

**BUTTE LOCAL AGENCY FORMATION COMMISSION**  
**Minutes of September 3, 2009**

**1. Call to Order**

Chair Leverenz called the meeting to order at 9:00 a.m., September 3, 2009, in the Butte County Board of Supervisors Chambers, 25 County Center Drive, Oroville, California.

**1.1 Roll Call**

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

Absent: Alternate Commissioners Holcombe 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 Welcome New Special District Commissioners –**

Regular Member: Mark Sweany, Chico Area Recreation and Park District  
Alternate Member: Loren Gill, Feather River Recreation and Park District

**2. Consent Agenda**

**2.1 Approval of the Minutes of July 2, 2009**

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

**AYES:** Commissioners Lotter, Duncan, Connelly, Sweany, Frith, Dolan and Chair Leverenz

**NOES:** None

**ABSENT:** None

**ABSTAINS:** None

**3. NOTICED PUBLIC HEARINGS –**

**3.1 06-29 – County of Butte – Dissolution of Various County Service Areas (CSA). (Continued from the July 2, 2009 LAFCo Meeting)**

There was discussion regarding this item being continued to allow the County to notify the owners and it was stated that no responses have been received from any of the related property owners.

**Commissioner Connelly made a motion to approve the Dissolution of County Service Area 88 (Heritage Estates) and County Service Area 144 (Durham Vintage Estates). The motion was seconded by Commissioner Duncan.**

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

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

**3.2 SP-51 – Review and Consideration of the Final Draft Municipal Service Review for the City of Oroville.**

Steve Lucas, LAFCO Executive Director, went over the comments received and the related changes suggested by staff. Steve Lucas mentioned a letter that was received from the City of Oroville in which the City is requesting the MSR be adopted with no requested changes. Steve Lucas stated staff is currently working on the Wastewater Service Providers MSR for the Oroville Region and plans to present it at the October meeting and stated it may be more appropriate to delay this item so it can be coordinated with the Wastewater MSR.

Isby Swick, consultant with Design, Community and Environment, presented a PowerPoint presentation on the Municipal Service Review for the City of Oroville and stated the presentation highlights all the changes made since the last draft.

Steve Lucas summarized the staff report and stated the MSR provides baseline information on the types and level of public services directly provided by the City. The MSR will be utilized by LAFCo when considering an update of the City's Sphere of Influence Plan and to evaluate subsequent changes of organization when an application is brought to LAFCo.

Steve Lucas stated staff removed the Water section as that information is contained in the Domestic Water and Wastewater Service Providers MSR and the city has no role in the delivery of water in the City. Steve Lucas stated staff left the limited wastewater chapter in the document as the Commission previously determined it would be best to develop a standalone MSR on sewerage service providers within the Oroville region.

There was discussion on an update to the automatic aid agreement between the County and El Medio Fire Protection District and the County and the City of Oroville.

Steve Lucas went over the staff report update that was sent out electronically after the agenda packets were mailed.

Commissioner Connelly stated the County and the City need to get together and look at the fee structure and look at how they are going to change the revenue sharing in the future. Chair Leverenz mentioned the mechanics of how much and how fees are collected is not something he feels is appropriate to have included in the MSR. Commissioner Connelly stated he agrees and requested that if the MSR is going to state that annexations cost the City money, then it needs to be included that annexations also cost the County money.

Steve Lucas went over the concerns regarding the City continuing to grow in the west Thermalito area and north of the Feather River without having a City fire station in that area and more of the burden will continue to shift to County Fire Station 63 to respond. Steve Lucas stated automatic aid agreements are useful in terms of delivering services to everybody, but these services come at a cost to the responding agency.

Commission Dolan stated for the purposes of the MSR, there needs to be a statement that the City is able to make a finding that they can meet the standards of response for fire and emergency because of the automatic aid agreement and the automatic aid agreements are not intended to be an agreement whereby one agency becomes the primary responder for another agencies' jurisdiction.

Chair Leverenz stated the statement is already in the MSR that the City of Oroville is not able to provide the level of service that it is supposed to without the automatic aid agreement in place.

Commissioner Dolan stated she would like the MSR to state that the City of Oroville can only meet its standards of response because of the automatic aid agreement and this is not the appropriate basis of having an automatic aid agreement.

Scott Browne, LAFCo counsel, stated the appropriate next step would be in LAFCo's Sphere plans to actually make a policy determination whether or not the Commission wants to encourage the Cities to annex in certain situations where the only way they can meet the fire requirements is with an automatic aid agreement.

Steve Lucas went over comments received under Chapter 2 – Growth and Population, Chapter 3.3 – Fire Protection and Emergency Services and Chapter 4.1 – Financial Ability of the City to Provide Services as listed in the Staff Report Update dated September 2, 2009.

Commissioner Connelly stated it is factually based that the City of Oroville's annexations have been bare land and new subdivisions and new development and they have ignored all existing development. Commission Connelly asked if it is appropriate to make some strong comment that there should be some annexation plan to include the existing people living in an urban environment without the urban services.

Chair Leverenz stated he felt it is appropriate to add some language to the MSR that any future annexations will have to be reviewed with the issue that there are large developed areas in the Oroville area such as south Oroville and Thermalito and others that based upon LAFCo law factors will have to be considered.

Commissioner Connelly stated we should mention island areas. Steve Lucas stated the MSR could state that these areas should be considered priorities for LAFCo.

Commissioner Frith asked, since the staff recommends continuing this item to the October LAFCo meeting for final adoption, at what point would the Commission stop taking public comments on this item?

Chair Leverenz stated we should close the comment section at today's meeting.

