

**BUTTE LOCAL AGENCY FORMATION COMMISSION**  
**Minutes of July 2, 2009**

**1. Call to Order**

Chair Leverenz called the meeting to order at 9:00 a.m., July 2, 2009, in the Butte County Board of Supervisors Chambers, 25 County Center Drive, Oroville, California.

**1.1 Roll Call**

Present: Commissioners Lotter, Duncan, Connelly, Frith, Dolan, and Chair Leverenz.  
Alternate Commissioners Steele and Holcombe

Absent: Alternate Commissioners Sweany and Yamaguchi

Others Present: Stephen Lucas, LAFCO Executive Officer  
Stephen Betts, LAFCO Deputy Executive Officer  
Joy Stover, LAFCO Commission Clerk  
B. Scott Browne, LAFCO Legal Counsel

**1.2 Special Recognition of Service – Special District Commissioner Al Beck**

Commissioner Lotter made a motion to approve the commemorative resolution for Commissioner Beck, seconded by Commissioner Frith, and the motion carried with a unanimous vote.

**2. Consent Agenda**

**2.1 Approval of the Minutes of June 4, 2009**

**Commissioner Connelly moved to approve the consent agenda, seconded by Commissioner Dolan, and the motion carried by the following vote:**

**AYES:** Commissioners Lotter, Duncan, Connelly, Frith, Dolan and Chair Leverenz  
**NOES:** None  
**ABSENT:** Alternate Commissioner Sweany  
**ABSTAINS:** None

**3. NOTICED PUBLIC HEARINGS –**

**3.1 Review and Consideration of the Draft Municipal Service Review and Sphere of Influence Plan Update for the Paradise Recreation and Park District. *(Continued from the April 2 and June 4, 2009 LAFCo Meetings)***

Chair Leverenz asked if staff had anything else to add to the staff report.

Steve Lucas, LAFCo Executive Officer, stated the report encompasses everything discussed previously and he welcomed any additional questions/comments.

Chair Leverenz opened the public portion of the hearing for comments.

Mike Ashlock, a resident of the Concow area, voiced his concerns regarding removing the Poe Powerhouse area from the Paradise Recreation & Park District's (PRPD) Sphere of Influence (SOI) and his concerns regarding getting equity for the taxes that are coming from their area into whatever recreation district is supposed to be serving them. Mr. Ashlock asked what LAFCo's authority is to enforce the recreation districts to comply with the Commission's recommendations.

Chair Leverenz stated the Commission is mandated to prepare an MSR for every agency in the County and to look at orderly boundaries. Chair Leverenz stated it is still up to the various districts to make a decision as to whether they want to adhere to the LAFCo recommendations and LAFCo cannot dictate to any district as to how they are to operate.

Mike Ashlock stated he is wondering if LAFCo would support their area in creating their own district in the next five years if they still are not getting recreation services.

Chair Leverenz went over some of the process limitations in creating a recreational district.

Mike Ashlock brought up one other point regarding the staff suggesting that PRPD should work with the GFUSD to maintain the pool or create a special tax benefit district. Mr. Ashlock stated he feels they are already paying taxes for recreation and creating another tax district for creating recreation doesn't make sense to him.

Deborah Ingvaldsen, residing on Yankee Hill Road, stated there is already a PRPD joint powers agreement regarding the GFUSD's swimming pool that was signed in 1988 and she will get a copy of the agreement to give to LAFCo staff. Ms. Ingvaldsen said the GFUSD appreciates the PRPD and states GFUSD received a letter from PRPD stating the district would like to work with them to improve the appearance of the pool.

Mike Trinca, Paradise Recreation & Park District manager, stated he appreciates how LAFCo staff treated the community and the district through this process. Mr. Trinca stated the district has a master plan that was updated in 2002 and in that plan they have identified the needs in the community. Mr. Trinca stated the District is working right now on developing the Crane Park in Concow and has put a lot of money into the planning stages. Mr. Trinca stated the District supports this MSR document.

Chair Leverenz closed the public portion of the hearing.

