

**LASSEN COUNTY LOCAL AGENCY FORMATION COMMISSION**  
Board of Supervisors Chambers 707 Nevada Street Susanville, CA 96130

REGULAR MEETING  
December 14, 2015 - 3:00 p.m.

Meeting was called to order at 3:00 p.m. by Vice Chairperson Wilson.

Roll call of members present: Jim Chapman, Jeff Hemphill, and Vice Chairperson Brian Wilson. Absent: Rod De Boer and Chairperson Todd Eid.

Staff Present: John Benoit, Executive Officer and Gwenna MacDonald, Clerk.

Motion by Commissioner Hemphill to approve the agenda as submitted; Commissioner Chapman provided a second and the motion carried. Ayes: Hemphill, Chapman and Wilson. Absent: De Boer and Eid.

**Correspondence**

Mr. Benoit provided a letter written from a Lassen County resident regarding flood control issues.

**Minutes**

Vice Chairperson Wilson stated that he was not present at the October 10, 2015 meeting, and consideration of the approval of minutes would be postponed until the arrival of Chairperson Eid.

**Public Comments**

There were no public comments.

**6. Continued Public Hearing: LAFCO Initiation of West Patton Village CSD and Herlong Public Utility** Mr. Benoit provided a background regarding the completion of a Municipal Services Review and Sphere of Influence update completed for the Herlong area, and the resulting recommendations which included establishing a zero Sphere of Influence for the West Patton Village Community Services District to signify an anticipated dissolution of the CSD and consolidation of the functions to be passed on to another agency. The SOI also recommended an expansion of the Herlong Public Utility District to include the entirety of the West Patton Village CSD, anticipating that it would be the successor agency to provide services to West Patton Village customers. The consolidation has been discussed by the respective Boards, but after nearly a year of discussions, the process appears to have stalled. LAFCO considered and discussed assisting in the negotiation process at the August 10, 2015 meeting, including options to conduct a LAFCO-initiated consolidation. A public hearing was held at the October 5, 2015 meeting, with a number of comments and revisions provided, which have been incorporated into the draft Resolution of Consolidation. The draft included a mark-up to note the changes, and has been circulated to both Districts.

At 3:06 p.m. Vice Chairperson Wilson opened the continued public hearing and requested comments from the public.

**Pat Williams**, General Manager, Herlong Public Utility District, commented that the HPUD Board has reviewed the draft at length, and supports the consolidation, however there are a few points that they have an issue with. The Board would require that an infrastructure study and/or system evaluation be completed prior to acquiring the existing West Patton Village system, and the Board membership during the consolidation process is still a concern, so HPUD support of the consolidation would be contingent upon resolving those issues.

Vice Chairperson Wilson referred to Item #8 on page three of the resolution, which addresses the temporary increase in Board membership to nine members comprised of the original five-member HPUD Board, and four members of the WPV board, and asked if there has been legal counsel consultation and discussion regarding the item.

Mr. Benoit responded that the Elections Code and Public Utility law prescribe Board membership requirements for District consolidations, and the ultimate designation of permanent members for the new Board would only occur after an election.

Vice Chairperson Wilson asked if the LAFCO Commission had the authority to remove a member from the West Patton Village Board since the transition Board would require a reduction from five members to four.

Mr. Benoit responded that in a consolidation, LAFCO would be initiating the dissolution of a District, which could technically remove all five members.

The Commission discussed the process that would be implemented in accordance with CA Public Utilities Code Section 15973.1 whereby West Patton Village Board members whose terms expire following the effective date of the consolidation would not be filled, and by attrition, the membership would be reduced to five members, with existing vacancies put on the ballot at the next election.

Pat Williams asked what the timeline would be for the consolidation process.

Mr. Benoit responded that the process is essentially the creation of a new Public Utility District with the same name, and it can be accomplished in a variety of ways, however the most straightforward would be to dissolve WPV and expand the HPUD boundary to include the existing West Patton Village service area.

