

PLUMAS LAFCO MEETING MINUTES

**MONDAY, February 9, 2015
BOARD OF SUPERVISORS CHAMBERS
PLUMAS COUNTY COURTHOUSE
QUINCY, CALIFORNIA**

1. CALL TO ORDER - 10:00 a.m.

Present: John Larrieu, Terry Swofford, Kevin Goss, Phil Oels, John Hafen
Also Present: Sherrie Thrall, John Benoit
Absent: Michelle Gault, Jeffrey Greening

2. Approval of Agenda

Agenda approved as written for February 9, 2015. No additions or deletions.

3. Correspondence

Benoit had received a Notice of Intent to Reorganize territory for the Fire District in Indian Valley. Larrieu asked the Notice be addressed under Item 8, Hearing for the Sphere of Influence Update for the Crescent Mills FPD and for fire services provided by the Indian Valley CSD.

4. CONSENT ITEM(S)

a. Vice-Chair Goss moved and Commissioner Swofford seconded to approve the December 8, 2014 minutes as submitted. Unanimous approval, motion carried.

5. Public Comment

Chair Larrieu opened the meeting for public comment. No public comment; public comment period was closed.

6. Authorize payment of Claims for January, 2015 and ratify claims for December, 2014

Commissioner Hafen questioned what the cost is for each MSR. Benoit estimated approximately \$40,000 per MSR, depending on the availability of the information needed, the level of difficulty and the number of districts involved. Commissioner Hafen asked when the budget would be re-done and what the budget period is. Benoit stated the budget discussion is on the agenda for today, and the budget period runs from July 1st through June 30th. Commissioner Hafen asked what districts were left for MSRs. Benoit says there are approximately 18

smaller districts left.

- a. Vice-Chair Goss moved for the approval for the payment of January, 2015 claims and the ratification of December, 2014 claims. Commissioner Oels seconded. Unanimous approval; motion carried.

PUBLIC HEARING:

7. **Service Review for Districts within Central Plumas County more or less including services provided by the Central Plumas Recreation and Park District, Crescent Mills Cemetery District, Crescent Mills Lighting District, Greenville Cemetery District, East Quincy Community Services District, Indian Valley Healthcare District, Indian Valley Recreation and Park District, Plumas Healthcare District, Quincy Community Services District, Quincy Lighting District, Quincy-LaPorte Cemetery District, Taylorsville Cemetery District, County Service Area 6 – Genesee Valley, and County Service Area 11 – Ambulance (continued from December 8, 2014).**

Benoit asked Jennifer Stephenson from Policy Consulting Associates LLC to present the Service Reviews. Jennifer says they had released the proposed MSRs for review and solicited comments. They had received approximately 40 comments regarding the Indian Valley Recreation and Park District portion of the report. They addressed the majority of the comments, very few of which would have any impact on the determination LAFCo would be adopting today. The only significant item they were not able to address (at least until today) was whether the District was able to provide Policy Consulting Assoc. with a budget. The District reported that they do in fact adopt a budget every year, but as of today Policy Consulting Assoc. had not received a copy of it.

Chair Larrieu opened the Public Hearing to comments. Commissioner Hafen asked Jennifer to confirm that if she'd only received one set of written comments on the Indian Valley Recreation and Parks District which were contained in the board packets, how did the rest of the MSR come about? Did the Districts submit pieces of it, and then Policy Consultants drafts the sections and then send it to the Districts for review, which then provide Policy Consultants with corrections. At that point Policy Consultants would also ask for substantiating evidence. Hafen asked if basically this packet, with one exception, have already had their comments incorporated in the MSR. Jennifer confirmed this, but did point out that some Districts do not respond with information or requests. Hafen asked Benoit to note in the MSRs when the Districts don't respond. Benoit says the MSRs are noted to that effect already. When a Change of Organization or an Annexation to that District comes up, LAFCo will say that the MSR must be updated at the District's expense. Hafen is concerned about the numerous red flags contained in this MSR, one of which is the District's failure to respond. Benoit says that comes up in two different places; one is the Sphere of Influence and the other is when there is a Change of Organization, so it will come up in the

future. Commissioner Oels asked if there was nothing else that could be done when a District is not in compliance with state law, and asked how much trouble they could get in to for that. Benoit says that LAFCo notes it, and he believes the Grand Jury also looks at them. Benoit says that really all LAFCo can do is document it. LAFCo can make a recommendation that the District is dissolved or annexed into another District. Hafen believes there is more that LAFCo can do, such as hiring Jesse Lawson, General Manager for Indian Valley CSD, to approach these Districts to offer assistance to get back on track. Hafen asked if LAFCo can approach the Grand Jury with this information. Benoit said that Hafen is welcome to do that, and he can file a form with the Grand Jury online. Hafen says there has to be something else that LAFCo can do.

