

Local Agency Formation Commission
Of Modoc County
Regular Meeting

Minutes of October 12, 2010

1. Call to Order:

Chairman Schreiber called the meeting to order at 5:00 pm, in the City Council Chambers, Alturas City Hall. Commissioners Dederick, Neer, Schreiber, Bradshaw and Macsay were present. Commissioner Alternates Jerry Shea and Jeff Bullock were also present, as well as City Public Works Director Chester Robertson.

Staff Present: John Benoit, Executive Officer and Stephanie Northrup, Clerk

Pledge of Allegiance

2. Approval of Agenda:

Commissioner Macsay made the motion to approve the agenda as submitted; seconded by Commissioner Dederick. In favor: Unanimous.

3. Correspondence

Executive Officer Benoit states he has nothing to report at this time.

4. Approval of Minutes: August 10, 2010

Commissioner Bradshaw made the motion to approve the minutes as submitted; seconded by Commissioner Macsay. In favor: Unanimous.

5. Public Comment:

None.

Action Items:

6. LAFCo Financial Services and Finance and Expenditure Policies

- a. *Receive Executive Officer's Report and Consider Resolution 2010-0008 establishing a LAFCO fund at the City of Alturas including revenue and expenditure accounts.*
- b. *Consider Bylaw Amendment thereby amending Section 10 of LAFCo's Bylaws regarding revenue and expenditure policies and Consider Resolution 2010-0009.*

Executive Officer Benoit states we talked about this at the last meeting. He was directed to do a resolution to set up a city account. He encountered problems, redid the entire finance and expenditure policy to reflect whether we use the county or city. We won't withdraw funds from county funds at this time, so we could possibly have the city take over finances but not entirely at this time. We need to establish the finance policies for the city, and establish a fund and ask the city to establish expenditure and revenue accounts. This will end up on the city council agenda at some point. Commissioner Alternate Shea clarifies that the first resolution is 0008, and the other is 0009; both of those are in the packet, as well as the finance policy. Correct.

Commissioner Dederick made the motion to approve both of the Resolutions; seconded by Commissioner Neer.

Commissioner Macsay states we discussed we would draft a resolution, and have it in advance if we needed it. Executive Officer Benoit states he has \$25,000 with the city and he would like to use that. Commissioner Macsay states we have gone with the county for so long, and the money is available. He asks if we are setting up two different funds. Executive Officer Benoit states yes, but in de facto we already have because we have money with the city. Typically what happens is everybody's money is deposited with the county. He states pretty soon we will have to make a decision whether we continue with the county or transfer funds to the city. He doesn't think we should ask the county at this time to transfer \$40,000 to the city because he doesn't think the county treasury can handle it. He thinks we should protect our funds and transfer to the city, but he doesn't recommend that we do that now.

Commissioner Bradshaw asks what would happen with future money; would it have to go to each entity? Executive Officer Benoit states he doesn't like that, but we will have to figure that out. He figured we could figure out where the county financial system is going, and then we can either transfer funds from city to county or county to city or draw down funds from one until we can transfer over to one or the other.

Commissioner Neer clarifies that we won't always have two accounts, just until we draw down the funds from one account until we can continue on with the other account, more than likely with the city. Executive Officer Benoit states the City Council will have to approve this as well, but yes that is his intention.

Commissioner Macsay states there is currently no charge from the county to keep funds there. Executive Officer Benoit states that is correct, but the city does have money here and the county is having problems, so he would just as soon have funds with the city.

Commissioner Bradshaw states if we approve this now, would we have to do something further when deciding to draw down one account. Executive Officer Benoit states we would have to do another Resolution to decide which entity we would initially end up with, and he hopes to have it done by the end of this budget year. Today we would just be setting up the city accounts and passing these finance policies. Commissioner Alternate Shea states this opens up the avenue of going one way or another, depending on what comes down the road.

In favor: Commissioners Schreiber, Dederick and Neer. Opposed: Commissioners Macsay and Bradshaw. Motion carries.

7. Workshop – City of Alturas Sphere of Influence

- a. *Receive Executive Officer's Report and conduct workshop regarding the City of Alturas Sphere of Influence.*
- b. *Set Public Hearing for December 14, 2010 at 5:00 PM at the City Council Chambers, City of Alturas.*

Executive Officer Benoit states this is one we have been waiting on. We did the municipal review last year, and he is forcing everyone's hand to work on the sphere tomorrow. We need to set a public hearing for the December meeting. He wants to convene a meeting with City and County Planners to discuss this. He wanted to run this by the Commissioners first, because the MSR is a year old and he wants to get the sphere done as soon as possible.

