

ATTACHMENT 4A - MINUTES FOR MAY 19, 2010 MEETING

COMMISSIONERS PRESENT: Commissioners Kevin McKenny, Jeff Pauli, Kenneth Zanzi, Bonnie Neely, Marty McClelland, Clif Clendenen, Jeff Farley, and Alternate Commissioner Bob McPherson.

COMMISSIONERS ABSENT: Alternate Commissioners Jeff Leonard and Jill Duffy.

STAFF PRESENT: George Williamson, Contract Executive Officer, Alisha Oloughlin, Contract LAFCo Staff and Jeff Guttero, Legal Counsel.

The meeting was called to order at 9:00 a.m. in the Humboldt County Board of Supervisors Chambers, Chairman McClelland presiding.

1. **CALL TO ORDER**
2. **FLAG SALUTE**
3. **ROLL CALL**
4. **APPROVAL OF DRAFT MARCH 17, 2010 MINUTES**

THE MOTION WAS MADE by Commissioner Pauli, and seconded by Commissioner Neely, to approve the March 17, 2010 Minutes with noted corrections.

THE MOTION PASSED BY A VOTE OF 6-0-1.

5. PUBLIC HEARINGS

A. California Department of Forestry and Fire Protection (CAL FIRE) Water Service Extension-Trinidad

George Williamson stated that staff has been working with CAL FIRE to determine the best of or all possible solutions to provide CAL FIRE Trinidad Station with potable drinking water. Rather than apply for a service extension with one of the districts or municipalities directly, staff recommended to CAL FIRE that they apply directly to LAFCo to assist them in determining all available options. The department has documented health and safety concerns based on water quality tests regarding the present contaminated supply from Martin Creek. Prior to applying to LAFCo, the department exhausted many other options, including onsite treatments and digging a well, all of which have proved unsuccessful. Mr. Williamson appeared before the City of Trinidad City Council on two occasions and the City stated interest in serving the Station. However, they were very clear that they do not want to expand their Sphere of Influence (SOI). Given that there was a potential service provider, staff asked Winzler and Kelly Consulting Engineers (W&K) to perform a feasibility study assessing the City of Trinidad's available water supply and the feasibility of City providing water to the Station. The study indicates there is sufficient water available to serve the Station and makes recommendations about the minimum size line necessary, determined to be 1". Staff then had several conversations with County staff regarding County Service Area Four (CSA4) in which County staff expressed concerns about the growth inducing potential of the service expansion and about getting involved in water service. They requested any/all other options be explored. Staff consulted the Cortese-Knox-Hertzberg Act and conferred with other LAFCo Executive Officers who have dealt with similar situations and found an exemption. This exemption is presented as a staff recommendation. The Commission would need to find that CAL FIRE operates a public system, which our research found minimally qualifies as such. They are not in the water business, but everything that they own and operate that serves water, is public. Therefore, this is merely a staff interpretation. If the Commission concurs, then the exemption is applicable in this particular case- the benefit being that it would not apply to any other entity, this being the only public entity on Patrick's Point Drive. According to the engineering study, the 1" line would supply sufficient water. If the exemption is approved, CAL FIRE would negotiate directly with the City of Trinidad to be the water purveyor. CAL FIRE would be responsible for all studies, reviews, and costs for extending the water line and all ongoing and future service costs associated with the service.

Kenneth Zanzi stated that the exemption proposed is a stretch of the intent of the provision. CAL FIRE is not in the water delivery business. Their water service is a public service, but they are the only entity that receives service from Martin Creek. They are under contract with the County to provide fire prevention and suppression services, not water delivery services.

George Williamson concurred. He added that the exemption minimally qualifies. In addition, this exemption was included in the CSA4 Municipal Service Review (MSR) as a means to clarify that CSA4 is not in the water business. If people seeking water service begin to contact the District or the City, there is a record of action in the MSR and in the Resolution clearly noting this exemption is only applicable to a public service provider.

Jeff Guttero stated that in checking the Code for Definition, he was unable to find one regarding a *Public Service Provider*, but did find one in the broadest sense of terms for a *Public Agency* (Government Code 53101) which would include this circumstance. He added that, the department owns the water source and the pipe that runs under the highway, and therefore, he believes the definition to fit and has so advised the staff.

Marty McClelland opened the Public Hearing for this item.

