

EXECUTIVE OFFICER'S REPORT
To The
Local Agency Formation Commission

TO:

Commissioner **VACANT** [City] Commissioner **MICHAEL KELLEY** (Vice-Chair) [Supervisor]
Commissioner **JASON JACKSON** (Chair) [City] Commissioner **RAY CASTILLO** [Supervisor]
Commissioner **DAVID WEST** [Public]

Alt Commissioner **JACK TERRAZAS** [Supervisor]
Alt Commissioner **MARIA NAVA-FROELICH** [City]
Alt Commissioner **RALPH MENVIELLE** [Public]

REPORT DATE: December 24, 2015

FROM: Jurg Heuberger, AICP, CEP, Executive Officer 

PROJECT: Niland Fire District Dissolution (NFD 1-14)

HEARING DATE: January 28, 2016 **TIME:** 8:55 a.m.

AGENDA ITEM NO: 13

HEARING LOCATION: 1275 Main St., El Centro, Ca. (City Council Chambers)

RECOMMENDATION(S) BY THE EXECUTIVE OFFICER (In summary & order)

- OPTION #1:** Approve the Dissolution as requested by the District as presented
- OPTION #2:** Approve the Dissolution as modified following the hearing
- OPTION # 3:** Deny the Dissolution of Service
- OPTION # 4:** Continue the item not to exceed 70 days

Project Data:

DATA & FACTS:

Project ID	NFD 1-14	
Project Name:	Niland Fire District Dissolution	
Applicant/Proponent:	Niland Fire District	
Application Type:	Petition	
Application Filed:	04/09/2014	
Certificate of Filing:	NA	
Area/Size:	See Map	
Location/Legal:	See attached Map	Exhibit "A"
Proposed Project:	This is a request by the District to dissolve the district.	

TAX AGREEMENT:

Board of Supervisors Action:	NA
City Resolution:	NA
Tax Split:	NA

CEQA:

Lead Agency:	NA
Documentation:	NA

ANALYSIS

I: General Background:

This application by the Niland Fire District is to dissolve the current District.

In this case the Commission has several options. The first is to consider all the facts and then determine pursuant to Gov. Code 56000 et seq., that the area would be best served by the dissolution of the District. The second option is to determine that the District should not be dissolved and the third of course is to continue the hearing.

If the Commission is to find that the District should be dissolved, it then has further decisions to make regarding service to the area. The Commission could find that a new successor District should be formed. This could be in the formation of a County Service Area, (CSA), or that the service could be assigned to another District. A CSA could provide fire protection service, and a CSA is managed by a Board which in this case would be the County Board of Supervisors acting as the Board of Directors.

If a new or successor District is formed then the Commission must also deal with issues such as current special assessments as well as other financial matters.

Although this is an option, the County Board of Supervisors has taken a position that the Niland Fire District should be dissolved in total and no new or successor District be formed, further that the special tax assessment currently in place should be terminated. Therefore it could be difficult for the Commission to find that a CSA should be formed.

The County Fire Department has for a number of years provided the fire protection services to the NFD area under a contractual arrangement. In doing so the NFD currently owes the County in excess of one million dollars in costs. The County Board during its discussions with County staff is well aware of this and certainly considered it when it took the position to recommend to the Commission that the special tax should be abolished and the District terminated.

If the Commission finds that the NFD should be dissolved and no successor District formed, then fire protection services falls to the County without further action by the Commission.

II: Gov. Code 57451, 57452, 57454:

57451: For the purpose of winding up the affairs of a dissolved district, the successor of the dissolved district shall be determined as follows:

- (a) If the territory of a dissolved district is located entirely within the incorporated territory of a single city, the city is the successor,
- (b) If the territory of a dissolved district is located entirely within the unincorporated territory of a single county, the county is the successor.

57452: Upon the effective date of dissolution, control over all of the moneys or funds, including cash on hand and moneys due but uncollected, and all property, real or personal of the dissolved district is vested in the successor for the purpose of winding up the affairs of the district.

57454: No inhabitant, property owner, taxpayer, consumer or user within the territory of a dissolved district shall be entitled to either of the following;

- a) All or any part, or to any payment on account of the moneys of funds, including cash on hand and moneys due but uncollected, or any property, real or personal, of the dissolved district.

- b) Any refund by reason of any taxes, assessments, service charges, rental, or rates collected prior to the effective date of dissolution.

III: District Approvals:

- 1) **RESOLUTION 2013-09-02** *Resolution requesting Dissolution* **EXHIBIT "B"**

II: County Land Use:

- 1) *County General Plan:* Under the County's General Plan, the area being proposed for the dissolution of the District has a variety of uses.
- 2) *County Zoning:* Varies

III: Sphere of Influence:

EXHIBIT "C"

The proposed dissolution includes the full boundary of the district and therefore the Sphere of Influence for the District would also cease.

IV: Cortese/Knox/Hertzberg Reorganization Act of 2000:

Government Code Section 56668 specifically requires that certain factors be considered in the review of any proposal, and shall include but not be limited to Items A through P.

- (A) *Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.*

Comment: The proposed project involves dissolution of a fire district. This has no effect on any of the issues noted. The primary effect will be that the area will upon dissolution be serviced by the County Fire Department instead of the existing but largely inoperative NFD.

- (B) *Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.*

'Services,' as used in this subdivision, refers to governmental services whether or not the services are services, which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

Comment: The dissolution of the NFD will change service providers but will still provide area residents with fire protection. The current district has had obvious financial issues and with the proposed change, the costs of providing the service will be borne by the County.

