He stated that he served for a number of years as the Lake County Member and Public Alternate, and has served as Public Member for the last 4 years. He emphasized his experience and knowledge of LAFCo laws and policies. He stated that he wants to continue on the commission to see current and impending projects through.

Commissioner Farrington refers to a letter submitted to the Commission dated May 20, 2015 from Betsy Cawn. Mr. Robey stated that he has seen the letter. Commissioner Farrington reads excerpts from the letter in which Ms. Cawn asserts that Mr. Robey has not been a strong supporter of the local agencies that LAFCo oversees, and questions Mr. Robey's ability to share

the concerns of the public because of his close and long standing relationship with the County Board of Supervisors and the EO. Commissioner Farrington asks Mr. Robey for a response to the allegations. (Letter dated May 20, 2015 on file)

Mr. Robey responded that he has represented the public in one form or another for nearly 30 years and asks what Ms. Cawn means by "the public". Mr. Farrington refers the letter and reads in which Ms. Cawn describes the "public" as "funders of all the health and safety districts, local governments, and LAFCo itself."

Mr. Robey states that he wished Ms. Cawn was present to provide one example where he has not provided good representation to the special districts or other agencies.

Suzanne Lyons has served as Public Member Alternate for the last two years, prior to that she served as the representative from the City of Lakeport. She stated that she wants to serve as Public Member in order to vote, and as Alternate she is unable to do that. She emphasized her desire to get information to the public, and cited various examples of her past work toward that goal. She spoke to her knowledge of LAFCo and importance of educating the public. She further expressed concerns with the voting policy and that today both City representatives are absent and the potential effect of that on the outcome. EO responded that the vote could be continued to the next meeting.

Farrington asks for clarification. Suzanne responded and brief discussion was held.

Chair Mattina asks for public input.

Skip Nuttall speaks in support of Michael Dunlap.

Donna Lee speaks in support of Michael Dunlap and Suzanne Lyons.

Lolita Adrien speaks in support of Suzanne Lyons and Michael Dunlap.

Tom Slaton made statement regarding the statements in Ms. Cawn's letter, issues of friendships, influence and perspective.

Maurice Taylor stated that the commission is unbalanced in terms of public representation and that Ed Robey, Joyce Overton and Jeff Smith have been in violation of the Brown Act in past meetings and for that reason he would recommend that the Commission appoint a representative other than Ed Robey.

Chair Mattina asked the commission which course of action they favor. Discussion was held on the vote requirement for passage, and it was determined that a majority vote (3) one from County, Special District and City will be required for passage.

Commissioner Comstock stated that he would like to proceed with the appointment today. Concurrence from the other commissioners. Chair Mattina opens nominations.

Commissioner Farrington nominated Ed Robey to serve as Public Member for a four-year term ending May 2019.

The Chair called for additional nominations. No other nominations were put forth.

Chair Mattina called for the vote:

Ayes: Commissioners Farrington, Comstock, Mattina, Mills.

Noes: Commissioner Gillespie.

Absent: Commissioner Overton.

Ed Robey was appointed as Public Member for a four year term effective through May 2019.

No action was required for the Public Member Alternate as Incumbent Suzanne Lyons has two years remaining on her term.

3. Approval of Minutes – March 18, 2015

Commissioner Comstock moved to approve the March 18, 2015 regular meeting minutes. Motion was seconded by Commissioner Mills; motion carried.

4. Public Comment

Chair Mattina opened period of public comment to address items not on the Agenda. None were heard.

5. Consent Agenda

Commissioner Robey moved to authorize payment of expenses for March and April 2015 in the amount of \$19,772.38. Motion was seconded by Commissioner Comstock; motion carried.

6. Public Hearing regarding the City of Clearlake Municipal Service Review and Sphere of Influence

EO reviewed the Clearlake MSR and Sphere of Influence Update report which summarizes comments and responses for the City of Clearlake MSR. Ms. Cawn has also submitted a letter for the record on the MSR. EO notes the first comment is that the City's General Plan is not yet complete. They are doing a new General Plan and updating the 1983 Plan. The City recently adopted a new Housing Element which was certified by the California Department of Housing and Community Development and has been found to be in substantial compliance with Housing Law. The remaining elements of the City's General Plan are nearing completion and the EIR is nearing certification and is expected to be adopted in summer 2015.

The report update also addresses comments relative to the city's bonded indebtedness, financial reports, service obligations, etc.

EO stated that the flood control services in the City are more "problematic" as contained in one of the findings in the MSR and it is evident there that there needs to be clear definition of the responsibilities of the Watershed Protection District and the City. EO commented on Ms. Cawn's letter noting that when LAFCo does a MSR they do not hire geologists, quality specialists, etc. we do the best we can by obtaining public input due to cost factors that the budget cannot support.