Commissioner Chapman described a similar issue that had occurred in the past with the high school and college boards, adding that the processes required are in the Government Code and LAFCO would not be creating new law by authorizing the increase in membership of the Board to facilitate the consolidation process. LAFCO supported the consolidation, but given the lack of progress made by the two Boards after one year, it is likely that the formation of a nine-member board would also be unsuccessful. Regardless of who initiates

consolidation, it must be driven by a cooperative and cohesive effort between two groups. The cost for the studies, election, and the consolidation process is borne by the District and should be on the ballot for the citizens to decide if they want it or not. Running it on a consolidated election as opposed to a special election is much cheaper, as special election costs could potentially reach \$50,000.

Mr. Benoit remarked that he would prefer to see an engineering-based study of the West Patton Village system, reasoning that costs and deficiencies in the system would need to be identified before moving forward with a consolidation. He asked Mr. Williams for feedback regarding the process.

Pat Williams responded that he would obtain an estimated engineering cost, and the sewer collection system would have to be looked at, as would the aging water system. HPUD has a responsibility to protect existing rate payers, and the Board has serious concerns regarding the condition of the WPV infrastructure. The facility plan for HPUD cost approximately \$30,000.

Vice Chairperson asked Mr. Williams if the HPUD Board was willing to pay those costs.

Mr. Williams responded that he had no authority to speak on behalf of the HPUD Board, adding that they would end up paying for it, one way or the other. In 2008 when the HPUD District was formed, it was \$25,000 in fees alone and that did not include the staff time that went into the process. The costs are not in the current fiscal year budget, however the Board could choose to reallocate funding.

Mr. Benoit clarified that LAFCO could initiate consolidation but the cost would still be borne by the District.

Commissioner Chapman suggested dropping the concept of a LAFCO initiated consolidation, and put it back to the Districts to bring back an application for consolidation that is initiated by and supported by the people in the District.

Commissioner Hemphill asked what would happen if the WPV voted to dissolve the District and just walked away from it.

Mr. Benoit responded that the State Board of Equalization steps in and then the responsibility would go to the County to facilitate the consolidation.

Commissioner Chapman outlined the Board of Supervisor's role in that situation, which would include appointing three people to serve as Board members, and then go through the process of dissolution. The comments and input heard at the previous meeting indicate that the process would not be a smooth one.

Commissioner Hemphill asked if that would be a more inexpensive option for the District.

Commissioner Chapman responded that it would be cheaper in the sense that there would be fewer people involved, resulting in less duplication of work, but it would fall on the surviving entity to come up with the money for planning and studies, and then get it to the ballot so the people can decide what they want. If the consolidation is going to move forward, it is important for the District to develop a defined plan to finance studies, and in the case of West Patton Village abandoning the District, it would certainly require Mr. Benoit to work with the County and surviving District to determine what the citizens in the area want.

Mr. Benoit asked representatives of HPUD and WPV if they had formed a consolidation committee.

Pat Williams responded that the consolidation had been considered and agreed upon by both Boards, however it stalled over the issue of Board size.

At 3:35 p.m., Chairperson Eid entered the chambers and assumed his seat at the dais.

**Eula Johnson**, President/Board member, West Patton Village, commented that she felt as if the groups are beating a dead horse, and agreed with Mr. William's statement that a study of the system would be necessary to conduct prior to the consolidation process.

Commissioner Chapman asked if the WPV had funds available to finance the study.

Ms. Johnson suggested identifying the cost, and funding by a fifty-fifty split to be shared between the Districts. The nine member board would be seated for the transition period, and she does not object to downsizing in order to move forward with the process.

Commissioner Chapman asked how many vacancies the Boards had coming up for the election.

It was the determination of those present that there were two seats available on each Board.

Ms. Johnson stated that the WPV Board has one member who is not interested in serving on the new Board, which would eliminate the one extra member, according to the proposed transition Board membership of nine members.

Commissioner Chapman responded that the WPV Board does not have the authority to downsize, and they have to compete when the seats become available, unless the transition period establishes a seven member Board. The County Clerk and County Counsel would have to be consulted with during that process.

Chairperson Eid asked if either side objected to a nine member Board.

Mr. Williams responded that since current HPUD Board members are actually rate payers in the WPV District, that would provide representation on the new Board, adding that they are talking about 305 registered voters being represented by a nine member Board.

Vice Chairperson Wilson stated that LAFCO would not dictate how the nine member Board is reduced down to whatever number the Districts feel comfortable with.

