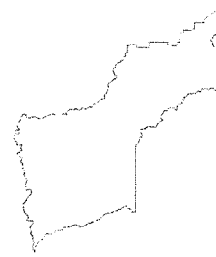


# **YUBA COUNTY LOCAL AGENCY FORMATION COMMISSION**

John Benoit, Executive Officer  
Paige Hensley, Clerk-Analyst  
David Ruderman, LAFCo Counsel  
915 8<sup>th</sup> Street, Suite 130  
Marysville, CA 95901

Phone (530)749-5467  
Fax (530)749-5468  
URL [www.yubalafco.org](http://www.yubalafco.org)



---

MINUTES  
SPECIAL MEETING  
YUBA LOCAL AGENCY FORMATION COMMISSION  
December 6, 2017

**I. CALL TO ORDER:**

At 6:00 p.m., a meeting of the Yuba County Local Agency Formation Commission (LAFCO) was called to order by the Chair, Commissioner Lofton, with Commissioners Samayoa, Vasquez and West present. Public Alternate Pinney was also in attendance. Commissioner Atwal and Alternate Commissioners Fletcher and Pedigo were also absent. Also present were Executive Officer John Benoit, Legal Counsel David Ruderman and LAFCo Clerk-Analyst Paige Hensley.

**II. PLEDGE OF ALLEGIANCE:**

Alternate Commissioner West led the commission in the Pledge of Allegiance.

**\*\*At this time, Chairman Lofton announced item number VIII (the closed session) was to be removed from the agenda\*\***

**III. APPROVAL OF MINUTES**

Upon Motion from Commissioner West and seconded by Commissioner Samayoa, the minutes from the November 1<sup>st</sup>, 2017 meeting were approved with a five to zero vote.

**IV. PUBLIC COMMUNICATIONS**

Members of the public may address the Commission on items not appearing on the agenda, as well as any item that does appear on the agenda, subject to the following restrictions:

- Items not appearing on the agenda must be within the Commission's subject matter jurisdiction.
- No action shall be taken on items not appearing on the agenda unless otherwise authorized by Government Code Section 54954.2 (known as the Brown Act, or California Open Meeting Law).
- The total amount of time allotted for receiving public comment may be limited to 15 minutes.
- Any individual's testimony may be limited to 5 minutes. Time to address the Commission will be allocated on the basis of the number of requests received. If you would like an item placed on a future agenda, you may do so by contacting the Commission at (530) 749-5467.

**There were no Public Comments**

V. **PROCEDURE FOR PUBLIC HEARINGS**

The public may address the Commission on each agenda item during the Commission's consideration of the item. When doing so, and when commenting on non-agenda items, we ask that the public kindly be recognized by the Chair before speaking, and to please keep their remarks brief. If several persons wish to address the Commission on the same item, or if any person's comments are excessive, the Chair may limit any person's input to 5 minutes. Written statements may be submitted in lieu of or to supplement oral statements made during a public hearing.

VI. **PUBLIC HEARING:**

- A. **Reclamation District 784/Reorganization:** RD784 provides levee maintenance and internal drainage and protection from flood waters to the area of south Yuba County; which include residential, commercial and farmland uses in the communities of Plumas Lake, Olivehurst and Linda. ***\*\*CONTINUATION OF PUBLIC HEARING FROM NOVEMBER 1<sup>ST</sup>, 2017\*\****

David Ruderman, LAFCO Counsel, explained at the last meeting it appeared there may have been a possible conflict with three of the Commissioners that live and own property within the annexation area, however upon further review it is has been determined that approximately 46% of the parcels in the county are within RD784 which allows for an exception under the Political Reform Act which affect the public generally. It states that if a project affects more than 25% of the people, then the Commissioners do not have a disqualifying conflict. David Ruderman explained that it has been determined that is the finding in regards to this proposed annexation, so the public hearing may go forward with the LAFCO Commissioners, whom are present.

John Benoit, Executive Officer, gave a brief review of the proposed annexation and detachment and mentioned the proposition 218 process requires an engineer's report which will detail, whom, when and where lands will be assessed, which will occur after the reorganization is completed.

Jesse Barton, Legal Counsel for RD784, explained and summarized the need for the annexation and detachment. Jesse Barton explained it's based on a practical jurisdictional boundary change that currently doesn't match the benefit area and a legal requirement that the district assess everyone equally who receive equal benefits.

