

BUTTE LOCAL AGENCY FORMATION COMMISSION
Minutes of April 14, 2011

1. CALL TO ORDER

Chair Leverenz called the meeting to order at 9:00 a.m., on April 14, 2011, in the Butte County Board of Supervisors Chambers, 25 County Center Drive, Oroville, California.

1.1 Roll Call

Present: Commissioners Lotter, Duncan, Connelly, Sweany, Fichter, Alternate Commissioner Yamaguchi and Chair Leverenz.
Alternate Commissioners Steel, Gill and Schwab.

Absent: Commissioner Lambert.

Others Present: Stephen Lucas, LAFCO Executive Officer
Stephen Betts, LAFCO Deputy Executive Officer
Jill Broderson, LAFCO Management Analyst
Joy Stover, LAFCO Commission Clerk
Marsha Burch, LAFCO Legal Counsel Representative

1.2 Recognize New Special District Commissioner –

Regular Member: Larry Duncan, Paradise Irrigation District

2. CONSENT AGENDA

2.1 Approval of the Minutes of March 3, 2011

Commissioner Fichter made a motion to approve the consent agenda. The motion was seconded by Commissioner Duncan.

The motion was carried by the following vote:

AYES: Commissioners Lotter, Duncan, Connelly, Sweany, Fichter, Yamaguchi and Chair Leverenz
NOES: None
ABSENT: None
ABSTAINS: None

3. NOTICED PUBLIC HEARINGS –

3.1 Review and Consideration of Proposed Budget for FY 2011/12

Steve Lucas, LAFCO Executive Officer stated the budget committee met, discussed the proposed budget, reviewed background information and budget issues and unanimously recommended approving the proposed budget prepared by staff. Steve

Lucas stated the agency assessments funding the budget remain the same consistent with the budget committee direction to maintain those numbers without increase and those numbers did not go up again this year. Steve Lucas stated the Commission additionally received a copy of the comments from the City of Gridley.

Chair Leverenz opened the item to the public.

Rob Hickey, City Administrator for the City of Gridley, voiced his concerns on the proposed budget stating his opinion that the budget should be sent back to Budget Committee. Rob Hickey asked for clarification on the line item stating PERS buyout.

Steve Lucas explained the PERS Buyout represents the agency's contribution to PERS on behalf of the employees consistent with direction of the Commission to maintain the same status of benefits staff had at the County prior to LAFCo independence.

Chair Leverenz stated it was a concern to the Commission at the time that we continue with the status of benefits at the County level.

Rob Hickey asked about the \$112,000 savings (budget reductions) that doesn't appear to be a savings at all to the agencies.

Steve Lucas explained the savings as reduced budget costs such as the use of voluntary furloughs to offset future employee costs.

There was discussion on the contingency fund and how it relates to the budget.

Chair Leverenz stated the budget process began a couple of months ago and the Budget Committee determined that if the budget was lowered we wouldn't be able to function at the service level considered appropriate. Chair Leverenz stated Mr. Hickey raised some issues about LAFCO comparisons, but the comparisons are difficult to make without specific information being provided as to what other LAFCOs are doing in order to compare. Chair Leverenz stated we could have our staff & the Budget Committee examine this in the next budget cycle. Chair Leverenz asked Rob Hickey if he would be willing to participate in a future Budget Committee Meeting.

Rob Hickey agreed.

Chair Leverenz stated it is important to understand we have imposed a lot of proactive demands on our staff to work with all local agencies and be apprised of issues in the County and this takes time and isn't always reflected in projects.

Rob Hickey stated when he compiled the LAFCOs information it was about as unscientific as you could be. He asked about 4 questions and was surprised to get 42 responses out of the 58 LAFCOs. He appreciates the Commission's openness and willing to work this in a different forum.

Chair Leverenz asked if there were any other comments.

Commissioner Yamaguchi stated he was looking at the benefits for the employees and he sees that we have PERS Misc contributions, which is typical of all public agencies, and then we have ICMA Deferred Compensation, which he assumes is the 457 plan.