Ronnean Lund, California Department of Public Health, stated that she does not know if the CAL FIRE Station system fits the definition of a *Public Water System*, serving more than 25 people more than 60 days of the year, but it sounds as if there is nothing preventing them from putting treatment on their source.

Kenneth Zanzi noted that in both the W&K Report and the staff report there is no indication of a DHS finding of contaminated water supply. It is stated in one report that the well is contaminated and it is stated in the other report that they have existing contamination problems, but there is no DHS finding that the system is actually contaminated.

Mike Riso, CAL FIRE Area Forester, clarified that CAL FIRE does not intend to abandon the existing water source. What the Station is seeking is a limited supply for the purposes of potable drinking water and for personal hygiene. The Station has a source, a tributary of Martin Creek. CAL FIRE is concurrently seeking to maintain that and has gotten a notice of exemption that has been approved and have a 1600 Series Stream Alteration Agreement in place with the California Department of Fish and Game (DFG). CAL FIRE has expended the balance of funds remaining to the Station for this fiscal year trying to improve onsite treatment facilities. CAL FIRE does not feel that that is going to resolve the potability issue. Those waters from Martin Creek are devoted to fire suppression and limited on-grounds maintenance. Currently, bottled water has to be imported for drinking water and personal hygiene is limited to the contaminated source. CAL FIRE is looking to secure a supply that meets health and safety codes for limited use, consumption and personal hygiene.

Marty McClelland asked Mr. Riso how the cost of on-site water treatment of the existing source compares to extending a water line from the City to the Station.

Mike Riso responded that he is not aware of how the costs compare. He added, to the best of his knowledge, the Station had an allotment of \$100,000 to do the system upgrades and that was inadequate for any reasonable on-site treatment. The expenditures were: digging a well, although given local geography that was not going to pan out, or improving the existing draw facility and on-site treatment. In testing to do so, fecal coliform was discovered and the water continues to have heavy sedimentation. The treatment facility that currently exists is a simple filtration and chlorination. CAL FIRE has used the remainder of that \$100,000 to purchase additional equipment to be installed on-site at the existing facility and have expressed that they are not confident that will be enough to do what is required.

Marty McClelland asked what the department's budget is to extend the 1 inch line.

Mike Riso replied that they had anticipated they would be able to do everything required with the \$100,000 appropriation. Much of those funds would be expended to pay other agencies and

contractors. In regards to labor and environmental document preparation, CAL FIRE has those in-house capabilities.

Marty McClelland asked who would be doing the construction to extend the line.

Mike Risso replied that he was unsure as to who would be involved in the construction of the line, which dependent upon the result of the engineering study. His understanding is that the procedure of laying a limited diameter line is not complex and there is machinery that will dig and lay line simultaneously.

Kenneth Zanzi asked what documentation exists, and by whom, regarding the contamination present at both water sources- the well and the surface supply from Martin Creek.

Mike Risso clarified that there is no well and confirmed that the information in the W&K Report pertaining to a well being present is erroneous. CAL FIRE did a test well on-site and at 20 feet of depth, encountered an inclusive clay layer and was unable to secure a subsurface supply. CAL FIRE submitted water samples to North Coast Labs who performed tests at varying times of the year. The results came back confirming contamination.

Clif Clendenen asked John Miller if he could confirm that CSA4 provides fire service that augments CAL FIRE's summer service, thus putting the County in the fire business during that time and asked if having a water line to serve the Station, would put the County in position of new responsibility.

John Miller, County Planning Department, replied he had a discussion with the County Administrators Office about opportunities available to provide limited water service within CSA4 and that it may not be the best approach. If the extension is the most feasible engineering alternative to address the problem, it would be best to leave CSA4 as only a fire service provider.

George Williamson concurred and added that after conversations with County Administrative Office staff and Legal Counsel, staff doesn't feel that CSA4 should be in the water service business. The way that staff has presented this to you and if you concur, you would find that an exemption is appropriate in this particular case to exempt both CSA4 and this water hook-up. As presented in the MSR, no water service is proposed for CSA4. It strictly acknowledges an exemption in place for this single use to serve the one station actually providing the fire service.

Clif Clendenen stated that he is unsure of the level of technology out there, chlorination, ultraviolet, and/or others; it seems that given the ramifications of putting in this line and the ongoing maintenance costs associated, on-site treatment should be looked at.