Commissioner Bradshaw states he thinks it's a good idea. He asks about the 960 acres that would be adding on in the 11-20 year period, but asks if there is any Ag. Zoning under City. Public Works Director Robertson states we do have Ag Zoning in the city. Commissioner Bradshaw states reading the document he doesn't see Ag under city on pgs. 7-8. Executive Officer Benoit states he will add that.

Mr. Knox, audience member, states if the city wants to annex things, then they want to get land to bring under city control. Do they have maps of the proposed property that they are seeking so we don't walk in blind to the December meeting? Commissioner Dederick states at this time he doesn't believe they have any property in mind. Commissioner Schreiber states maps would be available at the meeting anyway wouldn't they. Executive Officer Benoit states yes they would. Commissioner Neer states this just opens up the framework for future items.

Commissioner Alternate Shea states the area that was being discussed is the city limit which is divided by 19th street. The south side is the water tank, north side is Daphnedale. Commissioner Schreiber states this will all be discussed in December.

Commissioner Dederick made the motion to set the Public Hearing for December 14, 2010 at 5:00 PM, seconded by Commissioner Macsay. In favor: Unanimous.

8. Discussion regarding the Calafco Annual Conference.

a. Hold discussion regarding conference presentations.

Executive Officer Benoit states he would like to put it off to the next meeting. He will prepare a memo for this later.

Discussion and Progress related to mapping and verification of mapping of Districts in Modoc County.

Executive Officer Benoit states the lost LAFCo files were discovered after all these years. One set is at the Planning Department and one is at the County Clerk's Office. He will be going over these files to verify boundaries versus annexations. He wants to make sure over the past 40 years that if annexations occurred they are properly shown on the maps. He states there has to be some sort of process to keep maps current in Modoc County. He received maps from VESTRA, and he wants to compare these maps to see which one is correct. He needs to make sure district boundaries are correct prior to doing this.

10. Review and Authorize payment of claims.

Ratify Payment of claims for August 2010 and authorize payment of claims for September 2010.

Commissioner Macsay made the motion to ratify the payment of claims for August 2010 and authorize payment of claims for September 2010, seconded by Commissioner Dederick. In favor: Unanimous.

11. Monthly Reports – General Discussion

Legislation

Healthcare District

Executive Officer Benoit states he wants to talk about some bills. AB419 (Caballero) is the bill that requires the Board of Supervisors to call an election within 45 days. He states if the Board doesn't call for an election, than the Elections Department would. More corrections are going to coming forward with that.

He than discusses the Arambula bill written by ACLU regarding disenfranchised communities having to be annexed. The Governor vetoed that, so it has been put on hold – but of course we will be getting a new governor. We also have some morning after legislation, no bills though.

The Nielsen bill got signed regarding the Williamson Act contracts. The concern is if it is going to be funded, and they will be modifying guidelines. Calafco got all its bills signed, which it has for the last several years. Since we were threatened with lawsuits over MSR, we have had language put into legislature to help protect LAFCos.

In regards to the Healthcare District, Executive Officer Benoit states the Commissioners should have the recorded document in hand. He will submit the original copy to the Board of Equalization prior to December 1st, if he doesn't receive it in time he will send the conformed copy. Commissioner Schreiber states if anyone has questions on this we will answer them, but asks that everyone be civil.

Mr. Knox states he understands the county is supposed to sign off title and everything to the district so the district will have title. He states in the MOU it states if the district ceases, the property will revert back to the county. How can you do that if you pass title to them? Executive Officer Benoit states if MMC has problems then the Attorney General could state that it is the county's job to see that this entity survives. Also if an entity dissolves they have to appoint a successor. For example, if MMC was to dissolve, LAFCo could appoint the county to take over. Commissioner Schreiber states so if the district dissolved the tax would still stay on. Executive Officer Benoit states that is correct whether the hospital was under the district or the county. Commissioner Schreiber states so the only way to take it off would be to put it on the ballot. Executive Officer Benoit states yes it would be up to the voters.

Judy Mason, audience member, states you have discussed something that is very critical to our district. They did receive an opinion from Best, Best & Krieger. In regards to the sunset clause, they would have to vote on this every four years.

Audience member asks if a lawsuit is done and passed in regards to taxation without representation what is Plan B. Executive Officer Benoit states if a lawsuit was done they would

have to sue the district. The way Prop 218 is written, if it is a tax the voters have the right to vote on it. If it is an assessment the property owners have a right to vote on this, and this was a tax. He states he feels they did what they should have.