Steve Lucas explained at the time LAFCO went Independent, we had a choice to participate within Social Security or opt out of paying into the Social Security Administration and have that roughly 6% contribution applied to a 457 account instead.

Commissioner Yamaguchi stated this has been clarified and he thinks it is a wise move both on the Commission and the employees.

Mark Sweany asked which counties would be comparable to our participation in their communities.

Steve Lucas stated that is really difficult to state given 58 LAFCOs have 58 different models and approaches. Not all LAFCOs have the same level of independence, the same employee relationships, same budgeted items in terms of where they are housed and what kind of monies they pay and how much service support comes from their county.

Chair Leverenz stated we can look at this information when considering matters of policy, but he is more concerned about what we are doing and whether we are doing it efficiently and consistently.

Commissioner Duncan stated as a Director on the CALAFCO Board of Directors, his observation is that Butte LAFCO is a very, very active LAFCO compared to other northern region LAFCOs. Finding some other LAFCO to compare with would be very, very hard.

Chair Leverenz stated that is why we have to take a look at what we are doing and see if we should ask our staff to do less.

Commissioner Duncan stated he thinks it would be wrong to ask them to do less because they are helping our other entities, especially Oroville, Biggs and Gridley.

Chair Leverenz stated the Commission should over the next fiscal year take a look at the issues raised.

Roger Frith, Mayor of the City of Biggs, stated he also submitted a letter to the Commission and he supports Gridley's questions about the budget and the Chair's recommendation to convene a budget committee and invite member agencies. He would really appreciate that we do move forward with the discussion and dialogue to craft out what the LAFCO role will be. Let's craft what is in the best interest of Butte County and its member agencies and he would support that.

Chair Leverenz stated he wanted to add that when we had our [budget] workshop, it was a public meeting and we invited everybody to attend, making it clear, we are very open about our process.

Bud Tracy, Tracy Realty Company, stated he has had a lot of experience with LAFCO and unlike the previous speakers he wants to address the general concept of LAFCO and give some encouragement in support of LAFCO. Mr. Tracy stated he wanted to speak in favor of long term thinking and noted projects often take 2 to 5 years getting to completion. Markets change all the time and you have to work your best at trying to get to the proper goal with keeping the community in mind.

Mr. Tracy gave a historical account of his involvement in the development of the Butte County communities. Bud Tracy praised LAFCO in their involvement in the sewer issues in the Oroville area.

Eileen Burke-Trent, from Gridley, stated she has had the great privilege to work with basically all of the players involved here today. Ms. Burke-Trent stated one of her concerns as a long term business woman in the area and someone who has been very involved in civic and growth issues, that LAFCO plays a very complex role in our growth, civic and business issues. Ms. Burke-Trent stated she has had an opportunity to work personally with Steve Lucas and his staff, Rob Hickey and his staff and Roger Frith and his staff. Each LAFCO has an individual personality because of the complex issues that surround each individual area. We are profoundly fortunate to have an individual such as Mr. Lucas who is without a doubt a person of the finest integrity and the finest honesty. This is a statement in support of LAFCO and all the agencies involved that she hopes we can move forward quickly and resolve any differences that occur and also her support of LAFCO and the managers involved.

Chair Leverenz closed the public portion of the hearing.

Commissioner Fichter moved to approve the budget with a stipulation that only 30% of each line item be appropriated at this time and that the budget will be returned to the budget committee for further review and will be brought back to the Commission prior to any budget expenditures past this stated amount.

Commissioner Yamaguchi asked why 30% and where did Commissioner Fichter come up with that.

Commissioner Fichter said she would have to go consult with Mr. Hickey for details. Commissioner Fichter stated she did visit with Chair Leverenz.

Chair Leverenz asked if there is a second to the motion. Motion died for a lack of a second.

Commissioner Yamaguchi asked, given the concern, is there an issue with having another budget committee hearing and if there were time constraints involved.

Chair Leverenz stated we don't have the time to conduct in depth studies as discussed at this point in the process and has no problem with the budget committee addressing these issues in the future with the benefit of more information.

Commissioner Yamaguchi moved to refer this item back to the Budget Committee to have a meeting hopefully as soon as possible as you have to notice it.