EO recommends adoption of the MSR and Sphere of Influence, subject to some of the changes and recommendations and comments in the staff report.

Commissioner Comstock asked EO what recommendations can be made with subsequent follow-up oversight by LAFCo. EO responded that the MSR is designed to support the Sphere of Influence. He stated that, for example, if City services were inadequate we would begin to think that perhaps the City boundary needs to be more constrained and not larger. In this case the Sphere of Influence is coterminous with the City and County. Suzanne Lyons asked EO about recourse when LAFCo makes findings or recommendations that are not acted upon, citing a recent example re: LAFCo's recommendation that the Watershed Protection District and the Advisory Committee on Stormwater Protection meet, which was given six months ago and has not happened yet. EO responds that LAFCo has no enforcement authority on the recommendations made. EO stated that he sent letters to the District and Board after the MSR was approved, and the MSR contained that recommendation.

Commissioner Farrington asks if there has been discussion on detachment or making boundaries smaller. EO there were some options discussed but we just left it as it is. City Manager Joan Phillippe responded that there had been previous discussion on detachment but didn't get far and has not been addressed recently.

10:15 a.m. Chair Mattina opens Public Hearing.

Mike Dunlap addressed the Commission noting that he was a participant on the Committee to put together the MSR for the Watershed Protection District. One of the findings made by the committee was that there are properties in the City of Clearlake that pay taxes to the County of Lake for Watershed Protection District Services that are not receiving any services from the County. That was one of the recommendations to this board to put into the MSR. In the MSR for the City of Clearlake there is a finding that there is no flood control done in the Watershed in the creeks and tributaries. Mr. Dunlap stated that it is his understanding that it's LAFCo's responsibility to make a determination as to whether or not the municipalities are providing those services they are supposed to provide. He stated that in this instance we have a very clear example of taxpayers paying taxes for services they are not receiving, and further the Lake County Director of Public Works has verified that the County does not provide those services in the City of Clearlake. He stated that LAFCo as the watchdog needs to become involved to see that services are provided, noting that LAFCo says they are not able to tell the City they have to do this, and you are also not making the County do it, and that without LAFCo involvement the issue will not be resolved.

EO responded that the appropriate venue for this action is the Sphere of Influence for the Watershed Protection District and there are two ways for the City to detach from the District, by resolution or petition by landowners.

Mr. Dunlap asked what steps LAFCo has taken to inform the landowners and that is there methodology for detaching from the district. EO responded that it was addressed somewhat in the MSR, and is in the Sphere of Influence Update for the Watershed Protection District, with Mr. Dunlap asking how that information is given to the public. He cited a lack of reporting to the City Council, local press, notification to landowners, etc. EO responded that the information is posted on the website, and compliance with legal requirements for Notice. Again, Mr. Dunlap asked how the public is made aware of the information, noting that many effected do not have internet. EO responded that LAFCo does not send notices to everyone in the county, but the way to initiate the detachment is by petition or resolution.

Mr. Browne responded that LAFCO is an agency of limited jurisdiction and they do not have the authority to initiate detachments. LAFCo can analyze detachments in the MSR, make determinations and establish a planning document called the Sphere of Influence. The Sphere can exclude areas, and normally you exclude areas from the Sphere that are not being provided services, but it is up to the public to make the public agency comply.

Mr. Dunlap reiterated his position that it is LAFCo's job to inform those agencies and districts that they are not doing their job.

Suzanne Lyons asked if there is anything that LAFCo can do to ensure services be provided. Mr. Browne stated that absent enforcement authority, you could advise the City to either provide the services or detach, that the recommendation can be made by LAFCo but not enforced.

City Manager Joan Phillippe noted that the city has been intimately involved in the preparation of the SOI document through conversations with the EO and the document makes clear recommendations that the City needs to follow. Ms. Phillippe also provided a brief update on the General Plan, noting that there was a small setback and some additional information was required. She stated that the City has provided updates throughout the process and is coming close to completion. She stated that the document will need to be circulated again. The Housing Element portion has been certified and also designated as an exemplary document for other small rural communities to use and has been posted on HUD's website.

10:30 a.m. Chair Mattina closed Public Hearing.

Motion by Commissioner Comstock, seconded by Commissioner Robey to adopt Resolution 2015-0003 Approving a Municipal Service Review of Services Provided by and within the City of Clearlake and Adopting Written Determinations Thereon, and further, to amend and add finding regarding the coordination of the Watershed District. Motion passed and adopted by the following roll call vote:

AYES: Commissioners Robey, Gillespie, Mattina, Mills, Farrington, and Comstock.

NOES: None.

ABSENT: Commissioner Overton.

Motion by Commissioner Comstock, seconded by Commissioner Robey to adopt Resolution 2015-0004 A Resolution Making Determinations and Approving A Sphere of Influence update for the City of Clearlake. Motion passed and adopted by the following roll call vote:

AYES: Commissioners Robey, Gillespie, Mills, Farrington, Comstock, and Mattina.