George Williamson responded that prior to presenting this option to the Commission, staff confirmed with CAL FIRE that all other options were exhausted and this was the only viable option available. Staff is under the impression that it is, but is prepared to pursue a study independent of what is being told by CAL FIRE.

Bonnie Neely stated that it has been indicated that LAFCo has the authority to grant out of district water service extensions pursuant to State GC §56133 and under GC §56133(e) LAFCo can also grant an exemption, given that the service in question involves a public service provider and the level of service to be provided is consistent with that already being provided. I feel that the Commission can move for approval of staff's recommendation and of Resolution 10-07.

Kevin McKenny concurred with Commissioner Neely and added that if you consider what LAFCo is supposed to be doing in regards to discouraging overlapping services and other issues, none relate to running a 1" water line to the Station. He added, as an engineer, I have a problem with too small of a line and believe that the motion should condition a 1.5" line, opposed to a 1" line which would create additional pumping costs in the future, using unnecessary energy. A 1" or 1.5" line can be placed with a trencher, leaving only a 2" pavement patch. It's an economical solution to CAL FIRE's problem, much more so than trying to pursue water treatment and the ongoing expense of having to use chemicals repeatedly year after year. When fecal coliform is

present, it must be dealt with forever, whereas, if you have domestic water from the City of Trinidad, the problem is solved.

Ronnean Lund stated that every entity and water system along Patrick's Point Drive uses surface water and all have the same contamination issues. If LAFCo allows a line to be extended to the CAL FIRE Station from the City, the Commission is providing preferential treatment to the Station.

Clif Clendenen asked about some of the treatment options employed and annual costs associated with different options/entities.

Ronnean Lund responded that surface water requires filtration and disinfection. There are different filtration and disinfection methods. All the users along Patrick's Point Drive have to have a water treatment operator onsite to run their system. The treatment has to be designed appropriately for the quality and quantity of the water desired. An entirely new treatment system would likely cost more than \$100,000.

THE MOTION WAS AMENDED by Commissioner Neely, and seconded by Commissioner Farley, to approve Resolution 10-07 with the conditions that: the water line be 1.5" diameter; CAL FIRE and the City of Trinidad will be responsible for all negotiations and the provision of said service; CAL FIRE will assume all present and future financial responsibilities associated with the water line extension and said service; the City of Trinidad has the right to locate the line in the County right of way, subject to County approval; and this motion is not precedent setting and is unique to this situation only.

THE MOTION PASSED BY A VOTE OF 4-3-0 (Ayes: Commissioners Neely, Farley, Pauli, McKenny, and McPherson; Nays: Commissioners Clendenen, Zanzi, and McClelland).

B. MSR & Spheres of Influence (SOI) Update Hearing and Resolution for Garberville Sanitary District (GSD)

George Williamson stated that this is one of two separate items regards the GSD. This item is an update of the District's MSR and SOI. Staff is very close to completing all of the mandated MSR updates and while this update was prompted by the GSD water line extension application, it is no different than any other MSR and SOI update. Staff has been working very cooperatively with GSD staff and consultants and have had a couple of meetings regarding the District's SOI update. During one of those meetings yesterday, staff was informed that as a result of the District purchasing a water company in 2004, it is currently providing water service outside of the District boundary and SOI. The District's staff has committed to working with LAFCo staff to provide the mapping information necessary to properly evaluate the SOI. In addition, staff would like the opportunity to further evaluate the SOI in relation to existing land uses and is requesting a continuance to continue working with the GSD staff and consultants on these matters.

Marty McClelland requested that the MSR include mapping of the existing water system, especially in those areas that the District is providing service outside the District boundary, and that the MSR clearly addresses this matter.

C. Garberville Sanitary District Water Services Extension Application

George Williamson stated that the Commission will be unable to take action on this item, as the CEQA review process is not yet complete. The review process is expected to be complete within the next few weeks and therefore, this item can be continued until June.

Marty McClelland stated that the CEQA document, under the Land Use section, should address the proposed changes and cumulative impacts to the Tooby Park area. It can't be ignored; it's been discussed with the District and the community and has been accepted, as I understand, by the County as part of the General Plan Update process. In addition, the alternative smaller line and storage needs to be further addressed. There were comments about impacts to cultural

resources. Those affects have been mitigated, yet that's the basis for being unable to provide storage.