Scott Browne stated under the Brown Act the public is entitled to comment on any item that is one the Commission's agenda unless the Commission specifically decides that they provided adequate opportunity at this point and specifically indicate that the Commission will not allow such regular comment at the October meeting.

Chair Leverenz stated the Commission is not going to stifle public comment. The question was how much more stuff are we going to get and we are going to try to cut it off today.

Commissioner Frith stated he is referring to documents such as the ones received today and the Commission has not had a chance to thoroughly review and he doesn't want to be hit with another one.

Commissioner Lotter had a question on a comment received from the County regarding the section on Chapter 4.1 stating the City of Oroville collects development impact fees for City functions but does not agree to collect County development impact fees for County infrastructure utilized by city residents, such as libraries and jail facilities. Commissioner Lotter asked if this is something that is being done in other Cities.

Steve Lucas stated LAFCo has not been directly involved in these discussions, but he is aware of a letter that went out from the County to all the cities related to this issue.

Commissioner Dolan stated there has been no resolution and no city or town has agreed to collect County development impact fees. Commission Dolan stated four of the five cities/town are in discussion with the County related to this and the County has not received a comment from the fifth city.

Chair Leverenz opened the public portion of the hearing.

Evanne O'Donnell, managing attorney for Legal Services of Northern California, stated they serve the Butte County area and in particular the Tree of Hope which is a non-profit organization. Evanne O'Donnell stated she wanted to thank LAFCo for all the responses to their comments as LAFCo's responses were very detailed and the Tree of Hope appreciates the changes that were made regarding affordable housing under section 2.5 and also in section 3.2-2 the sentence that was removed at their request relating to crime. Evanne O'Donnell stated she appreciated hearing the Commission emphasizing today that they would like to make annexing the south Oroville and Thermalito areas a priority. Evanne O'Donnell stated it would be very helpful to have more of an in depth analysis of what the services are in those areas now and what are the deficiencies and current assets now so that when it does come before LAFCo the Commission has an in depth document that can be useful. Evanne O'Donnell mentioned her concerns as related to environmental justice and stated they are asking that this MSR get more in detail about what services are in existence and what deficiencies are there. Evanne O'Donnell stated maybe a feasibility study should be done before any annexations come up before LAFCo to approve.

Chair Leverenz stated LAFCo has the ability through a sphere review to address the issues mentioned today.

There was discussion on the process of initiation of annexations and when an in depth analysis should be done.

Weldon Larsen, senior partner and principal with Hignell Development Group, wanted to commend the Commission for what they have accomplished to this point on this MSR. Mr. Larsen stated they are encouraging LAFCo to bring this to resolution as they do have a project entitled Bayview Regional Innovation and Technology Center which has lands partially in the County and in the City and they are waiting for a resolution of the MSR to bring the project forward formally. Mr. Larsen thanked LAFCo for recirculating the document as it gave him a chance to become more familiar with the process.

Patricia Noel, Oroville area resident, stated she wanted to comment on the letter that the City of Oroville gave to LAFCo date stamped September 2, 2009. Patricia Noel stated her comments to LAFCo regarding the Oroville MSR have nothing to do with a lawsuit that her husband had with the City of Oroville. Patricia Noel stated she makes comments on what is important to her.

Chair Leverenz closed the public portion of the meeting.

Commissioner Connelly asked if we can adopt the MSR today without continuing it to the next meeting.

Steve Lucas stated it has been agendized and noticed for adoption.

Chair Leverenz stated he would feel more comfortable adopting the final MSR having in hand the wastewater treatment document, as he might have some things he would like to add.

Commissioner Connelly stated he wanted to comment on the letter that was received by LAFCo staff from the City of Oroville. Commissioner Connelly stated he does not want LAFCo staff to get into the City's internal function, but he believes it was a very accurate statement in the MSR that Oroville

needs to get along with other entities better. Commissioner Connelly stated LAFCo staff comments were appropriate, the letter was defensive and the staff comments should remain where they are.

Chair Leverenz asked if there were any more Commission comments to add.

Commissioner Connelly stated he wanted to mention in the MSR that the El Medio Fire Protection District would be able to remain as standalone district in the event of an annexation of the area served by El Medio Fire Protection District.

Scott Browne stated he has a number of technical comments he will get to staff to have included in the MSR document.

Commissioner Connelly stated he feels there could be better cooperation between the City of Oroville and the County and he feels the County is willing to work on that.

**Commissioner Connelly made a motion to continue the Oroville Municipal Service Review to the October LAFCo meeting. The motion was seconded by Commissioner Lotter.**

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

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

#### **4. REGULAR AGENDA**

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

**4.2 Consideration of Nominations of Commissioner(s) to Serve on the California Association of Local Agency Formation Commissions (CALAFCO) Board of Directors.**

Commissioner Connelly was nominated to run for a County seat on the CALAFCO Board of Directors and Commissioner Duncan was nominated to run for a Special District seat on the CALAFCO Board of Directors.

**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.

Commissioners Connelly and Duncan both stated they will be attending the CALAFCO Conference in October and staff will submit their Conference Registration forms.

**6.2 Correspondence –**

a. August 6, 2009 letter from Supervisor Connelly

**Commissioner Lotter made a motion to approve staff write a letter to follow up on this issue. The motion was seconded by Commissioner Duncan and passed by unanimous vote.**

b. July 31, 2009 letter from William Hauselt

7. **ADMINISTRATION – None**

8. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:54 a.m. October 1, 2009 regularly scheduled meeting.

**LOCAL AGENCY FORMATION COMMISSION**



**By: Stephen Lucas, Executive Officer**

Minutes prepared by Joy Stover, LAFCO Commission Clerk