Commissioner Connelly stated he is grateful for all the work by all the different parties and he supports the people in Concow being served by one park district. Commissioner Connelly pointed out in the document that it states that the district does not currently have adequate developed parkland facilities to serve the communities of Magalia, Paradise Pines, Butte Creek Canyon, Concow and the Yankee Hill. Commissioner Connelly stated to the limits that the Commission can, they have made a suggestion that the district serve these areas better.

Commissioner Duncan stated he wanted to reiterate the recreation district and the water district are working together with the park they are developing in Magalia and also Paradise Lake is their biggest reservoir at 104 acres and there are a lot of recreation activities going on at the lake.

**Commissioner Lotter made a motion to approve the Municipal Service Review and Sphere of Influence Plan Update. The motion was seconded by Commissioner Duncan.**

**The motion was carried by the following vote:**

**AYES:** Commissioners Lotter, Duncan, Connelly, Frith, Dolan and Chair Leverenz  
**NOES:** None  
**ABSENT:** Alternate Commissioner Sweany  
**ABSTAINS:** None

**3.2 06-29 – County of Butte – Dissolution of Various County Service Areas (CSA).**

Steve Betts stated the services that the CSA's were created for have never been established and the County Board of Supervisors has determined that most likely the services will never be needed.

Commissioner Dolan stated she received two calls from people who live on Carolee Ct. off Entler and later received five calls regarding the Durham Vintage Estates CSA. Commissioner Dolan referred the callers to LAFCo staff.

Steve Betts stated he received numerous calls from concerned property owners in the 300' area and he explained the dissolution process to them.

Chair Leverenz stated that Public Works made a determination that these districts were not functional and that came to the Board of Supervisors and that the Board of Supervisors has by resolution unanimously requested LAFCo to dissolve these districts.

Commissioner Dolan voiced her concerns regarding homeowners associations. Commissioner Dolan stated she would like to know what type of homeowners association exist in this area [Durham Vintage Estates CSA] and if no homeowners association exists or is not willing to address drainage maintenance, this ultimately becomes a public matter referred to the city or county.

Tom Blixt with the Department of Public Works, stated years ago he handled the administration of most of the CSA's and he gave a history of how this application came to be before the Commission today.

Commissioner Dolan stated she didn't remember ever agreeing as a Board of Supervisor to dissolve these CSA's and we ought to know if a home owners association is functional before we eliminate some administrative shell that could become the financing mechanism to take care of the issues.

Chair Leverenz stated maybe we should continue this item for 60 days for further review as it is a lot easier to keep a district than to try to create a new one.

Commissioner Lotter asked if there was a cost associated with keeping the districts. Steve Lucas stated the Auditor's office has to prepare an annual report to the state which is an accounting of every CSA and these CSA's have no funding mechanism in place to fund such reports.

Stuart Edell, Butte County Public Works, disclosed his property touches a corner of CSA 144. Stuart Edell stated the subdivision facilities were installed, there are storm drainage leach trenches, the funding has never been provided for these leach trenches through the CSA's, the county has never maintained them and doesn't know if they have ever been maintained. Stuart Edell stated the mechanism to fund the CSA would normally be a petition from the property owner(s).

Chair Leverenz asked if the property owners were required on as a condition of the subdivision to create the district to provide the services. Stuart Edell stated this is a pre-Prop 218 subdivision and the funding didn't get established at the same time, as the Board of Supervisors could come back at any time to establish it. Stuart Edell explained the protest hearing process and requirements.

Commissioner Connelly asked if we could dissolve the non-controversial CSA's and continue the other ones. Commissioner Dolan asked if we know if the Heritage Estates area is a condominium development or if it is a home owners association. Stuart Edell stated it started out as a condominium development but the county has no information on the current status and the county does not have any funding to maintain the storm drainage.