Steve Lucas stated the state requires LAFCO to adopt a proposed budget by May 1st of each year. We are required by law to adopt a final budget by June 15th.

Commissioner Yamaguchi withdrew his motion.

Commissioner Connelly stated our LAFCO is extremely busy on a lot of fronts because we have a complicated county and complicated communities. We have very ugly boundaries in the City of Oroville, we have too many special districts in some aspects, and we have three sewer districts terminating in a loosely written JPA. We have

had a rash of annexations inside Chico and proposed annexations in Oroville. Every year on the budget committee we have tried to hold the cost down. As a group we have directed staff to look into issues including some issues between Gridley & Biggs and between special districts. When I saw the list of comparisons I thought immediately this is oranges and apples. Commissioner Connelly stated he understands the want and need for openness and the want to look at our budget and to challenge what we charge, but believes when all is done the budget is justified based on our expectations. Hopefully you'll find some other savings we as a budget committee have overlooked but I don't think there is going to be any big hidden expenses that you wouldn't have with any other agency. Commission Connelly stated he supports the budget as it is.

Commissioner Connelly made a motion to approve the 2011/12 FY Budget in its current form and to convene a budget meeting in July. Commissioner Duncan seconded the motion.

Commissioner Lotter stated he has been on the budget committee for the last five years. He has advocated to keep agency assessment down and one year they were able to get a 10% cut. Commission Lotter stated he is concerned as a city but he knows the unique services that our LAFCO provides. Commissioner Lotter stated it wasn't clear to him regarding the ability to make changes.

Chair Leverenz stated when we revisit the budget issues we have the ability to make modifications if warranted.

Commissioner Connelly stated he wanted to clarify that anyone that has questions is invited to provide input.

Chair Leverenz restated the motion: The motion is to send the budget forward and direct staff to make arrangements for providing information for an initial budget committee meeting in July.

The motion was carried by the following roll call vote:

AYES:	Commissioners Lotter, Duncan, Connelly, Sweany, Fichter, Yamaguchi and Chair Leverenz
NOES:	None
ABSENT:	None
ABSTAINS:	None

4. REGULAR AGENDA

4.1 Items Removed from the Consent Agenda – None

4.2 Update on Discussions with the City of Chico Related to Proposed Master Sewer Extension Agreement Pursuant to Government Code Section 56133.

Steve Lucas stated there is nothing to add to the agenda item.

Chair Leverenz opened this item to the public.

Ann Schwab, Mayor of the City of Chico, wanted to give the Commission an update to actions the City has taken and plans for their short-term and ultimate goal. At their April 5th City Council meeting they approved the Stewart Avenue annexation, without protest, and that is moving forward. The City discussed next steps and our next step on April 19th before the Council is the consideration to give the City Manager authority to negotiate a Master Agreement for service extension with LAFCO with the understanding that the Final Master Agreement will be provided to Council once completed. The City has developed an Acknowledgement Statement for sewer connections and the City of Chico annexation plan for landowners when they do apply for City sewer services to sign so that they understand that annexation is not required at this time but it is in the City of Chico and the County of Butte's long-term plan to be annexed. There is a draft in front of the Commission and Mayor Schwab does expect the City of Chico Council to approve the action on April 19th and then the City Manager will move forward working with Butte County and with LAFCO in developing that master agreement. There will be a lot of players in this and a lot of public input on it. She wanted to state the City is moving forward towards their ultimate goal.

Chair Leverenz stated we are all on the same side, we want to get to a position that we know the City is proceeding in hooking up people to the sewer and we are not looking the other way and the Commission is doing what LAFCO is supposed to be doing.

Mayor Schwab stated hopefully to, as was just in the last item, to simplify LAFCOs involvement in the City of Chico so that our long term goal is to have these pockets annexed but it will be a process to do that.

Information was taken under submission.

4.3 Request for Total Fee Reimbursement for LAFCO File No. 11-03 MS – City of Gridley – Municipal Service Review and Sphere of Influence Update.