Commissioner Samayoa asked how the areas to be detached were determined.

Jesse Barton explained how the detachment areas essentially are now on the water side of the setback levees. Jesse Barton explained the green (red hatched) area of the map represent the Sphere of Influence change which encompasses the new Trilia Levee Extension project up to the Goldfields, which currently does not have levee protection.

David Ruderman, LAFCO Counsel, stated for the record, that reference is being made to the map known as attachment "A" of resolution 2017-08.

Ricky Samayoa asked for clarification of whether the dry side of the levee doesn't need protection.

Sean Minard, MHM Engineering, explained anything on the east side of the Western Pacific Interceptor Canal (WPIC) West Levee does not receive any flood protection.

Commissioner Pinney asked about the dissolution the State Maintenance Area.

Sean Minard explained RD784 took over the State Maintenance Area in the mid-1970s, because the state was accessing everyone within RD784 and the district determined they could do it for less than the state charging.

Commissioner Pinney asked for clarification on anticipated growth areas.

Sean Minard stated there is anticipated growth in all areas except the Horseshoe area.

Dennis Pinney asked for clarification regarding equitable apportionment for or against cost previously assessed.

Jesse Barton, RD784 Legal Counsel, explained the district cannot assess any parcels outside of its jurisdictional boundaries and the first step in distributing the costs associated with the maintenance of the levees is to expand the jurisdictional boundaries to include the properties receiving special benefit. Then depending on the outcome of these meetings the next step would be to have an engineer evaluate the relative benefits of the properties protected by these levees. Any assessment will be apportioned on the benefit shown.

Commissioner Vasquez summarized that any assessment changes that may have to be made cannot be identified until the engineering study is completed.

Brian Manning, Counsel for Michael Rue, stated the district should conduct the engineering study prior to the annexation and explained why. Brian Manning stated there is no evidence that the annexation of the Horseshoe Area is proper for the orderly formation or development of local agencies and requested that LAFCO deny the annexation application as it relates to the Horseshoe Area.

Commissioner Pinney asked who built the Horseshoe Levee.

Brian Manning stated it was his understanding that RD784 and then ultimately the federal government completed it in the 1950s and said they built it because they were damming water that would normally have flowed into Plumas Lake.

Commissioner Samayoa asked if where the flow of water comes from.

Brian Manning explained it is coming from the mountains in the east.

Commissioner Samayoa asked if there are any proposed improvements on the Horseshoe Levee.

Brain Manning explained there have been no improvements made to the Horseshoe Levee.

Jesse Barton, RD784 Legal Counsel, explained there is ongoing maintenance planned for Horseshoe Levee, however there are no major improvements being considered at this time.

Commissioner Samayoa ask if the Horseshoe Levee was built to protect Plumas Lake.

Jesse Barton explained the Horseshoe Levee was built by the Army Corp of Engineers between 1941 and 1944, and not by RD784. Jesse Barton went on to say it was determined by the Corp to be part of the Sacramento Flood Control project and the state assured the state would operate it and maintain it, then RD784 was designated at the local maintaining agency.

Jesse Barton explained there are properties in the Horseshoe area receiving benefits that are not currently in the district's boundaries and Prop 218 requires that anyone receiving benefits should be within a district's boundaries.

Jesse Barton explained there is no requirement in the government code that an Engineering report be submitted with a LAFCO application. Jesse Barton explained if the boundaries are changed, an engineering report will be drafted, it will go out for a public review and there will be a vote to see if the public agrees with the assessment evaluations.

Commissioner Vasquez asked if the cost for maintenance for the Horseshoe area has gone up in the last eleven years.

Jesse Barton, answered yes and explained costs exceed the amount raised by the landowners.

Brian Manning asked why was the Horseshoe Levee built and asked what evidence is there to show there is a benefit to those properties.

Sean Minard explained there was a FEMA analysis done previously and was used in determining the sphere of influence which previously modified by LAFCO and now the district is annexation to match that sphere of influence.

Brian Manning stated the FEMA analysis is not a determination of benefit.

Brian Manning explained the difference between general benefit and special benefit.

