



Inyo Local Agency Formation Commission
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Commissioners:

Rick Pucci (Inyo County)
Jeff Griffiths (Inyo County)
Pat Gardner (City of Bishop)
Laura Smith (City of Bishop) Vice-Chair
Dave Patterson (Public) Chair

Alternates:

Mark Tillemans (Inyo County)
Joe Pecsí (City of Bishop)

LAFCO Staff:

Joshua Hart, AICP (Executive Officer)
Jean Turner (Health & Human Services Director)
Marge Kemp-Williams (Counsel)
Diane Fortney (Clerk/Analyst)

Minutes for Monday June 1, 2015

These Minutes are to be considered for approval by Inyo LAFCO at its next meeting.

The Inyo Local Agency Formation Commission met on Monday June 1, 2015, at the Bishop City Council Chambers located at 301 West Line Street, Bishop, CA. Chair Patterson opened the meeting at 10:00 a.m.

ITEM 1: PUBLIC COMMENT PERIOD

There was no one from the public wishing to comment.

Closed Session:

**ITEM 2: CONFERENCE WITH LEGAL COUNSEL -ANTICIPATED LITIGATION
[Pursuant to Government Code §54956.9(d)(4)] - decision whether to initiate
litigation (one cases).**

The Chairperson recessed open session at 10:02 a.m., to convene in closed session, Commissioners present: Rick Pucci, Jeff Griffiths, Laura Smith, Dave Patterson and Alternate, Joe Pecsí; Josh Hart, AICP (Executive Officer) via conference call, to discuss and take action as appropriate on Agenda Item 2. The Chairperson recessed closed session at 11:28 a.m. to reconvene in open session at 11:30 a.m.

ITEM 3: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by all.

ITEM 4: ROLL CALL

Commissioners present: Jeff Griffiths, Rick Pucci, Laura Smith, Dave Patterson and Alternate, Joe Pecsí.

Commissioners absent: Alternates Mark Tillemans and Commissioner Pat Gardner

Staff present: Jean Turner, Marge Kemp-Williams and Diane Fortney.

Staff absent: Joshua Hart, AICP.

ITEM 5: REPORT ON CLOSED SESSION AS REQUIRED BY LAW

Counsel Marge Kemp-Williams reserved reporting on closed session until after hearing of Item 7 in open session, she is expecting the Commission to return to close session and will report after the item is complete.

ITEM 6: Public Comment Period – This is the opportunity for anyone in the audience to address the Commission on any relevant subject that is not scheduled on the Agenda.

Comment period opened at 11:35 a.m. There was no one from the public wishing to comment. Closed at 11:35 a.m.

ITEM 7: Southern Mono Health Care District (Informational Item and Potential Action) -

The Southern Mono Health Care District (SMHCD) has been operating a clinic in the Bishop area, and is working to expand these operations outside of its boundaries and sphere of influence. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (as amended) generally requires that local agencies receive authorization to provide services outside of their jurisdiction. The Commission considered this issue at its April 20 meeting, provided direction, and authorized sending correspondence to the SMHCD regarding these issues. The Commission will receive a presentation from staff and provide direction.

Diane Fortney, Staff Clerk/Analyst presented the staff report to the Commission. Direction requested concerning budget & contract concerns created by the additional staff hours for this item.

Ms. Kemp-Williams advised commissioners of the twenty-one day public noticing requirement to make an amendment to the budget and engage in discussion about increasing the budget. If it is the commissioner's direction we would need to initiate that process so that we may hold another meeting before the end of this month to discuss those issues. Commissioners were advised to deal with the budget issue separately.

Commissioner Griffiths began recapping Item 7 by stating a letter, as requested, was sent out to SMHD requesting they rectify the situation. A response letter was received for SMHD's attorney stating they did not believe they were out of compliance.

Ms. Kemp-Williams stated the letter of response from SMHD indicated that there was an agreement between Northern Inyo Healthcare District and Southern Mono Healthcare District in 2003 for the provision of some healthcare services in Inyo County. The author of the letter claims that providing those services goes under the exemption of going before the LAFCO Board under subdivision E. Subdivision E reads as follows: "This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provide". In this instance the existing service provider is Northern Inyo Healthcare District. The author of the letter also turns to a provision of the Health and Safety Code that does empower Healthcare Districts to provide services out of their County. Per Ms. Kemp-Williams this is a consistent statement of the law, Healthcare District can provide services outside its' County subject to the boundaries or sphere's being adjusted by the LAFCO's. The author does invite comment but has basically indicated that SMHD does not intend to follow the LAFCO procedures.

