

**LOCAL AGENCY FORMATION COMMISSION (LAFCo)
OF NEVADA COUNTY**
APPROVED MINUTES

Regular Meeting
August 17, 2023

Commissioners Present

Bob Branstrom (Cities)
Hardy Bullock (County) remote
Sue Hoek (County)
Rich Johansen (Districts) remote
Gordon Mangel (Districts) remote
Gary Petersen (Cities)
Josh Susman (Public)

Alternates Present

Cheryl Dell (Public)

Alternates Absent

Lisa Swarthout (County)
Jan Zabriskie (Cities)

Commissioners Absent

Ricki Heck (Districts)

Staff

SR Jones, Executive Officer
Scott Browne, Legal Counsel
Deborah Gilcrest, Commission Clerk

Call to Order/Flag Salute/Roll Call

Chair Susman called the meeting to order and acknowledged our community's concern for the people in Washington (Nevada County) as they are currently battling a wildfire on Highway 20. The Chair further identified the victims of the wildfire on Maui, and encouraged Nevada County residents to donate to the numerous organizations assisting those in need.

Chair Susman asked Commissioner Hoek to lead the group in the flag salute. The Chair then asked the Commission Clerk to call the roll. The Clerk noted a quorum was present in the Board Chambers and that Commissioner Bullock was attending via a remote connection. LAFCo Counsel explained since participants were attending via remote connection, all action items would require a roll call vote.

Remote Participation – Item 1.1

The Chair called for a vote of the Commissioners to allow the remote participation of Commissioners Mangel and Johansen. The Chair then called for a roll call vote on the matter, which was listed on the agenda as Item 1.1. The Clerk confirmed the following vote:

Branstrom: Aye
Bullock: Aye
Hoek: Aye
Johansen: Aye
Mangel: Aye
Petersen: Aye
Susman: Aye

Public Comment

Chair Susman announced Public Comment as the time for members of the public to address the Commission on any matter not on the agenda. No public comment was made.

Consent Calendar

Chair Susman noted the Consent Calendar consisted of the draft minutes of the June 22, 2023 Commission meeting. He then asked if any member wished to pull the draft minutes for additions or corrections.

MOTION was made by Commissioner Branstrom to approve the Consent Calendar as presented. **MOTION** was seconded by Commissioner Hoek, and passed unanimously by the following roll call vote:

Branstrom:	Aye
Bullock:	Aye
Hoek:	Aye
Johansen:	Aye
Mangel:	Aye
Petersen:	Aye
Susman:	Aye

Business/Action

- NID Annexation – Placer County Government Center

The Chair introduced Item 4.1, a proposed annexation to Nevada Irrigation District. He asked the Executive Officer for her staff report.

The LAFCo Executive Officer, SR Jones, reported that Nevada Irrigation District (NID) had applied for an annexation to include a 13-acre County-owned parcel into the District. Jones added that the parcel is located at the Placer County Government Center campus on the east side of Highway 49 in North Auburn. She added that in 2015, Placer County began an update to the Government Center Master Plan, finalizing the plan and completing an EIR for the project in 2019.

Jones explained that water service to the Government Center is provided by both Placer County Water Agency (PCWA) and NID. Both agencies have an approved Memorandum of Agreement (MOA) relative to water distribution at the Government Center. Jones added that the MOA outlines provisions for joint water supply to the project for consumptive, non-consumptive and emergency fire suppression uses. She explained that the parcel is part of an island surrounded by NID’s district boundary, and that the northern portion of the island (location of Home Depot) was not included in the proposal. Jones explained that Placer County previously allowed the commercial complex with the condition developers provide a self-contained water system. Therefore, the portion of the parcel containing Home Depot was not a part of the proposed annexation being considered.

Jones explained that relative to CEQA, the District’s initiating resolution recognized Placer County as Lead Agency for the project. She stated that the District is a Responsible Agency, and so is Nevada LAFCo. Jones added that LAFCo staff concurs with NID’s environmental findings as contained in the District’s Resolution of Application.

Jones stated the Commission was provided a link to the Draft and Final EIR as part of the staff report sent out with the agenda. She added that the Statement of Overriding Considerations was included in the draft resolution.

The EO noted that NID staff was present to answer any questions the Commission may have.