Commissioner Schreiber states if the people are not happy with this, they don't bring it back to us. Executive Officer Benoit states no, they would have had to do that 30 days after LAFCo approved this. Commissioner Schreiber tells the audience member that she would need to seek legal advice. Audience member states this is coming up and it will be a federal suit, but not against the city or county.

Commissioner Alternate Bullock asks at what point is the district in charge of everything. Executive Officer Benoit states when he records the Certificate of Completion it's done.

Commissioner Schreiber asks if the Board of Directors are in charge of the hospital now. Executive Officer Benoit states yes, how ever the county and them work out the details is between them not us.

Mr. Knox states the MOU, under Exhibit C, says if it's not signed it's not a legal document; and asks who put this together. Executive Officer Benoit states he can get a minute order from the Clerk of the Board. He then asks about the money and where it states that the district will not assume the debt. Commissioner Schreiber states that can't be answered by LAFCo; that would have to be answered by legal representation. Executive Officer Benoit states some of these issues should have been brought up when we had the public hearing. Commissioner Schreiber states we don't want to get into discussion on items that they have no control over. The only recourse is through a lawyer and a court case.

Audience member asks what authorization City Council has. Commissioner Schreiber states City Council is not involved, that this is between the county and the district.

Margaret Schreiber, audience member, states she asked the question about giving money to the county and was told by County Counsel that they wouldn't have to. Commissioner Neer states she thinks we are getting off the purview of this meeting and the citizens should bring that up to the Board of Supervisors. Since it has already been done, she doesn't believe LAFCo has anything to do with any further actions. Commissioner Schreiber states this is a public meeting and he disagrees that we have gotten off topic, but he does think LAFCo has run its course and we can do nothing further. Commissioner Schreiber states he's sure people have questions of where do they go from here, and Executive Officer Benoit could probably help steer them in the right direction. Executive Officer Benoit states he can't give legal advice because he's not a lawyer but he can talk to them. Commissioner Neer states she doesn't think LAFCo should suggest legal action, but wants them to know that LAFCo no longer has anything to do with this.

Mr. Knox clarifies that if the district goes down; the people still have to pay that tax even if the hospital isn't functioning. Executive Officer Benoit states that is a legal question, but states that tax would have to be used for that specific purpose, and not for any other function.

Commissioner Alternate Shea states for clarification this is a tax and not an assessment. Executive Officer Benoit states this is a special tax.

Mr. Knox states County Counsel's statement in the sample ballot states if the district fails to continue then the tax will not be assessed.

12. Commissioner Reports – Discussion

Commissioner Dederick states he was going to ask about Ethics Training but sees that it was already set up. Executive Officer Benoit states yes, he will not be in attendance but Andrew Morris from Best Best and Krieger will be there. Commissioner Bradshaw thanks him for setting them up, it's a great service. Executive Officer Benoit states yes it is and it's free and snacks will be provided. Executive Officer Benoit states the Ethics Training is a requirement and even if it wasn't you should go for the information.

Commissioner Dederick asks if Adin wants to join the Healthcare District, what are the steps for annexation. Executive Officer Benoit states the citizens there could petition LAFCo with a percentage of the voters, or the Board of Supervisors could do a resolution on their behalf which he would recommend. Commissioner Schreiber asks if they would have to vote on it. Executive Officer Benoit states there would be a protest hearing, and states there is an exemption available if there are over 1000 properties. Someone would have to tell him where the boundaries are, so they could figure that out.

Commissioner Dederick asks if that would have to be agreed on between the property owners of that area and the district. Executive Officer Benoit states the district would have to approve that. The District Board itself could pass the resolution not the Board of Supervisors.

Commissioner Neer asks when would LAFCo become involved. Executive Officer Benoit states when the Notice of Intent is done they would have to let LAFCo know. Once done, they would pass a resolution and LAFCo would set a public hearing. If they don't have a petition signed by the appropriate amount of people, then they would have to have a protest hearing. If there isn't enough protest then they could proceed. Otherwise it would go to a vote of the people.

Commissioner Bradshaw asks if it could go over county lines. Executive Officer Benoit states yes they could.

There being no further business to come before this Commission; Commissioner Macsay made the motion to adjourn the meeting, seconded by Commissioner Dederick, and the meeting was adjourned at 6:10 p.m.

The next meeting will be held December 14, 2010 at 5:00 p.m.