Commissioner Griffiths continued his recap as follows:

- We are not here today to decide whether Mammoth Hospital opening up an Orthopedic Clinic in Bishop is a good or bad idea. That discussion may happen in the future.
- We are here today to discuss the legal counsel for Inyo LAFCO. Inyo LAFCO was informed at its last meeting from Northern Inyo Hospital that Mammoth Hospital was performing services outside their sphere of influence.
- The requested letter was sent out to SMHD informing them they were out of compliance and gave them the means to rectify the laps in procedure for performing services outside their area.
- Important for the public to know about the letter received for SMHD in response from their lawyer stating they did not believe they were out of compliance.
- It is his understanding this Orthopedic Clinic is scheduled to open today or the very near future
- Decided, given the legal options given to the Commission today, what path to take forward.

Commission Chair Patterson opened public comment at 11:46 a.m.

Mr. Pete Watercrott, Northern Inyo Hospital Board, Treasurer, Thanked the Commission for their time dealing with this issue. His fiduciary duties to the board and resident of the district is deeply concerned with SMHD illegal expansion of services into Inyo County and take millions of dollars of revenue out of the Northern Inyo

Hospital District. Northern Inyo Hospital has no contract or agreement with Mammoth Hospital to provide services outside its jurisdictional boundaries. Mammoth Hospital has been unable to produce copies of any contact requesting services by Northern Inyo Hospital. The services being provided by Mammoth Hospital do not meet the requirements of 56133. Does Mammoth Hospital have the legitimate grounds to even submit an application to LAFCO to expand services into Inyo County? In the handout provided, Southern Mono Healthcare District – Municipal Service Review Pg. 30 & 31 dated October 2009 and prepared by Mono County LAFCO. Mr. Watercrott brought attention to **“Social and economic ties to areas in Inyo County have no relevance in determining the sphere of influence for the district since special districts cannot provide services outside of their County”** in the findings.

Cooperation between the two hospitals cannot exist until there is communication. Mammoth Hospital did not ask permission prior to opening its’ physical therapy clinic on Line Street or expanding services by building a clinic. Northern Inyo Hospital requests LAFCO deny the request, although they did not receive one, to allow Mammoth Hospital to provide services in Northern Inyo Healthcare District.

Mr. John Ungersma, Trustee, Northern Inyo Hospital, provided a copy of a slide presentation he had seen at an Assoc. of California Hospital Districts meeting in 2012 to share with members of the public to help them understand what LAFCO does. He also mentioned the City of Bell causing additional scrutiny to be placed on special districts by Sacramento. Hospital Districts are under the gun for maintaining ethical conduct. Snow hasn’t fallen in several years and California is in a drought. Mammoth Hospital depends on snow for its operation. Mammoth Hospital decided to provide Physical Therapy Services in Bishop. Northern Inyo Hospital has 5 therapists and there are 2 others in town. There are 2 Orthopedic Surgeons. There is no lack of services at Northern Inyo. He does not feel dissolution and creation of one Healthcare District to service all of Inyo County is in the near future and would be a huge undertaking. Operations of SMHD are not warranted and should be discontinued.

Mr. Mark Robinson M.D, Northern Inyo Hospital, He stated that SMHD while providing services within Inyo County does not have to act like a district hospital and can choose the cases it accepts. It does not have to provide after hour services or ER Services. Northern Inyo Hospital is left to provide these services for patients of SMHD. What SMHD is doing is fundamental unjust and improper.

Public Comment Closed at 12:02 p.m.

Commissioner Griffiths stating there are two different tracks that are being decided today. One deals with the closed session item on whether or not to initiate litigation to compel SMHD to cease operations in Bishop until the proper channels are followed. The more important need to continue discussion: equitably divide healthcare between the two districts through discussion and cooperation by either Regionalization or Contract.