The Chair asked if there were any questions for the EO, or for NID staff (Greg Jones). Hearing no questions or comments, the Chair asked for a motion on the proposed annexation. **MOTION** was made by Commissioner Mangel to approve of Resolution 22-03, including all of the CEQA findings as provided. The **MOTION** was seconded by Commissioner Johansen, and passed unanimously by the following roll call vote:

Branstrom:	Aye
Bullock:	Aye
Hoek:	Aye
Johansen:	Aye
Mangel:	Aye
Petersen:	Aye
Susman:	Aye

- Update on the Reorganization of Western County Fire and Emergency Response Services

The Chair introduced Item 4.2, a summary of the proposed consolidation of three fire districts: Rough & Ready, Penn Valley EMS and Nevada County Consolidated Fire Protection District. Chair Susman thanked all parties involved in the effort to ensure fire protection and emergency response coverage for the residents of Rough & Ready. He asked the Executive Officer for an update on the consolidation.

The EO explained that the three-agency reorganization has evolved from an initial effort meant to consolidate Rough and Ready Fire District with Penn Valley Fire District. Jones added that in May, the County of Nevada became more involved in the process, with the Board of Supervisors establishing an ad hoc committee of two Supervisors (Commissioners Hoek and Swarthout) to work with County staff and the districts.

Jones continued her update by explaining that by the time the Commission met in June, three fire districts, including the Nevada County Consolidated Fire Protection District, had agreed on a joint staffing arrangement to ensure continuous response coverage at the Rough and Ready Fire Station 59. Jones added that shortly thereafter, the districts and the County prepared a Memorandum of Understanding (MOU) which was subsequently approved by all the respective boards.

The MOU provides for the three districts to initiate a reorganization which will be ready for the Commission's consideration in 2024. She added the County has agreed to provide financial assistance to support the reorganization process as well as the joint staffing arrangement for Station 59. Jones stated that in the meantime, LAFCo staff will continue working with fire district staff to coordinate the consolidation and the ongoing development of an updated Fire and Emergency Response Service MSR and Sphere Update.

The Chair asked for information from Chiefs Robataille and Wagner, who were both present at the meeting.

Chief Jason Robataille, of Nevada County Consolidated Fire Protection District (NCCFPD) explained both Boards of Directors have agreed to move forward on the proposed consolidation. Chief Robataille began by commending all of the personnel (NCCFPD, PVFPD and staff at Rough and Ready) explaining that all firefighters and administrative staff have been doing everything possible to execute a smooth transition. He added personnel have begun training together and noted that on Fourth of July, Station 59 was the busiest of all seven local stations.

Chief Robataille explained the ad hoc committee has already met twice to chart the course for the consolidation effort. He added that all three districts and key personnel from County of Nevada are represented on the committee.

Chief Wagner explained that the districts have started developing a new organizational chart and the blending of SOP manuals and agency bylaws. He mentioned that LAFCo staff had worked with County GIS to develop a map showing the eventual boundary of the consolidated fire district. Chief Wagner added that planning efforts, up until now, have been conducted by the two chiefs, however at present, other staff members have been pulled into the process.

Chief Wagner added he was grateful to have all labor representatives on-board with the consolidation, which he partly attributed to all local district firefighters belonging to the same union.

Chair Susman complimented the Commission, the ad hoc committee, administrators and all the employees who have gone above and beyond to contribute to the smooth transition.

The Chair reminded everyone present of the original public workshop held at the Rough and Ready Station back in April of 2023. He recalled the future at that time was uncertain, and he expressed his sincere admiration and gratitude for everyone committed to the new situation. Chair Susman then asked if the Commissioners wished to comment or ask questions of staff.

Commissioner Hoek asked staff when the MSR was expected to be completed. EO Jones replied that with the added delays she expects rather than December of 2023, the MSR might be finished in February of 2024.

The Chair asked Commissioner Hoek if she wanted to provide additional information from the ad hoc committee. Commissioner Hoek said the committee intends to meet monthly to keep apprised of progress, and that she felt confident that the Districts and LAFCo were able to successfully proceed and accomplish the end goal. She acknowledged that the current progress would not have been possible without the exemplary leadership from the Fire District boards and district personnel.

- Brown Act Workshop

The Chair introduced Item 4.3, providing LAFCo Counsel the opportunity to provide an overview of the changes to the Brown Act including new guidelines for remote participation by public officials.