Benoit recommended to continue this discussion until April 13, 2015. Goss motioned to approve and Hafen seconded.

8. Hearing for the Sphere of Influence update for the Crescent Mills FPD and for fire services provided by the Indian Valley CSD.

Benoit said he was moving forward on this up until two weeks ago, when he received notice of the possible consolidation of Crescent Mills FPD and Indian Valley CSD. Benoit has put this on hold and now recommends continuing this discussion until the April 13, 2015 meeting and perhaps even later.

James Reichle spoke on behalf of the Indian Valley CSD. The board of IVCSO has not acted yet. The notice was sent out to be in compliance with the 21-day statutory notice that would allow the board to take that action. The reorganization committee for the board has met with Mr. Reichle, and that's where the Notice of Intention came from. IVCSO has had struggles; \$671,000 plus \$400,000/\$500,000 in costs to make it "sort of right". Staff down to one General Manager and one guy out in the field and an office manager for everything (fire, sewer and water). Mr. Reichle says there is a cultural difference between balancing water and sewer and fire and emergency response. Mr. Reichle said they were considering expanding Crescent Mills to take in everything and make that the Indian Valley Fire Protection District and leave the utilities with IVCSO, but John Benoit told Mr. Reichle this morning that in Calaveras County they did a JPA to accomplish the same thing on an interim basis. The notice was sent to allow the board to consider asking LAFCo to initiate re-organization proceedings along the lines of separating fire and utilities. Now they have another option to consider with a JPA. Mr. Reichle feels that doing a consolidation now would be a horrible mistake; the fire people need to get their act together and IVCSO needs to get back on its feet first. The staff at IVCSO just isn't sufficient for a consolidation at this time. In October, the two boards of Crescent Mills and IVCSO met together and decided to form a consolidation committee. Unfortunately only one board member for IVCSO who was on the board in October is still on the board, so the consolidation committee hasn't met yet. Mr. Reichle met with the Crescent Mills FPD board yesterday and they had a

significant discussion. While Mr. Reichle can't speak for them, he did say there seemed to be a general enthusiasm that having two separate agencies provide services to Indian Valley was best.

John Hafen stated that Crescent Mills FPD is indeed struggling, and believes that LAFCo needs to look at the bigger picture of how the services can best be provided. Hafen asked if dividing out the fire protection services currently provided by IVCS and moving them to Crescent Mills FPD, thereby leaving IVCS to focus on water and sewer could indeed happen through a JPA. Reichle says it was done in Calaveras County and the JPA would not need to go through LAFCo. Benoit confirmed the JPA would not need to go through LAFCo. The JPA can be designed in such a way that it's in anticipation of annexation. It can go into effect; the holders of the JPA would be the IVCS board and the budgets would be carved out based on the proportion dedicated to fire. The composition of the members can be whatever they choose. They would need to determine what the board going to look like for the JPA and then what the JPA agreement is going to look like.

Larrieu asked if the discussion needs to be continued until April 13, 2015. Goss motioned to move to April 13, seconded by Swofford. Unanimous approval; motion carried.