- (C) *The effect of the proposed action and of alternative actions, on adjacent area, on mutual social and economic interests, and on the local governmental structure of the County.*

Comment: The proposed dissolution has no effect on these.

- (D) *The conformity of both the proposed and its anticipated effect with both the adopted Commission policies on providing planned, orderly, efficient pattern of urban development, and the policies and priorities set forth in Section 56377.*

Comment: The proposed dissolution is consistent with LAFCO policies and the Cortese Knox Hertzberg reorganization act.

(E) *The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.*

Comment: This project will not affect agricultural land.

(F) *The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or of corridors of unincorporated territory and other similar matters affecting the proposed boundaries.*

Comment: This dissolution will not affect boundaries or lines of ownership or assessment, nor would it create islands.

(G) *A regional transportation plan adopted pursuant to Section 65080, and consistency with City and County General and Specific Plans.*

Comment: The dissolution has no effect on the regional or local transportation plans.

(H) *The Sphere of Influence for any local agency, which may be applicable to the proposal being reviewed.*

Comment: This dissolution will render the current SOI terminated concurrent with the dissolution.

(I) *The comments of any affected local agencies.*

Comment: No significant adverse comments have been received for this project by any responsible agency, nor from any individual.

(J) *The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.*

Comment: The County has reviewed the impacts of the dissolution and has determined that it will provide the service and has the capability and capacity to perform the service.

(K) *Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.*

Comment: Not applicable to this action.

(L) *The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.*

Comment: Not applicable to this action.

(M) *Any information or comments from the landowner or owners, voters, or residents of the affected territory.*

Comment: No comments have been received to date.

(N) *Any information relating to existing land use designations.*

Comment: Not applicable to this action

(O) *The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.*

Comment: The proposed project has no effect on environmental justice related issues.

(P) *Other considerations!*

Comment: None

V: Financial Review:

The Commission needs to carefully review all of the information in this report as well as the attachments and make a determination on whether or not the requested dissolution is consistent with the state law and local LAFCO policies.

There is no doubt that from the review of the current Districts financial documents that the District is "non-functional" financially. The District while having contracted with the County for services for several years

continues to increase its financial negative position to the extent that it currently owes the County in excess of one million dollars.

The current District has in place a special tax assessment that has collected between \$150,000 to \$280,000 annually; however even with this revenue the District does not have sufficient revenues to provide the necessary level of service.

Public Notice:

Public notice for the proposed project hearing before the Imperial County Local Agency Formation Commission has been given, according to Section 56660 and 56661. Notice was issued in the form of a publication in the Imperial Valley Press at least twenty-one (21) days prior to said hearing and posted on the Web. In addition, direct mail notices were at least sent to all property owners within ½ mile.

Report:

In accordance with Section 56665, the Executive Officer has prepared a report, and presented said report to your Commission and to any public member requesting such report. In addition, a copy of said report has been issued to the applicant, the County Counsel, County Executive Office, County Public Works, Imperial Irrigation District, Palo Verde Water District, El Centro Regional Medical Center, and any agency requesting same.

Conflict of Interest Statement:

To date (at the writing of this report) no Commissioner has indicated that there is any conflict of interest with regard to this project, nor has any Commissioner reported any communications with the Applicant, Proponent or Opponent. The Commissioners will be asked to declare that during and prior to the public hearing. The Executive Officer does not have any known conflict of interest, does not own any property within the project area.

EXECUTIVE OFFICERS RECOMMENDATION

RECOMMENDATION:

It is the recommendation of the Executive Officer that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, assuming no significant public input warrants to the contrary, that LAFCO take the following action;

- I: Approve the dissolution of the Niland Fire District (NFD), effective February 1, 2016.
- II: Make the following findings:
- a) The District Board of Directors requested the Dissolution
 - b) The County Board of Supervisors has indicated support of the Dissolution and a willingness to assume its role as successor pursuant to Gov. Code 57451.
 - c) The District has insufficient revenues or revenue sources to remain or become a fully functional fire district.
 - d) The residents of the area will be better serviced by the County Fire Department providing services.
 - e) The special tax assessment currently in place should cease upon dissolution of the District, particularly since the successor (County) has expressed its support of the termination of the special assessment.
- III: Take the action subject to the following:
- 1: The Niland Fire District shall cease to exist effectively on February 1, 2016.
 - 2: The special assessment shall terminate on or about the same date as the District is effectively dissolved.
 - 3: The County of Imperial becomes the successor to the Districts assets pursuant to Gov. Code 57452, 57453, 57455, 57456 and 57457.

LAFCO Policy:

The proposed application appears to be consistent with the Cortese/Knox/Hertzberg Reorganization Act of 2000, the Imperial LAFCO Policies and Procedures and the County of Imperial General Plan (Chapter IV. B. of LAFCO's Policies, Standards and Procedures).

NOTE: All "cc" submittals are the Executive Officer's Report only. Attachments are generally too voluminous and are only supplied on CD. Information about the project may also be found on the LAFCO web page at www.iclafco.com.

cc: County Board of Supervisors
Ralph Cordova, County Executive Officer
County Assessor
Raymond Loera, Sheriff
George Pacheco, Public Works
Tony Rohoutas, Fire/OES
Katherine Turner, County Counsel
Jim Minnick, Planning Director/County
PVC 1-14

Applicant
Douglas R. Newland, Auditor – Controller
Bill Brunett, Public Works Director
Brad Poiriez, APCD
Imperial Irrigation District, General Manager

ATTACHMENTS:

EXHIBIT A- Map
EXHIBIT B- Resolution 2013-09-02
EXHIBIT C- Sphere of Influence