Counsel Browne explained a set of changes to the Brown Act which were interim emergency rules allowing Zoom meetings during the COVID pandemic, and those were allowed to continue far

beyond the point when the worst of the emergency had passed. Browne continued, explaining that pre-COVID, Commissioners were allowed remote participation when the address of the site was announced and published ahead of time and that same address was made fully available for public access. The public access requirement meant public officials were also required to go to a public place to participate.

Browne explained that during the Governor's emergency order (2020-2022), public officials were allowed to connect to any meeting from any location to avoid possible contact with the virus. In 2022, Governor Newsom ended the emergency proclamation, which would have meant an end to allowing remote meetings, but then the legislature revised the Brown Act to allow continuing the practice of remote meetings, under limited circumstances.

Browne added that although the term "emergency" sounds like an urgent situation, SB 2449 specifies several situations which qualify as an emergency reason a commissioner would be unable to attend a meeting. The four qualifiers, known as "*just cause*," were outlined by Mr. Browne as follows:

1. necessity of childcare, or medical care and attention for any family member; or,
2. a contagious illness which prevents the participant from attending in person; or,
3. a need related to a physical or mental disability; or,
4. if the meeting participant is traveling on business of the legislative body, or any other state or local government agency.

Browne further explained that when the above circumstances are met, the meeting must be accessible both by audio and video so that members of the public and others can see (and hear) the proceedings. He added that the published agenda must identify to the public the exact location of the meeting allowing the opportunity to comment on an item in real time. Browne added that if there is a disruption in the connection restricting the ability to comment, the meeting must be postponed and adjourned to a specific date, time and place.

Browne added that SB 2449 stipulates that a Commissioner may qualify with a just cause, but is limited to only three consecutive times within one year, or 20% of the agency's regular meeting times. Counsel added this means a commissioner cannot use the provisions of SB 2449 to continuously participate remotely.

Browne continued, stating other provisions were recently added to the Brown Act allowing for the removal of disruptive attendees. The Chair is required to warn the person when the behavior is considered disruptive and that failure to discontinue the behavior will result in removal. Browne concluded by saying that although the changes are small, they are intended to increase participation.

The Chair thanked Counsel Browne and then asked if any Commissioners had questions or comments regarding the current legislation guiding remote meetings.

Commissioner Hoek wanted to clarify her understanding that when she is home sick, she will be able to participate after stating the just cause. Browne confirmed this as the case.

Commissioner Branstrom asked that if he were assigned by an agency to work off-site and the meeting you wish to attend is for a different government agency, would this qualify as a just cause.

Browne responded that the law is written so that working remotely (say at an outside meeting or conference) for any state or local agency qualifies for approved remote access.

Commissioner Mangel asked for clarification on the possibility of a disruptive person participating remotely, if the rule of removing them still applies; in other words, could the Chair decide to cut the remote link. Browne confirmed the procedure would be the same, as if the person were physically in the room.

Commissioner Branstrom asked for clarification regarding the composition of a quorum under the new regulations. Browne stated a majority of the voting members must be physically present in the room in order to take action on an agenda item.

CALAFCO Matters

After announcing he would be unable to attend the CALAFCO Conference, the Chair asked the Executive Officer for additional information. Jones stated the conference will be held in Monterey October 18-20, 2023. She added that slots are still available should any of the commissioners decide presently to attend. Jones informed the Commission the dates of the conference coincide with LAFCo's normal meeting date, and therefore the next scheduled LAFCO hearing will be in November.

Jones mentioned the CALAFCO Board nominations have been requested; specifically one County and one District seat in the Northern Region. Commissioner Heck has expressed interest in the District seat on the CALAFCO Board. Jones then asked Counsel Browne if he was aware of any updates on legislation which could impact LAFCOs statewide.

Browne explained he has been working on an addition to the Omnibus bill that will provide additional flexibility for LAFCo to structure consolidated district boards to include ex-officio members.

Announcements

The Chair asked for announcements from the Commissioners on events or other news. Commissioner Dell announced a public session on wildfire prevention to be held at Sierra College on Friday, August 25, 2023, at 10:30 a.m. Sheriff Moon will be discussing evacuation procedures and the organizers are expecting a large crowd for the presentation.

Executive Officer's Activity Report

The Chair asked the EO if she proposed any changes to her written report; no changes were proposed.

Adjournment

The Chair adjourned the meeting at approximately 10:30 a.m.