ACTION ITEMS:

- 9. Request by Dwight Ceresola regarding LAFCo File 2011-ANNX-0001 regarding content of Resolution 2012-0003 specifically requesting LAFCo amend the Resolution 2013-0002 to remove specific tax amounts and deleting parcels from the Resolution that area already within the district.**

Benoit says that Mr. Ceresola wrote a couple of letters reiterating the items in the first two letters. Benoit found two key points: The condition that was put into the Resolution when it was approved was stated as "authorized by Section 56886(t) of the Government Code. All previously authorized charges, fees, assessments or taxes currently levied by the Beckwourth Fire District shall be extended into the subject territory upon completion of this annexation." Benoit added on there at the request of the District that "all current and subsequent owners within the annexation territory shall pay the current 2012 district annualized assessment of \$158.67 each existing and for any newly created assessor or parcel or legal lot of record. The 2012 assessment amount shall be increased on January 1st of each year by 4%, compounded annually." The request is to eliminate that last paragraph. The reason it's even in there is when the districts do annexations and they do not receive fees or special taxes and/or assessments, then they're annexing themselves into bankruptcy or an unfair situation. In the 4th District Court of Appeals, there was a case, Sunset Beach vs. Orange LAFCo that stated that yes, the fees can be imposed. The operative three words, "all previously authorized," meaning the District would have to have a previously authorized tax,

fee or assessment. Benoit is not going to judge whether or not Beckwourth has a legal fee or assessment; it's not up to LAFCo to make that determination, it's really up to the District. Benoit noted that the words fee and assessment are two completely different things; an assessment is something you do through an Engineer's report or an AB 1600 study, which also requires 15% of the landowners. A special tax requires a 2/3rds vote of the registered voters within the District. What Benoit understands the District to have is a special tax. Benoit spoke with the attorney about this, who strongly advised against amending the Resolution, which would set forth a new Statute of Limitations, meaning they would have 60 days to sue LAFCo or seek a Validation Notice. Benoit says the project is over as far as LAFCo is concerned. If the project weren't over, even on the MSR that LAFCo did for them; it used to be a 3 year statute and LAFCo was sued over it, so it was changed to 60 days. The issue is moot as the project is over. While Benoit sympathizes with anyone paying a special assessment, fee or a tax, it's not really up to LAFCo.

The other point Mr. Ceresola brought up in his letter that Benoit agrees with wholeheartedly is that LAFCo does not have the authority to charge assessments. Assessments, fees and taxes are charged by the Districts. LAFCo does not annex parcel numbers; we use maps and a metes and bounds description. Benoit brought an example where a Certificate of Completion was recorded in 2005 using a bunch of assessor parcel numbers. Benoit says parcel numbers change due to subdivisions, lot line adjustments, whatever. Benoit says LAFCo has the authority to change any proposal before us (within reason), but in this case with the Beckwourth properties and the nine properties that were annexed, Benoit believes one property may have been changed, but it had nothing to do with Mr. Ceresola; the lot created an island or something like that.

Chair Larrieu confirmed Benoit's recommendation was since the Statute of Limitations on the filing has long passed, LAFCo counsel has advised responding with a letter to Mr. Ceresola explaining the intent of the original condition, the Districts responsibility and to include alternative assessments and taxes of the District and merging parcels.

Dwight Ceresola spoke and said that when you read the California Constitution Article 13D, when they figure out the fire department or the District that you're supposed to annex in to, the District is supposed to send a written sum of what you will be taxed, and give it to you ahead of time so it can be reviewed. This never happened. They talked about the amount of the proposed assessment for each identified parcel and how it's calculated. Both costs which you couldn't get. It's supposed to be provided ahead of time, and it's supposed to come from the District, but they never received one. Mr. Ceresola says that the District says they put the public notices out, but the Constitution says that when the District figures out the fee they're going to charge the landowner, the District is supposed to send the landowner a written letter, and then 45 days later hold the public meeting and then put it out as public notice. The people being annexed are supposed to