**Commissioner Connelly made a motion to dissolve CSA No. 88 (Heritage Estates Lighting and Drainage), CSA No. 118 (Watkins Subdivision Lighting and Drainage) and CSA No. 154 (Forebay Vista Lighting and Drainage) and continue CSA No. 144 (Durham Vintage Estates Lighting and Drainage) for two months to allow for further contact with landowners. Commissioner Frith seconded the motion. There was discussion on the motion. Commissioner Connelly then amended his motion to dissolve only CSA No. 118 and CSA No. 154 and continue CSA No. 88 and CSA No. 144, seconded by Commissioner Frith.**

**The motion carried by the following vote:**

<b>AYES:</b>	Commissioners Lotter, Duncan, Connelly, Frith, Dolan, and Chair Leverenz
<b>NOES:</b>	None
<b>ABSENT:</b>	Alternate Commissioner Sweany
<b>ABSTAINS:</b>	None

**4. REGULAR AGENDA**

**4.1 Items Removed from the Consent Agenda – None**

**5. Public Comment on Items not on the Agenda – None**

## 6. Reports and Communications

### 6.1 Executive Officer's Report

Steve Lucas, LAFCo Executive Officer, summarized the Executive Officer's Report and gave an update to the run-off election process for a Special District regular member seat. Steve Lucas stated there are no pressing items that currently need to be heard at the August meeting allowing for its cancellation. Chair Leverenz asked for a motion to cancel the August meeting.

**Commissioner Lotter moved to cancel the August meeting; Commissioner Duncan seconded the motion and the motion carried by a unanimous vote.**

Steve Lucas provided an update on the Sewer Service Providers Oroville Region MSR update and stated the MSR update is progressing. SC-OR is currently developing a process by which they can evaluate new project development that might impact the treatment plant.

SC-OR has taken a leadership role in developing an agreement asking developers to come to them as the sewage treatment provider, not the collector, and have SC-OR determine if they have the ability to provide the ongoing treatment of the new EDU demands coming into the plant. The agreement will have SC-OR prepare a capacity impact study which is an analysis of what the subdivision's impact will be on the treatment in terms of any upgrades necessary to serve the new development. The development agreement will be incorporated into the MSR as a factor to consider.

Steve Lucas stated the more complicated part is after the study identifies what the impacts and mitigations are in order to allow the development to move forward. At that point, the developer has to decide, as the person requesting the service from the plant, if they are willing to commit to fund those upgrades necessary to serve their project. What they get with that commitment is a 'Sewer Service Availability Letter' commonly referred to as a 'Will Serve Letter'. The old Will Serve Letters provided by the collectors didn't provide an analysis of the treatment plant and provided no binding contractual commitment. What this means to the Commission is when an annexation is considered and you ask whether the entity can serve the project, you will have an agreement in writing from the agencies that are going to be collecting and treating the sewerage that capacity is available.

Chair Leverenz stated the variable here would be the difference in the collection systems in multiple areas.

Commissioner Connelly said SC-OR may also be asking people, prior to approval of a tentative map, to fund a study and their project may not even be viable; and that may be somewhat out of order. Commissioner Connelly stated this is like a band-aid and not a regional fix, with three entities with three boards with a subservient SC-OR Board coming up with another step or hoop that development has to go through without resolution to the real issues. Commissioner Connelly stated they haven't raised their rates properly in the past to keep up with ongoing maintenance and did not address a huge I&I problem and the three entities point at each other. Commissioner Connelly stated he is disappointed that we [LAFCO] haven't empowered one entity to take control.

Steve Lucas stated for clarification that the big question is what level of information does an elected body want to have in front of it in order to make a decision to grant that tentative map entitlement with respect to sewer service.

Commissioner Dolan stated SC-OR is the treatment facility and there are three collection facilities and they all have to work together without finger pointing.

Chair Leverenz stated that is the point he was making and if he's a developer and he's developing in Thermalito, then he would have to go to TWSD and they will tell him they have capacity in the collection system then he'd have to go to SC-OR and they'd tell him if they have treatment plant capacity.

Commissioner Dolan stated then you have to do two analyses, the treatment side and the collection side. The four entities have to find a regional solution and stop acting individually.

Commissioner Connelly stated he is disappointed that there is no regional fix for the I&I and no regional one stop shop for anyone doing anything in the sewer area.