George Williamson responded that both LAFCo staff and County staff commented during the draft review period on that environmental document and those concerns were included in the comments and are in the record. Staff will bring back to the Commission- LACO's responses to LAFCo and the County's comments, with the notice of determination and the complete environmental document.

Marty McClelland opened the item for public testimony.

Donald Courtemanche, Garberville resident, stated that the entire town of Garberville is served by an 8" water line which serves 400-500 customers and is used for fire suppression. The Meadows Subdivision, currently supplied by a 6" line, has far more housing, commercial, and fire suppression needs than Kimtu Meadows Subdivision. The Surface Water Treatment Plant (SWTP) must be considered in conjunction with the Kimtu water line, which has been linked to the GSD's SWTP site since at least February, 2005. The copy of the GSD's Board minutes shows a link to the Southern Humboldt Community Park Board (SHCPB), concerning water issues. These minutes show that Kimtu and the SWTP project were conceived with development along the pipeline. Also, the CEQA document does not identify the Eel River as Wild and Scenic, which needs to be addressed. The DFG wants the District to stay at its current level of water withdrawal and not increase the demand on the South Fork. I live and work on this river and see its ever-changing flows. The river is dying before our eyes. The SHCPB has big development plans, in addition to private development plans on the Goldeen and Dazey properties. The solution for safe drinking water for Kimtu residents should not be a vehicle for leap-frog development and the taking of more water from the Eel.

John LaBoyteaux, Redway resident, requested to approach the map. Mr. LaBoyteaux identified land below the freeway, out to the River, as the former Tooby Ranch, which he stated was not included in the litigation because it was not enrolled in the Williamson Program. Instead, there was a community campaign to purchase most of this property as a park. As part of that transaction, Mr. Dazey acquired about 70 acres in this location. In a letter that Mr. Dazey sent to the GSD in 2008, he mentioned his subdivision and then wrote, the GSD expects to connect his parcel in the process of developing the water line to Kimtu. Secondly, Mr. LaBoyteaux identified a hillside on the map. He identified all the land from the base of the hill on a flat, out to the River as prime agricultural land, as is a portion of Mr. Dazey's property. The private non-profit that controls the community park is proposing to rezone the area around the top of the flat. If you visit their website they include a description of what they intend to do- which is to construct a centralized recreational complex, including four ball fields, an Olympic size swimming pool, a clubhouse, indoor athletic pavilion, community center, hospital facilities, a conference center, and a senior multi-generational housing project. Finally, in this area, below the freeway, but not part of the community park, Mr. McKee, who was the purchaser of the ranch, retained a large parcel, 80-90 acres, and he has a partner in this parcel, Sanford Goldeen, a Marin County hillside condominium developer. That parcel is already served by public water; however the pipeline is quite small and was intended to serve a single residence. This is an 8" diameter, 2-mile pipeline running from town past all these properties to the Kimtu Subdivision. People of Kimtu have been getting along with their water system for over 30 years. The problems that the system has can be fixed at Kimtu, including fire flow. I believe that the Department of Health Services has been taken for a ride and that this pipeline has massive growth inducing potential. The owners have already stated their intentions.

Virginia Graziani, Redway resident, stated that she wanted to second what Mr. LaBoyteaux and Mr. Cortemanche said. She added that as a member of the Redwood Community Services District Board, she has a great deal of respect for the amount of work that the GSD has done working with the Department of Health Services. However, she added, I do feel that this project is growth-inducing. It has been stated by GSD that it is up to the County and LAFCo to determine what those land uses are going to be. In my opinion, this is a circular argument

because when the County decides how much growth is going to occur in an area, they ask the service district about their capacity, infrastructure, and need for growth, and they are very much

guided by the information that they receive from the District. If there is a desire for growth in the area, if there's a desire for areas in the County for housing allocation needs, and if there's infrastructure and capacity to serve that growth, then it will occur. A critical question is whether there's enough water in the Eel River to serve this growth. The State Water Resources Control Board has given the GSD all the water allocation that they need, so that's not really a constraint, regardless of whether the water is physically there or not. Also, because the Mitigated Negative Declaration (MND) was prepared on behalf of the State Department of Public Health (DPH), there was not a copy available to the local public in Garberville. The public had to obtain a copy through either LACO or the County. Lastly, LACO Engineering has been the engineer in GSD's water treatment plant project in addition to being the engineer preparing the MND for the DPH. I would feel more comfortable with the conclusion that there is no other way to alleviate the health and safety problem in Kimtu, other than extending this line, if an independent study was performed by another engineering firm that supported that conclusion.