Commissioner Chapman clarified that during a consolidation, the law is set up to allow the rules to be set aside for a period of time, increase the membership of the Board to facilitate the consolidation, and just move things forward until the next election so that the voters can decide who they want to have representing the District.

Mr. Williams explained that there is a serious health issue that exists within the WPV District, the State has become involved, and from his perspective, the Herlong PUD has done its due diligence and needs to have a definitive idea of the condition of the infrastructure that they would be assuming responsibility for. As the HPUD Manager, he is looking at having to spend \$25,000 right away just to clean out sewers and conduct efficiency studies.

Chairperson Eid asked for Mr. Benoit's input.

Mr. Benoit responded that if the situation is that critical, then they should do a study of the system so they understand what it is they are agreeing to take over.

Ms. Johnson commented that she knows the situation is bad, and understands the system needs vacuumed and flushed. She addressed the statement Mr. Williams made regarding due diligence, and does not understand how that affects West Patton Village wanting to be involved in the consolidation process.

Vice Chairperson Wilson asked if WPV has enough money to conduct the system study.

Ms. Johnson responded that she believed so, but could not say definitively, and the Secretary/Treasurer was not in attendance.

An unidentified member of the audience reminded those present that a consolidation of District also means a consolidation of assets owned by WPV.

Commissioner Chapman stated that the public health issue is immediate, and the District needs to deal with it now, separate from the consolidation, with the cost borne by WPV. The issue of a fifty-fifty split would pertain to the costs of dissolution and consolidation with HPUD for an election, filing fees, and operating activity costs are a separate post-consolidation issue. It is his understanding that HPUD is not interesting in inheriting a system that is not being maintained, and equated it to purchasing a home that requires a lot of work. That cost should be borne by the home owner, and not the home buyer.

**Erik Neesen**, tax payer, referred to rules and regulations that are being violated every day by West Patton Village. He has submitted information in the past regarding this issues, and observed that it appears that LAFCO does not care if this situation exists.

Commissioner Chapman explained the responsibility of LAFCO is not an enforcement agency, and the proper venue to voice those concerns would be Lahontan.

Ms. Johnson commented that the WPV Board does understand the condition of the system, and had a private company come out and deal with some of the issues. The problems outlined in Mr. Neesen's letter, to her knowledge, have been addressed.

Commissioner Chapman clarified that the responsibility of LAFCO is to administer Government Codes related to merging Districts, not to regulate how the Districts do their jobs. LAFCO has to decide if the District consolidation is a viable solution and will be looking at the operation plan, however it is not LAFCO's job to form a District that does not function. The work is done by the Districts themselves, and it can take a long time to make that happen.

Mr. Benoit remarked that in preparation of the Municipal Services Review for West Patton Village, it is documented that the services of an engineer were not utilized.

Commissioner Chapman asked if LAFCO could draft a letter to Lahontan regarding the public health issue.

Mr. Benoit replied that Lahontan has a copy of the MSR prepared and adopted for the West Patton Village.

Ms. Johnson asked if the two Boards were in agreement with the draft consolidation resolution, with the exception of Board membership.

**Felix Flores**, HPUD Board President, discussed reasons why the HPUD Board disagreed with the proposed nine member Board, including the time and dollars invested in training Board members that would be costly to provide for new Board members.

Commissioner Chapman described the process required to move forward and effectuate the dissolution of WPV and subsequent consolidation of HPUD to continue providing services. This should include presenting a plan to LAFCO addressing the issues discussed, to include a mapping of the infrastructure and a plan to finance the consolidation. The discussion of consolidation was brought up several months ago by LAFCO to determine where the WPV and HPUD were in the process, and it has resulted in a lot of dialog and feedback, but no real progress or resolution moving forward to agreement on the key issues. The Boards are no closer to agreement than they were in August, and he suggested putting the ball back in their court for the respective Boards to work through the issues.

It was the consensus of LAFCO to not move forward with a LAFCO-initiated consolidation of the West Patton Village and the Herlong Public Utility District.

At 4:07 p.m. Chairperson Eid opened the public hearing and requested the staff report.