receive, prior to, how this was calculated and what the expectations of the costs are. They never received that. Mr. Ceresola wants to know how that can be corrected, or what their rights are since they did not receive that information and it was pushed through. The agency also has to be able to back what they're charging, and both Prop 218 and AB 1600 talk about accomplishing a study; one talks about a certified engineer report, AB 1600 talks about a Nexus report. Mr. Ceresola asked about a Nexus report several times and both Mr. McCaffrey and Mr. Bundy said they'd never heard of one, although they've done numerous annexations. If you go back through their records, they have, but they've never done a certified engineer report or a Nexus study, but they've generally met with the people of the annexation and either negotiated and worked something out or they put it to a Prop 218 vote. As of 2012 they're saying the Prop 218 vote is not required and they have a court case. Mr. Ceresola says the California Constitution still requires that if an agency is going to tax you, it needs to be put to a vote. It was never put to a vote to the nine people who are being annexed in. Mr. Ceresola did several letters of open records requests to the Volunteer Fire Department, one of which asked where the Prop 218 was. The response was that it was not applicable. Later, from the attorney, Mr. Ceresola received a copy of the Prop 218 vote taken on another annexation on a separate property which was adjacent to his property, and therefore that's how they came up with the fee. Mr. Ceresola then asked which annexation this applied to as his property butts up against one annexation and it was annexed in for a flat \$40 fee, and it was in a subdivision. Along with it there was another annexation in another subdivision for a flat \$60 fee and yet another one had a \$60 annexation fee with a 2% annual increase. Which figure do you use? Mr. Ceresola has asked and never received an answer from the Beckwourth Fire Department. In emails back and forth with the County, to get the information will cost between \$60 and \$150 and then the amount put out by the Fire Department between \$135 and \$200. Mr. Ceresola feels there is a lot of misinformation here. The Plumas Co. Administrative Office submitted a letter to Mr. McCaffrey April 12th requesting information in response to items 2, 3, 4 and 6 talking about the taxes. Mr. McCaffrey replied in writing that the justification to both the district and the county is that these areas, both improved and unimproved are being covered by structural fire protection. Most of the nine areas, 3,084 acres proposed to be annexed, have applications with LAFCo for future subdivisions. One of which is a community of over 250 homes. The problem with this is there is no subdivision for 250 homes. There is no report justifying that there will be a subdivision for 250 homes, yet there is supposedly an adjacent property with 159 and 4% annually. The bell has rung, but now that it's been identified that LAFCo was given misinformation, what can we do? Is he being charged this because it might be a subdivision? This is ag ground. There were four parcels that were in the Fire District. The map doesn't take in the whole parcel. Parcels can change because it's a device used by the Assessor.

Benoit asked when the assessor's parcels were split. Ceresola says the parcels have been in the District since 1950. The first separation was around '09 or '10, but he's not saying those parcels were completely in. They've taken an annexed

ground and charged it with the same annexation fee because there might be 15 acres out of the District. The reason Ceresola was given was that if he put a structure there, the Fire Department needs to be able to defend it. There was no study done; if there had been one done, the County would not allow a structure to be built there. Mr. Ceresola would like the LAFCo board to consider “kicking this back and starting over.”

Benoit says that LAFCo did what it was legally required to do, Mr. Ceresola has some good points about splitting up the parcels and this is what Benoit was referring to previously by using maps instead of parcel numbers.

BJ Pierson spoke and says that a 60 day Statute of Limitations is unfair since Mr. Ceresola wasn't aware that he was being unfairly taxed. All government agents have a moral obligation to treat people fairly, and if you (LAFCo) finds out that someone is not being treated fairly, you (LAFCo) has the moral obligation to correct it. Mr. Ceresola's situation is very simple; either he negotiates with the District and they correct this, or there is an appeal made and you de-annex. The problem that started this is the County has an ordinance that says you cannot divide your property or develop the property in any matter unless you're in a fire district. There has never been a subdivision map of any kind filed on that property (or our property, as he represents the Sierra Group). The only map in front of this county was a parcel map, which is not considered a subdivision unless it's five or more parcels. The gentlemen used the fact that there may be a subdivision in the future as justification for taxing Mr. Ceresola now. Mr. Pierson was a Supervisor when the Grizzly project was proposed. That was extortion. They said either you pay this or you don't get to divide your property. And what they received was more added assets to the entire value of the Beckwourth Fire Department at that time. Beckwourth Fire Department went from the second poorest district in the county to the second wealthiest district in the county in three years. It's not a good deal when you extort money from private property owners in order to allow them to utilize their property. Mr. Pierson disagrees with Benoit and says LAFCo still does have authority to initiate some kind of procedure to either undo this. Benoit disagrees and says it was already recorded and asked to postpone this discussion until LAFCo counsel is present. Mr. Pierson says that might be a good idea. Benoit pointed out that LAFCo did a legal notice and the fee was disclosed, which is the LAFCo obligation. Mr. Pierson disagrees and says it will probably end up in court. Goss motioned to continue the discussion until LAFCo counsel could be present. Hafen seconded. Unanimous approval; motion carried. Benoit says he will be sending notices that will indemnify all the applicants too.