Chair Leverenz stated from a LAFCo point of view, we started out asking the staff to coordinate discussions with the various entities and SC-OR to work on the very things Commission Connelly is talking about. Chair Leverenz stated the problems are going to be different depending on the agency, and there's no cohesiveness and there's no central agency.

Commission Dolan asked what if we initiate a reorganization. We have three separate collection entities and on top of that an entirely separate legal entity for waste treatment. Commission Dolan asked what Cortese-Knox-Hertzberg says about this.

Commission Connelly stated it is complicated as there are three entities involved and he doesn't think this is efficient.

Scott Browne, stated a more serious problem is that an agency may have to raise their rates and bear elements of rate increases for an entity that it may not feel it is adequately performing its role.

Chair Leverenz asked does LAFCo have the authority or the ability to talk about a reorganization that would create one entity that would be responsible not only for collection but for processing which would then be able to analyze and make the decisions and raise the fees. Chair Leverenz stated he is familiar with what Chico does as one entity and they have all these various fees that go to support the plant expansion and hook ups and it all seems to work and is apparently what is needed in Oroville.

Commission Dolan asked what if the treatment capacity problem was because of the Inflow and Infiltration, how do you study treatment capacity when it is really the collection system that is causing the issue?

Commissioner Connelly stated they have studied that and they know that there's a huge I&I problem and that it's from a lack of ongoing maintenance. Commissioner Connelly stated he thinks if it was regional it would be more cost effective.

Chair Leverenz stated he agrees but can we legally initiate a reorganization.

Scott Browne stated LAFCo was given the authority in 1993 to initiate consolidations.

Commissioner Dolan stated at some point shouldn't we ask if it is appropriate and efficient that a collection system and a treatment system have different governance.

Steve Lucas stated the Commission had addressed the consolidation issue in January when this initially came before LAFCo, and OEDCO presented a proposal to LAFCo to look at this very issue. The Commission directed staff to begin the development of a regional Sewer MSR.

Steve Lucas stated the MSR addresses the sewerage collection and treatment system within the Oroville region. And from that set of facts within the MSR, the Commission will be able to say based on what we see in the MSR, such as an I&I problem, a disparity in the way I&I is being treated, a disparity in the way rules are being followed, etc., that they want to initiate some other level of review such as a reorganization or a consolidation.

Chair Leverenz stated by being armed with that MSR, we will be in a position to tell all of the affected agencies that some type of consolidation and reorganization appears to be necessary. It would be a lot cleaner if the affected agency initiated the action rather than LAFCo.

Steve Lucas gave a brief review of a similar situation happening currently in Marin County and a consolidation report that has been prepared there.

Scott Browne stated according to the law, if LAFCo initiates the reorganization the Commission will have to have an affirmative vote for the reorganization from each district and if any one district fails the whole reorganization fails.

Chair Leverenz stated this is a health and safety issue.

Commissioner Connelly said we are just one wet winter away from having a spill coming close.

Steve Lucas gave an update to the City of Oroville's Municipal Service Review (MSR) and stated staff expects to bring back the review at the September LAFCo meeting. Steve Lucas stated the MSR will need to be publically noticed again due to the time lapse.

Steve Lucas stated the Richvale Sanitary District is currently preparing a sphere amendment and annexation application for submittal to LAFCo that will extend services to several adjacent landowners including Lundberg Farms and the Butte County Rice Growers Association facilities. Staff has advised the District of the need to update the District's MSR and SOI plan in conjunction with the application and staff will be completing the MSR and SOI plan update in house.

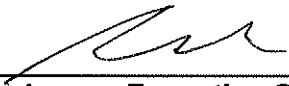
## **6.2 Correspondence – None**

## **7. ADMINISTRATION – None**

**8. ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:05 a.m. to the September 3, 2009 regularly scheduled meeting.

**LOCAL AGENCY FORMATION COMMISSION**



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**By: Stephen Lucas, Executive Officer**

Minutes prepared by Joy Stover, LAFCO Commission Clerk