Steve Lucas stated Scott Browne, LAFCO legal counsel submitted a written memorandum to discuss the specific legal points in his absence and Marsha Burch is here today as his representative to answer any questions. Steve Lucas summarized the actions taken after the City of Gridley submitted their request for LAFCO to prepare their Sphere of Influence Plan update and their Municipal Service Review update. The City of Gridley submitted a deposit in the amount of \$5000.00 towards the estimated cost of \$20,000.00.

Staff processed the request and the Commission adopted the MSR/SOI Plan. Staff worked closely with City staff, especially the Community Development Director, and completed the project in an extraordinarily short period of time as the city was very desirous of having this concluded by the end of 2010. In 75 days staff had the product before the Commission and approved.

Staff finished the project and billed out for the final processing. The city paid the final fees as billed. Subsequently, the City Administrator sent a letter objecting to the cost of processing the project. Steve Lucas stated he reviewed the bill with the City Administrator and offered a 10% reduction of the Executive Officer's time spent on the project. The City Manager accepted this adjustment and staff considered the issue closed.

Since then a letter has been received from the City stating not only was the amount too much but the City Administrator wanted a complete reimbursement and essentially this project should never have been billed for a variety reasons as stated in the City's letter.

In short, it is a legitimate fee charged under the law, under the direction of the Commission to collect those fees for these types of projects. Steve Lucas stated he believes the work that was applied by staff to this project was accurate, necessary and resulted in the desired approved plan.

Commissioner Yamaguchi confirmed the estimate for the cost was established and communicated to the City of Gridley who then proceeded to accept that estimate and submit a \$5000.00 deposit.

Steve Lucas stated the City hired a consultant to prepare their Comprehensive General Plan Update at a cost of several hundred thousand dollars and as a subset of that effort, the City hired a consultant to prepare a Preliminary draft Sphere of Influence Plan under LAFCo staff direction and the consultant was paid something in the neighborhood of \$14000.00 to prepare an administrative draft plan that was submitted along with their request to update their Sphere Plan. Steve Lucas stated it wasn't just as simple as we read the administrative SOI Plan and made a couple of comments and moved it forward. Staff had to review a variety of documents in preparing the Sphere of Influence Plan update that was ultimately approved by the Commission.

Rob Hickey stated he was impressed by Steve Lucas and how well he managed the process. He found Steve Lucas to be very much professional. The City in fact did get a quote for the SOI Plan update. The City's understanding was that if LAFCo prepared the SOI Plan update it would be about \$20,000.00. The City believed when they submitted the [draft] SOI to LAFCo that they essentially had a fairly complete document. Rob Hickey stated what LAFCo needed to do was go back and check and make sure it [the draft SOI Plan] did dovetail to the other plans. The City was surprised the charge was \$18,800.00.

Chair Leverenz stated Rob Hickey has raised some points and we need to make sure they are cleared up, and hopefully they have been as is discussed in Scott Browne's memorandum clarify the charges for service. It appears the communication as to what LAFCo staff was going to do versus what your consultant's were going to do was unclear as far as expectations.

Rob Hickey stated when you put \$5000.00 down as a deposit you expect the agency to bill against it and when you get down to zero you expect some dialogue there. We did miss communicate in that it went from \$5,000.00 to the \$18,000.00 and we were caught off guard in that aspect.

There was discussion on LAFCo policies related to LAFCo charge out rates.

Rob Hickey stated he doesn't question the legality of the \$210.00 an hour charge, just using that as the top bar and stated in 2004 when the Maximus Study was done, we had developers all over the place holding checks under our noses and they are long gone. They are probably going to be put on the endangered species list. We need to recognize that and probably make some adjustments in just how aggressive does LAFCo want to be in that process.

Commissioner Lotter asked if the \$20,000.00 estimate was provided in writing.