NOES: None.

ABSENT: Commissioner Overton.

7. Public Hearing regarding the 2015-2016 Final LAFCo Budget.

Chair Mattina opens Public Hearing for the Adoption of the 2015-2016 Final LAFCo Budget.

EO briefly spoke to the final budget noting there were no changes from the proposed budget adopted by the commission at the March 18, 2015 meeting.

No other comments being heard Chair Mattina closed the Public Hearing.

Motion by Commissioner Robey, seconded by Commissioner Mills to adopt Resolution 2015-0005 A Resolution of the Lake Local Agency Formation Commission of Adopting its Final Budget for 2015-2016. Motion passed and adopted by the following roll call vote:

AYES: Commissioners Robey, Gillespie, Mills, Farrington, Comstock, and Mattina.

NOES: None.

ABSENT: Commissioner Overton.

8. Calafco Nominations.

Chair Mattina asks if there are any nominations for a Board of Supervisor member or Special District member to run for the Calafco Executive Board. No members wish to nominate or be nominated to the Calafco Executive Board.

9. Authorize Staff and Commissioners to attend the Calafco Conference in Sacramento, September 2-4, 2015.

EO encouraged new members or members who have not attended recently to attend since the Conference is in Sacramento. Brief discussion was held and following that Commissioner Farrington stated he may be able to attend but has a conflict. Commissioners Mills and Abell will attend. EO to see if Commissioner Overton can attend. Commissioner Farrington has a conflicting meeting. Commissioner Robey will attend.

Motion by Commissioner Comstock. Seconded by Commissioner Farrington to appoint Commissioner Robey as Voting Member and Commissioner Mills as Voting Member Alternate to represent the Lake LAFCo at the Calafco Annual Conference in September 2015. Motion carried: All yes. Noes. None. Absent: Commissioner Overton.

10. Consider Fee Waiver for Dissolution of Reclamation District 695 (Tule Lake)

Motion by Commissioner Comstock, seconded by Commissioner Mills to waive LAFCo fee in the amount of \$350 for dissolution of Reclamation District 695 (Tule Lake). Motion carried: All yes. Noes: None. Absent: Commissioner Overton.

EO notes that the \$350 would go to the County.

11. Consider contract amendment for P. Scott Browne and John Benoit

EO explained that he contacted cities and counties to gather compensation data and how it corresponds to the local economies. Mr. Benoit's contract includes no increase for himself, but changes the Clerk Expenses from a billing rate of \$208.33 per month to a straight \$50.00/per hour to allow the clerk to provide other services, as needed. It also adds a provision for

“complex projects” that allows the consultant to charge an hourly rate for certain projects, the cost of which would typically be offset by project fee deposits.

EO stated that Mr. Browne’s contract includes a 5% longevity increase, and Compensation for litigation remains at the \$175/hr., a rate which has been in effect since 2007 and should be reviewed in the future.

Commissioner Farrington expressed appreciation to Mr. Benoit for his efforts to keep LAFCo costs in check. Commissioners Abell and Robey concur.

Motion by Commissioner Comstock, seconded by Commissioner Robey to approve Second Amendment to Agreement for Legal Services, which includes a 5% longevity increase, between the Lake Local Agency Formation Commission and P. Scott Browne, Attorney at Law. Motion carried by following vote:

AYES: Commissioners Robey, Gillespie, Mills, Farrington, Comstock, and Mattina.

NOES: None.

ABSENT: Commissioner Overton.

Motion by Commissioner Comstock, seconded by Commissioner Robey to approved Third Amendment to Agreement for the Provision of LAFCo Staff Services between the Lake Local Agency Formation Commission and John Benoit, Contractor. Motion carried by the following vote:

AYES: Commissioners Robey, Gillespie, Mills, Farrington, Comstock, and Mattina.

NOES: None.

ABSENT: Commissioner Overton.

12. Executive Officer’s Report

EO Reports as follows:

- a. RCD Consolidation – July 15, 2015
- b. City of Lakeport Sphere of Influence – July 15, 2015
- c. Fire Districts Sphere of Influence and Service Review – July 15, 2015
- d. Reclamation District #695 – Dissolution
- e. Reclamation District #2070
- f. Several MRS’s EO is working on, such as Adams Springs District, Scott’s Valley Water Conservation District.

13. Commissioner Reports

Commissioner Comstock noted that the very first thing he learned while sitting on LAFCo is that the Commission represents everyone not just specific districts, county or cities.

14. Correspondence

EO reported on a letter from the Board of Equalization regarding the City of Lakeport's sales tax revenue.

15. The meeting was adjourned at 11:00 a.m. The next meeting will be held on Wednesday July 15 in Lakeport.

By: _____

Kathleen Moran, Clerk