Jesse Barton explained there is an effort at the state legislature to increase operation and maintenance to include the three R's. Jesse Barton explained repair, rehabilitate and replacement would increase the costs to maintain the levees, however it has not been imposed at this time.

Jesse Barton explained a general benefit is referred to as a tax, but a special benefit is an improvement that benefits people in a certain geographical area.

**6:56 p.m. - Chairman Lofton called for a 5 minute recess.**

**7:01 p.m. – the meeting was reconvened**

Michael Rue, property owner in the Horseshoe Levee area, explained the history of the Horseshoe Levee area and stated the redirecting of seasonal flood waters that went west then impacted properties that hadn't previously been flooded, therefore it created a burden on

those properties in the Horseshoe area and created the need for the levee to be built. Michael Rue requested the Commission not approve the annexation for the Horseshoe Levee area.

John Belza, property owner in the Horseshoe Levee area expressed his agreement with Michael Rue in that when the western levee was built it stopped the natural flow of water. John Belza asked the Commission to not approve the annexation for the Horseshoe Levee area. John Belza recommended RD784 increase the assessments for the residences in the district and they suggested they go to the Yuba County Water Agency for assistance.

There being no further comments the public hearing was closed.

**Action:**

Upon motion from Commissioner Vasquez and seconded by Commissioner West the Commission voted to approve Resolution 2017-0008 adopting a Sphere of Influence Amendment, thereby including 1,959-acres into the Sphere of Influence for Reclamation District 784. **AYES:** Lofton, Pinney, Samayoa, Vasquez and West; **NOES:** None. **ABSTAIN:** None, **ABSENT:** Commissioner Atwal.

Commissioner Vasquez stated this annexation will allow the district to establish the benefit through engineering modeling which has significantly changed since 1906 and feels it's needed to protect the entire county.

Commissioner Samayoa stated he feels the residents made the argument to exclude the Horseshoe Levee area from the annexation and would have to vote no if the Horseshoe area was included in the annexation.

Commissioner West stated we will not know the benefit until the engineering study is done, so he supports the annexation be approved as proposed.

Upon motion from Commissioner Vasquez and seconded by Commissioner West the Commission voted to approve Resolution 2017-0009 approving this reorganization consisting of annexation of 13,635 acres of territory that will benefit from Flood Protection and detaching approximately 4,467.57 acres of territory that are not benefitted by RD784 services. . **AYES:** Lofton, Vasquez and West; **NOES:** Pinney and Samayoa **ABSTAIN:** None, **ABSENT:** Commissioner Atwal

**VII. EXECUTIVE OFFICER AND COMMISSIONERS REPORTS:**

- A. Update status of current projects: LAFCO2017-0001 BVID, LAFCO2017-0002 Duebel/CSA63.

John Benoit reviewed that status of the current projects and explained the projects will come before the Commission soon.

- B. Countywide RDA Oversight Board Special District Appointments – New LAFCO duty to convene a Special District Selection Committee meeting to select special district vacancies on Redevelopment Agency (RDA) Oversight Boards.

John Benoit explained the new law requiring LAFCO's to convene a Special District Oversight Committee, however Yuba County does not yet have a Special District Committee. He explained LAFCO will have to mail out ballots for nominations and then a second ballot to elect someone to sit on the RD Oversight Committee.

John Benoit explained SB448 regarding inactive districts and explained the new law will require special districts submit their audits to LAFCO.

**VIII. CLOSED SESSION:**

Conference with Legal Counsel: initiation of Litigation (Gov. Code 54956.9(d)(4))  
Number of Cases: 1

**The closed session was previously cancelled and removed from the agenda following the Pledge of Allegiance.**

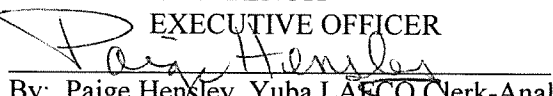
**IX. ADJOURN:**

There being no further business, the meeting was adjourned at 7:27 p.m. to the next special meeting on January 3, 2018 at 6:00 p.m. in the Board of Supervisors Chamber, 915 8th Street, Marysville.

Approved,

  
Doug Lofton, Chair

ATTEST: JOHN BENOIT  
EXECUTIVE OFFICER

  
By: Paige Hensley, Yuba LAFCO Clerk-Analyst