Steve Lucas stated when we sit down with an applicant, and certainly on a larger project, we establish what that initial deposit is going to be based on a rough estimate of costs. Under our policies that deposit is set at what the Executive Officer believes is a reasonable amount of money to get the project started. It can fluctuate and the number is entirely up to the Executive Officer under our policies. Steve Lucas stated in this particular case, he had numerous conversations with the Community Development Director who was spear heading this project for the City, this was all pre-dating the City Administrator having any involvement and the \$20,000.00 number was openly discussed and accepted. Staff has never had a practice of providing a written estimate. He doesn't know of any agencies that provide a written estimate when it comes to planning documents as there are so many variables. Steve Lucas stated he was pretty confident the \$20,000.00 would cover the cost based on previous MSR/SOI plans that staff had just done in the past year. Staff had a conference call at one point that involved the City Administrator, the Community Development Director and the City's consultant and the \$20,000.00 estimate was once again discussed. There was never any question in his mind nor does he think there was ever any question in the Community Development Director's mind that the \$20,000.00 was in fact an estimated cost for this project.

Chair Leverenz stated even though staff is reluctant to give written estimates, he doesn't see any issue, with providing an estimate acknowledging it can go up or down depending on what the applicant adds or subtracts or what staff finds.

Commissioner Lotter stated when we were establishing the charge-out hourly rates, we had to consider the full cost recovery. We had previously discussed using an internal rate for our member entities vs. outside/developer rates.

Rob Hickey stated he would be happy to bring back options for the member rate versus the non-member rate to the budget committee meeting as he has totally reverse engineered the rate schedule study so it is really quick to plug in numbers right now.

Chair Leverenz closed the public portion of the hearing.

Commissioner Lotter made a motion to deny the request for total fee reimbursement. Commissioner Yamaguchi seconded the motion.

The motion was carried by the following roll call vote:

AYES:	Commissioners Lotter, Duncan, Connelly, Sweany, Yamaguchi and Chair Leverenz
NOES:	Commissioner Fichter
ABSENT:	None
ABSTAINS:	None

5. PUBLIC COMMENTS NOT ON THE AGENDA

Ray Sousa, Manager of the Sewerage Commission for the Oroville Region, stated he wanted to say a few things in regards to the 2009 MSR that was adopted. We have come off of a wet winter and a lot of things in the MSR were issues regarding capacity at the treatment plant and the collection agencies and how that affected growth. The MSR was a labor of love for 12 to

14 months. Some good things have come out of the MSR. The Commission invested in the community and the community is now starting to reap the benefits. In December we received 9 inches of rain and in March 9 inches of rain. The treatment plant now is seeing fewer impacts than in any other year with those kinds of rainfalls. This is due to the fact that the four agencies have come together and done what was asked by the MSR. We have quarterly meetings with the four entities, with SCOR staff, LAFCO staff, ODECO, Butte County, etc. All of this stuff has caused SCOR to move forward with common procedures, equipment sharing, manpower sharing, and programs being developed. We have developed this 'Pipe Patch' program which is the only one in the United States ever done. Revenues are generated by our Sunshine fund through our solar system. We were recognized by the State of California with the Golden Achievement Award by the head of the Water Quality Control Board. In January we were Treatment Plant of the Year by California Water Environmental Association. A lot of these achievements came from the findings in the MSR and that was the critical path. When you invest the greater returns come in ways you can't see. The entities have patched 180 holes since October and have slip lined over a mile of pipe. SCOR is proposing to slip line over miles of pipe in the next year in the City of Oroville alone. This is the first year with this kind of a winter that Ray Sousa has not had to stay at the treatment plant 24 hours a day. Ray stated this is because we all came together and he had to come give the Commission kudos. Ray stated he knows a lot of money was spent on the MSR and the community is starting to see a return on that investment. Ray stated we are not out of the woods yet and we still have some work to do.

Roger Frith stated he just wanted to state in general that we all have our reasons for what we do and we don't always agree. He is seeing more openness and willingness to address issues moving forward and it's not the way all boards work but we do appreciate when we get heard.

6. REPORTS AND COMMUNICATION

6.1 Executive Officer's Report –

Steve Lucas summarized the Executive Officer's report related to Administration, Project Notes, General Notes and Legislative Notes.


6.2 Correspondence – None

7. ADMINISTRATION – None

8. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:21 a.m. to the May 5, 2011 regularly scheduled meeting.

LOCAL AGENCY FORMATION COMMISSION



By: Stephen Lucas, Executive Officer

Minutes prepared by Joy Stover, LAFCO Commission Clerk