Clif Clendenen asked, if the project is approved, would the water right currently existing for Kimtu Subdivision, be extended to the GSD, or would it be extinguished all together.

Ronnean Lund responded that Kimtu has no legal water rights, except for the parcels adjacent to the river, which have riparian rights. In 2002, the DPH sent Kimtu a boil water notice because they were using unfiltered surface water out of the Eel River. After further research, the conclusion was that they did not have any rights for the water they were using. Other options were looked into, including drilling a well. The Division of Water Rights, of the Department of Water Resources, determined that a new well would withdrawal ground water that is tied into the surface water of the river, and would require water rights, which the Department does not wish to allocate because there's not enough water. Thus, it was determined that the only feasible option was to consolidate the GSD and Kimtu water systems, with GSD taking over the Kimtu system once the new facilities were installed.

Randy Rouda, LACO Associates, clarified that LACO is before LAFCO representing Kimtu Meadows Mutual Water Company (KMWC). LACO has many clients, but regarding this project, KMWC, is the client. LACO has been working with KMWC for quite some time to find a remedy for the existing boil water notice. LACO prepares draft environmental studies for review by public agencies. For this one, the lead agency is the DPH. Also, in regards to the 8" line, with a 2.5 mile lone dead end line the friction loss is extraordinary. In regards to the Mitchell easement, Kimtu Camp Road, was never fully dedicated to the County. When LACO looked into putting in a water line, there was no obvious right, so an easement from the adjacent property owner was looked at. That arrangement has no offer, guarantee or notion that a connection would be permitted for that adjacent property. Lastly, KMWC would be happy to accept potentially any future restrictions to that line which allows them to move forward in alleviating their water quality concerns.

Marty McClelland asked Mark Bryant, GSD Manager, what the water line cost estimate is.

Mark Bryant responded, approximately \$80 per foot for approximately 10,000 feet (2 miles), which includes asphalt reconstruction. At 20 connections, that's roughly \$40,000 per connection.

Marty McClelland asked if the District has a fee schedule for reimbursement.

Mark Bryant responded, fee rates will be within the District's current pressure zone for downtown. Recovery costs associated with that are on the shoulders of CDPH and Kimtu. The 20 property owners of Kimtu Meadows Subdivision signed a petition requesting service from the District, specifically stating they will cover costs incurred by the District, which can be recovered in several different ways, including a tax assessment applied by the County or an increase in the fee schedule above current base rates. Mr. Bryant added that there is confusion



because the GSD is looking at two projects: GSD's major capital improvement project, which is currently partially funded, and the Kimtu project by CDPH. There is some alignment between the GSD's participation and Kimtu. GSD's participation is limited to the physical and correspondence requests from CDPH and Kimtu to supply water. There are issues regarding the SOI. Our community would need to look at the implications of any growth and would need to provide our board with input, through a series of public hearings, before decisions regarding the SOI are made. In the past the District has dedicated a series of 5 public hearing for those comments. GSD wants the community's input on where and how they want to grow. There has been discussion about letters from specific property owners and ambitious goals to develop in that area. The GSD has yet to receive any of those letters and there has been no cross-communication between the District, Community Park, or Steve Dazey. There's nothing official in our record or minutes that relate to any discussion.

Clif Clendenen asked Mr. Bryant to identify on the map, the areas where the District currently provides water service which are outside of the GSD boundary.

