

EXECUTIVE OFFICER'S REPORT

To The Imperial

Local Agency Formation Commission

TO:

Commissioner	MARIA NAVA-FROELICH	[City]	Commissioner	MICHAEL KELLEY (Chair)	[Supervisor]
Commissioner	JASON JACKSON	[City]	Commissioner	RAY CASTILLO	[Supervisor]
Commissioner	DAVID WEST (Vice-Chair)	[Public]			
	Alt Commissioner	JACK TERRAZAS			[Supervisor]
	Alt Commissioner	JIM PREDMORE			[City]
	Alt Commissioner	RALPH MENVIELLE			[Public]

REPORT DATE: Nov. 16, 2016

FROM: Jurg Heuberger, Executive Officer 

PROJECT: Dissolution of the Winterhaven Fire District WFD 1-15

HEARING DATE: Dec. 15th, 2016 **TIME:** 8:50

AGENDA ITEM NO: 12

HEARING LOCATION: El Centro City Council Chambers, 1275 Main Street, El Centro, CA

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

OPTION #1: Approve the Dissolution of the Winterhaven Fire District with findings as presented by the Executive Officer.

OPTION #2: Continue the Winterhaven Fire District Dissolution hearing for a time not to exceed 70 days with instructions.

OPTION #3: Allow the Winterhaven Fire District to remain as a District with conditions and upon findings by the Commission.

Project Data:

DATA & FACTS:

Project ID	WFD 1-15 Winterhaven Fire District Dissolution	
Project Name:	Dissolution of the Winterhaven Fire District	
Applicant/Proponent:	LAFCO sponsored action by Resolution and findings	
Application Type:	Resolution	
Application Filed:	NA	
Certificate of Filing:	NA	
Area/Size:	NA	
Location/Legal:	See attached description of District	EXHIBIT "A"
Proposed Project:	Dissolution of a District pursuant to Gov. Code 56375-2-(B)(2) <i>"the Commission may initiate proposals by resolution of application for any of the following: (B) The dissolution of a district."</i>	EXHIBIT "B"

TAX AGREEMENT:

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

ANALYSIS

I: Project Description:

This report is for the dissolution of a district pursuant to the authority given to the Local Agency Formation Commission (LAFCO) under Gov. Code 56000 et. Seq.

In this case the intent is to consider the dissolution of the Winterhaven Fire District, a district located at the eastern end of Imperial County, adjacent to Yuma Arizona and partially surrounded by the Quechan Tribal Reservation, and the Colorado River on the east and south. See attached Map showing the district boundary/Sphere of Influence.

The Commission is considering this action on the basis of the district failing to provide fire protection services to their area, for not having the financial capability to continue to provide services and with the knowledge that fire protection services are available and being provided to the area by the Imperial County Fire Department. Therefore, if the district is dissolved the area will continue to have fire protection service.

II: Applicable Statues under which the Commission can make its determination:

- 1) Gov. Code 56375 (a) (2) (B): The commission may initiate proposals by resolution of application for the Dissolution of a district.
- 2) Gov. Code 57102: (a) In any resolution ordering a dissolution, the commission shall make findings upon one or more of the following matters:
 - (1) That the corporate powers have not been used, as specified in Section 56871, and that there is a reasonable probability that those powers will not be used in the future
 - (2) That the district is a registered-voter district and is uninhabited.
 - (3) That the board of directors of the district has, by unanimous resolution, consented to the dissolution of the district.
 - (4) That the commission has authorized, pursuant to subdivision
 - (a) Of Section 57077.1, the dissolution of the district without an election.
 - (b) If the commission makes any of the findings specified in subdivision (a), the commission may, except as otherwise provided in Section 57103, order the dissolution of the district without an election.
- 3) Gov. Code 57451: For the purpose of winding up the affairs of a dissolved district, the successor of the dissolved district shall be determined as follows:
 - (b) If the territory of a dissolved district is located entirely within the unincorporated territory of a single county, the county is the successor.
 - (d) If the terms and conditions provide that all of the remaining assets of a dissolved district shall be distributed to a single existing district, the single district is the successor.