- 10. Request by the City of Portola requesting a fee waiver to detach Eastern Plumas Rural Fire Protection District (EPRFPD) territory (currently being served by the city yet remaining) within the City Limits of the City of Portola. Said territory having not been detached from the EPRFPD upon its annexation to the City in 1979.**

Benoit explains in 1978 the voters approved Prop 13. Later on, the Legislature came back and established AB 8, which basically scrunched down all the value of the taxes. Prior to that time, the amount of taxes was all assessed by each District. In March of 1979 when this was approved, AB 8 didn't exist yet and no master property tax sharing agreement because AB 8 didn't exist. EPRFPD was approved in 1975. When the application came in to LAFCo from the City, there was no detachment from EPRFPD. As a result of this, EPRFPD added an assessment and they get a portion of the AB 8 and the City gets nothing because the City annexed this later, and it was never taken out of EPRFPD. EPRFPD doesn't provide fire protection; the City does. LAFCo can now detach that area from EPRFD. As far as the City not receiving that portion of the taxes, that's something the City and the County need to discuss. The request from the City is to consider a waiver of the LAFCo fee to detach EPRFPD from the incorporated area. Benoit doesn't know if EPRFPD will want to do it, but they're not providing fire protection to that area anyway. The County can negotiate a percentage of the taxes, but that won't require a Change of Organization, so it won't come to LAFCo. Hafen clarified that Benoit wants to waive the fee. Swofford motioned to approve waiving the fee and Oels seconded. Benoit says he has to get it officially initiated, or the landowner can. Hafen confirmed that can happen. Unanimous approval; motion carried.

11. Presentation by Jesse Lawson of the Indian Valley Community Services District regarding a “hands on” experience of the direct and indirect impacts of improper district financial management.

Jesse Lawson gave a very informative presentation about his own personal experience being in the district when the embezzlement occurred.

12. Authorize Staff to attend the LAFCo Staff Workshop in Grass Valley April 15-17, 2015.

Hafen asked what the cost would be. Benoit said for him to attend, it'd be \$80. Goss motioned to approve Benoit to attend. Swofford seconded. Unanimous approval; motion carried.

13. Adopt regular meeting schedule for 2015

The proposed meeting schedule was provided in the packets. Hafen motioned to approve, Oels seconded. Unanimous approval; motion carried.

14. Appoint Ad Hoc Committee for FY 2015-2016 Annual Budget.

Hafen volunteered to be on the Committee again this year, and would like to see more money for LAFCo counsel and more money for training sessions if possible, or some role for Jesse Lawson. Larrieu reminded Hafen that the money is limited

by the City and County budgets, both of which are strapped. Larrieu would like to see the budget limits stay within the range as last year's. Hafen says it could be dangerous if LAFCo doesn't approve more funding. Goss offered to stay on the Committee. Unanimous approval.

15. Executive Officer's Report

- a. Benoit says the Plumas LAFCo website is up and running.
- b. Pamela Miller of CALAFCo has consented to come up to Plumas LAFCo for a visit and give us an update on what CALAFCo is doing. That will occur in the summer.
- c. Benoit reminded the Board that Form 700 is due by April 1st. Benoit asked the Board to give the original to Marcy and send (or email) Benoit a copy.
- d. Current projects: LaPorte is still in the process. Dennis from Quincy Volunteer FPD is working on an annexation to the Quincy Fire. The City will have one for the detachment from EPRFPD and possibly one from IVCS.

16. Commissioner Reports – Discussion

Sherrie Thrall says that Seneca Healthcare District is reporting a revenue decline; for December they reported their revenue was about \$450,000 below their budget for that month, and it doesn't look like January is going to perform compared to budget either. She doesn't know how the other districts are looking. Thrall asked to add an item to the next agenda to generally have a discussion about our healthcare districts. She's not looking at consolidation the districts as much as possibly consolidating the administration of the districts to avoid creating three overheads and three of everything, in addition to increasing potential purchasing power. If we wait for districts to fail, it's too late to save them.

17. Adjourn to the next LAFCO meeting – April 13, 2015 at 10:00 a.m.

The next meeting will take place on April 13, 2015. Chair Larrieu adjourned the meeting at 11:43 a.m.