Mark Bryant responded that the current SOI was approved in 1986, which borders the Kimtu area. In 2004, the community purchased a privately owned water company which was having financial difficulty meeting current water regulatory requirements. When GSD bought the water company, our SOI expanded because the water district served outside the District service area and SOI. Years ago there was a development out on Connick Creek, 7-8 parcels that the County permitted with the stipulation that the development would have to get water from the community's water system, then privately owned. So, GSD inherited that pre-existing out of service area pipeline. GSD worked with LAFCo at the time of the purchase because the District was undergoing a major rehabilitation project for our wastewater system. As part of that process, GSD was requested by the County to serve their county yard facility, along with a series of houses that had been identified with failed septic systems. That area was annexed as part of that project along with other areas within the service area that had never officially been annexed. The service area has significantly expanded; portions of our current treatment area and the wastewater treatment plant are not within the service area. CalTrans and the new Blue Star distribution facility are within the service area. There are a lot of changes that need to be reflected in the SOI and the service area. This is a lengthy process and it's very important that the GSD gets the community's input before areas are identified for future growth. That's part of the reason that when the GSD made the commitment to the DPH to supply water to Kimtu due to the health and safety concern, we specifically specified that the line is only to be used for the Kimtu residents. Some of the options that we looked into for restricting that line included deeding that line to a conservation organization. Another stipulation that was put on the agreement with CDPH and Kimtu was that all water rights for any one tied to that water line will be given to the GSD because the resources in the South Fork Eel are extremely challenged. GSD has been working with agencies to address these challenges. But, as it is now, the flows will not sustain the people and fish life in the South Fork area. So, there may not be a growth issue.

Kevin McKenny asked Mr. Bryant if the existing treatment facility, located across the highway, has a deep well.

Mark Bryant responded that the GSD has two primary sources of water, a shallow well in town, used when the turbidity in the river is too high to produce water, and primary summer intakes in the river. The water rights that the District has now are at the same volumes as given to the Hurlbutt family operation. GSD has not enhanced them. The District's concerns are the adequacy of that resource.

Kevin McKenny asked is the new treatment facility is to be built on the McKee property.

Mark Bryant responded that initially it was on the McKee property, but the property has since changed hands a few times. The property is located off of the County Road, Tooby Ranch Road, approximately 200 feet up, tucked behind some redwood trees. The District plans to tie into the 8" line off of Sprowel Creek Road to charge the town at the base elevation. From there, water would go through a series of four other pumping tiers within the District.

Jeff Pauli asked Mr. Bryant if Kimtu residents would be required to relinquish their riparian water rights, resulting in no net gain of water from the river.

Mark Bryant responded, yes, the GSD does not want a net or gross impact.

Ronnean Lund clarified that Kimtu has been on a boil water notice for years and separately and coincidentally, the GSD treatment plant isn't sized appropriately and has been working with the DPH for a number of years to upgrade their plant. Both systems have had trouble coming up with the monies. Kimtu was offered a 100% grant (Prop 50) to pursue their project, but then those monies were frozen. Coincidentally, the best site for the GSD's plant was where identified earlier. The fact that this location is on the way to Kimtu is completely coincidental. DPH is a third-party agency with no interest in the local politics and has been overseeing both projects.

THE MOTION WAS MADE by Commissioner Neely, and seconded by Commissioner McKenny, to continue the GSD water service extension application to the July 21 meeting, with a status report to be provided at the June meeting.

THE MOTION PASSED BY A VOTE OF 7-0-0.

D. Hearing to Adopt Fiscal Year 2010-11 Budget

George Williamson commented that staff presented the Preliminary Fiscal Year 2010-11 Budget for the Commission's review at the May meeting. He noted that the Draft Budget was mailed to all member organizations for comments and none were received. The Fiscal Year 2010-11 budget proposed represents a further reduction in the budget. Staff asks you to consider this budget for adoption.

THE MOTION WAS MADE by Commissioner Farley and seconded by Commissioner Pauli, to approve Resolution 10-04, adopting the FY 2010-11 Budget as presented.

THE MOTION WAS PASSED BY A VOTE OF 7-0-0.

6. BUDGET & STAFFING

A. Budget Status Report Fiscal Year 2009-10.

BY ORDER OF THE CHAIR, with the concurrence of the Commission, the May 2010 Budget Status Report was received and filed as presented by staff.

B. Planwest Partners Staffing Services Agreement Extension.

Frank Bacik, Town of Scotia LLC Vice President of Legal Affairs, stated that he has approached the Commission about this matter before, which regularly arises in the public record, regarding the conflict of interest that currently exists with the Executive Officer (EO). I am an applicant before LAFCo and have a matter on the agenda for next month. The City of Rio Dell proposes an alternative approach and Mr. Williamson represents that party as well. The conflict of interest is not new, I've addressed it before you in the past when staff reports have come out that shouldn't bear Mr. Williamson's name and organization, but do. Yesterday I received calls from Scotia and Rio Dell residents about this matter; staff reports for LAFCo, on LAFCo letterhead, submitted by LAFCo's EO, will recommend that LAFCo take favorable treatment in connection with an application by someone else paying Mr. Williamson to bring and argue an application before LAFCo. As of today, there's a staff report before you by Mr. Williamson. That staff report says that you should consider hearing from Rio Dell, his other client, so that they can give you updates on the preparation of an application before LAFCo, an annexation application. That staff report tells of all good things being done by the City to advance that application. He's being paid by the City at the same time to prepare and present that application. Your EO is hired by people because he's your EO, to prepare and present applications to you. Those conditions are unfair and intolerable to us, probably because the contract that exists doesn't address those circumstances adequately. The only clause in the proposed contract that