Motion: Moved by Commission Griffiths to direct staff to pursue regionalization for equitable distribution of care with the Mono County LAFCO, Northern Inyo Healthcare District and Southern Mono Healthcare District. Then propose the commission reconvene to closed session briefly before making an announcement pursuant to potential litigation. Commissioner Pucci Seconded.

The motion passed 5-0

Closed Session:

**CONFERENCE WITH LEGAL COUNSEL -ANTICIPATED LITIGATION
[Pursuant to Government Code §54956.9(d)(4)] - decision whether to initiate
litigation (one cases).**

The Chairperson recessed open session at 12:05 p.m., to convene in closed session, Commissioners present: Rick Pucci, Jeff Griffiths, Laura Smith, Dave Patterson and Alternate, Joe Peksi; Josh Hart, AICP (Executive Officer) via conference call; to discuss and take action as appropriate on Agenda Item 2. The Chairperson recessed closed session at 12:12 p.m. to reconvene in open session at 12:13 p.m.

Josh Hart LAFCO ED was present via telephone

Following reportable actions:

In closed session the Commission received and considered a letter written on behalf of SMHD by an attorney on May 28, 2015, and directed to Inyo LAFCO, indicating SMHD does not need to follow LAFCO law and processes.

Following review and consideration the Commission authorized Josh Hart and Counsel to seek outside counsel to represent Inyo LAFCO and to take future action to respond to the situation in an appropriate manner, including but not limited to initiation of litigation.

The Commission also authorized Executive Director Josh Hart to sign any contracts related to litigation on behalf of the Inyo LAFCO.

These actions were taken with a vote of 5-0.

Motion to ahead with the above authority by Commissioner Peksi. Commissioner Griffiths seconded.

Motion passed 5-0

ITEM 8: **Approval of Minutes (Action Item):** the Commission will consider the minutes from April 20, 2015 Inyo LAFCO Meeting.

Motion: Moved by Commissioner Smith to approve the minutes of April 20, 2015. Commissioner Patterson seconded.

Motion passed 4-0-1, Commissioner Pecsì abstained

ITEM 9: **Approval of 2015-2016 Final Budget (Public Hearing & Action Item - Requires 3/5 vote)** – The Inyo LAFCO Executive Officer’s FY 2015-2016 Final Budget will be presented to the Commission for approval.

Commissioner Griffith, Commissioner Patterson and Counsel William-Kemp discussed changes to FY2015-2016 Final Budget for cost associated with legal counsel pertaining to the NIHD-SMHD issue.

Public comment opened at 12:25 p.m. by Commissioner Patterson. There was no one from the public wishing to comment. Motion: to close public comment at 12:26 p.m. by Commissioner Griffiths, seconded by Commissioner Smith. Motion passed 5-0

Motion: Commissioner Pucci to amend and adopt the final budget for FY2015-2016 by increasing revenue code 4599, other agencies, to \$60,000 and increasing expenditure code 5265, Professional Services, by \$60,000 to \$77,464. Commissioner Pecsì seconded.

Motion passed 5-0

ITEM 10: **Contract between Inyo LAFCO and the County of Inyo for Professional Services for Fiscal Year 2015-2016 (Action Item)** – The contract between Inyo LAFCO and the County of Inyo for professional services for Fiscal Year 2015-2016 will be presented to the Commission for consideration and authorization for the Chair to sign.

Motion: Moved by Commissioner Smith to Authorize the Chair to sign the Contract between Inyo LAFCO and the County of Inyo for Professional Services for FY 2015-2016. Commissioner Pucci seconded.

Motion passed 5-0

ITEM 11: **2015 Inyo County Special Districts Directory** – The 2015 Inyo County Special Districts Directory will be presented to the Commission.

ITEM 12: Executive Officer's and Commissioners' Reports:

The executive will discuss attendance to LAFCO annual Conference in the fall.

Commissioner Griffiths expressed possible interest.

ITEM 13: Determine Time and Location for the Next Meeting of Inyo LAFCO

The Commission scheduled the next meeting for June 29, 2015 at 2:00 p.m.
Bishop City Council Chambers

ITEM 14: Adjournment

Chair Patterson adjourned the meeting at 12:30 p.m.

CORRESPONDENCE / INFORMATIONAL

Prepared by:



Diane Fortney
Inyo LAFCO Staff Analyst/Clerk