**7. Public Hearing: Formation of Southern Cascades CSD to provide Locally Based Ambulance, Emergency Medical Services and Training for territory located in Northwestern Lassen County and Southwestern Modoc County** Mr. Benoit explained that the process to form a CSD for providing ambulance, EMS and Training services for the Northwestern Territory came up short at the last election, and it was expected to be on the ballot in June in order to generate a tax, appoint a Board, and approve services for the area. It has been agreed that Modoc LAFCO would be the lead agency, as they are able to complete the process cheaper than Lassen LAFCO.

**Clinton Davis**, Chairperson of the Working Group, asked the Commission to vote yes on the resolution approving Terms and Conditions regarding the formation of the District. He was pleased to see support for the District, and the overall change in perception among residents in the area. Forty-six percent of the residents are seniors, with car accidents and strokes being the largest incidents they experience, both which require critical life support. He is confident that they will receive the support on the ballot at the next election.

There being no further comments, Chairperson Eid closed the public hearing at 4:16 p.m.

Motion by Vice Chairperson Wilson, second by Commissioner Chapman, to approve Resolution No. 2015-0007; motion carried. Ayes: Wilson, Chapman, Hemphill and Eid. Absent: De Boer.

### **Minutes**

Chairperson Eid requested consideration of Item #4, approval of minutes from the October 10, 2015 meeting.

Motion by Commissioner Hemphill to approve the minutes from October 10, 2015; Commissioner Chapman provided a second and the motion carried with one abstention. Ayes: Hemphill, Chapman and Eid. Abstain: Wilson. Absent: De Boer.

### **8. Payment of Claims: October and November 2015**

Motion by Commissioner Hemphill, second by Commissioner Chapman, to authorize payment of claims for October and November 2015 in the amount of \$8,463.12; motion carried. Ayes: Hemphill, Chapman, Wilson and Eid. Absent: De Boer.

### **9. Regular Meeting Schedule: Calendar Year 2016**

Mr. Benoit presented a proposed 2016 Meeting Schedule for every other month on the second Monday at 3:00 p.m. beginning in February, and with the October meeting scheduled on October 17<sup>th</sup> to accommodate the Columbus Day holiday.

Commissioner Hemphill requested scheduling a January meeting to keep the District consolidation process moving ahead.

There was a general discussion regarding the January meeting, and Mr. Benoit's unavailability in January which precluded scheduling an additional meeting.

Vice-Chairperson Wilson stated that he was not in favor of LAFCO taking the lead on the consolidation.

Commissioner Chapman added that he got the impression that both Districts were hoping LAFCO would foot the bill.

Commissioner Hemphill commented that he was afraid if LAFCO did not assume a lead role, the process would stall and the problems they are having do not sound like they will fix themselves.

Mr. Benoit stated that his time may be better spent shepherding the Districts through the dissolution and consolidation process.

Commissioner Chapman suggested keeping the Boards informed of critical deadlines, and make sure they are aware that non-action is going to eventually hurt them, if Lahontan is involved.

Erik Neesen apologized to the Commission for the accusation that they do not care about the serious health situation that exists in the WPV system. His frustration began ten or twelve years ago, and he believes the Manager just pushes his concerns under the table. The Board does not want to hear from him, and he thanked the Commission for allowing him the opportunity to speak, for considering his remarks, and explaining LAFCO's role in the consolidation process.

Chairperson Eid thanked him for his comments, and for taking the time to become involved in the process.

Mr. Benoit advised that he would let the Districts know that the Commission would be revisiting the topic of consolidation in February in order to keep the pressure on to work together.

It was the consensus of the Commission to accept the 2016 Meeting Schedule as presented.

## **10 Executive Officer Report**

Mr. Benoit provided the following updates:

- Fall River Mills FPD/McArthur FPD/Northwest Lassen FPD Consolidation: Mr. Benoit stated that the process of dissolution and consolidation has been moving at a very slow pace;
- Johnstonville Water System CSA #2: The dissolution of Community Service Area #2 is complete;
- Honey Lake RCD: Mr. Benoit will be meeting with the manager and review moving forward with the MSR and SOI update.

**11. Commissioner Reports**

Motion by Commissioner Chapman, second by Vice Chairperson Wilson to adjourn until February 8, 2016; motion carried. Ayes: Chapman, Hemphill, Wilson and Eid. Absent: De Boer

The meeting adjourned at 4:34 p.m.

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Todd Eid, Chairperson

Approved

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Gwenna MacDonald, Recording Secretary