addresses conflict, Section 3, says that it will essentially be self policed. Mr. Williamson will decide if there is a potential conflict and will bring the matter to the Chairman, who will ask an

alternate staff member to do the staffing instead. There should be a clause that absolutely prohibits Mr. Williamson from then presenting to you as someone else's staff member, applications. There should be a provision that requires recusal of participation before LAFCo as an advocate for an application, or as an advocate on behalf anyone else, for an action from LAFCo. There is a staff report before you that advocates for favorable action, hearing additional testimony from his client, as he's the paid advocate for Rio Dell. This has been brought to your attention five times and can be considered a violation of due process rights. It has been brought to your attention in order to exhaust administrative remedies in order to preserve our rights, lest they be waived. The Town of Scotia LLC asks you to write a contract provision which requires recusal on behalf of your EO so that he does not solicit activity to represent people before you; he's your EO and as long as there's a contract, he shouldn't be appearing before you as an advocate for other people.

Marty McClelland stated that the item before the Commission is the contract extension for Planwest. When written, conflict of interest was a specific issue. Each time it has been raised, George hasn't acted alone and has been in consultation with Mr. Guttero about the conflict and how to approach it. It appears the provision in the contract regarding conflict needs to be reviewed and brought back to the Commission with any modifications of language. Mr. McClelland suggested the Commission direct counsel and staff to review the provisions on conflict.

Kevin McKenny stated he recalled being on the Committee that originally worked on the contract. The subcontractors, Pacific Mutual Consultants (PMC), were supposed to do everything with regard to Scotia and would have to be present for anything regarding Scotia. They should be writing and be present for the staff reports.

Bonnie Neely stated that if it's just a status report, it should be prepared by, but need not be presented by PMC, if the contact information is on the written report and it can be received and filed or if PMC can be contacted to answer any questions.

Jeff Pauli stated that even on the issue of annexation of the old Eel River Sawmill property, it causes him concern to know that there are two roles being played within the same organization.

THE MOTION WAS MADE by Commissioner Zanzi and seconded by Commissioner Clendenen, to approve the extension of the contract for Planwest Partners' to provide LAFCo services and to direct staff and counsel to report back on alternative conflict language, as suggested by Mr. Bacik.

THE MOTION WAS PASSED BY A VOTE OF 4-0-3.

7. COMPLIANCE WORK PLAN

BY ORDER OF THE CHAIR, with the concurrence of the Commission, the May 2010 Compliance Work Plan was received and filed as presented by staff.

8. PENDING APPLICATIONS

A. Scotia CSD Formation– Status Report

B. Rio Dell Scotia Annexation Application – Status Report

BY ORDER OF THE CHAIR, with the concurrence of the Commission, the Scotia CSD Formation and the Rio Dell Scotia Annexation Application status reports were received and filed as presented by staff.

9. INQUIRIES CORRESPONDENCE, REFERRALS

A. Commissioner term expirations in May, 2010



Marty McClelland requested staff research the bylaws regarding Commissioner term expirations and staff agreed to do so. In addition, Mr. McClelland requested the Commission member roster be updated to ensure that there are no additional disjointed expiration terms.

Marty McClelland asked the Commission for volunteers to serve on the Alternate Public Member Selection Committee- Commissioners' Neely, Pauli, and Zanzi volunteered to do so.

B. CALAFCO University – Fire District Organization and Reorganization

George Williamson commented that CALAFCO hosted a Fire District Organization / Reorganization workshop. A panel of experts specializing in fire district reorganizations and formations were present. Representatives from County Staff, Arcata Fire Protection District, and Commissioner Farley attended. A complete binder from that workshop, full of very valuable information, is available for review.

10. PUBLIC APPEARANCES

11. ADJOURNMENT: 10:47 a.m.