- 4) Gov. Code 57453: For the sole and exclusive purpose of winding up the affairs of the dissolved district, the successor and the officers and the legislative body of the successor have the same powers and duties as the dissolved district and the officers and legislative body of the dissolved district and all of the following additional powers and duties.
 - (a) To exchange, sell, or otherwise dispose of all property, real and personal, of the dissolved district.
 - (b) To compromise and settle claims of every kind of nature.
 - (c) To sue or be sued in the same manner and to the same extent as the dissolved district and the officers and legislative body of the dissolved district. These powers and duties shall commence upon the effective date of the dissolution and shall continue thereafter until the time when the affairs of the dissolved district have been completely wound up.

- 5) Gov. Code 57457: Remaining assets of the dissolved district shall be distributed by the successor as follows:
 - (b) If the territory of the dissolved district is located entirely within unincorporated territory of a single county, all the assets of the dissolved district shall be distributed to that county.
 - (1) All real property located within the incorporated territory of any city or within the unincorporated territory of any county, as the case may be, shall be distributed to that city or county.
 - (2) All moneys or funds including cash on hand and money due but uncollected and all personal property shall be divided among and distributed to each city or county in the proportion that the assessed value of the taxable property of the dissolved district within the incorporated territory of each city or within the unincorporated territory of each county shall bear the total assessed value of all taxable property within the dissolved district, the assessed values being those shown upon the last equalized assessment roll or rolls of the county or counties upon the effective date of the dissolution.

Gov. Code 57463: Subject to the provisions of Section 57462, any funds, money, or property of a dissolved district may be used by the successor for the purpose of winding up the affairs of the district and, after distribution to any city, county, or district may be used for any lawful purpose of the city, county, or district to which the funds, money, or property have been distributed. So far as may be practicable, the funds, money, or property shall be used for the benefit of the lands, inhabitants, and taxpayers within the territory of the dissolved district.

- 6)

III: County Land Use:

- 1) *County General Plan:* Under the County's General Plan, the area is generally considered a "community"
- 2) *County Zoning:* varies
- 3) *Surrounding Land Uses:* The service area of the district is bordered by Quechan Nation on at least three sides, the Colorado River on two sides and the City of Yuma on the southeast.

IV: Sphere of Influence:

EXHIBIT "C"

The district has the Sphere of Influence as shown on the attached exhibit.

V: Analysis of current District:

- 1) The Winterhaven Fire District was formed under Health and Safety Code 13801 et Seq.
- 2) The Winterhaven Fire District has:
 - a. failed to adopt, maintain or follow an adopted budget or have a Certified Audit performed for a number of years; and
 - b. sold or otherwise disposed of much if not all of its equipment, including but not limited to a fire engine, and ambulance etc.”; and
 - c. current outstanding debts to vendors in an estimated amount of \$52,998.17 or more (see EXHIBIT “D” for a listing; and
 - d. no adequate financial revenue source that would allow it to become or remain a viable district; and
 - e. a parcel of land and upon which exist an old metal structure used as the Fire Station; and
 - f. a questionable arrangement for a cellular tower with SBA, which is currently under review by the County Planning & Development Services office; and
- 3) The Winterhaven Board of Directors, most recently had only three members and a potential for the resignation of at least one or more members; and
- 4) The Winterhaven Board of Directors and/or its Fire Chief, have disposed of equipment with a total lack of record keeping that makes it all but impossible to account for all possible assets that the District may have had;

VI: Potential liabilities of the District:

In order to determine what liabilities the district had or may have, LAFCO published notices in the Yuma Daily Sun (a newspaper of general circulation) notifying any and all individuals or companies that the District was being considered for dissolution and advising individuals or companies to provide documentation to LAFCO if they had any outstanding payments due to them for services or supplies.

LAFCO also notified a number of individuals or companies whose names had been discovered on various documents as potentially having outstanding payments due.

Attached is a summary of the information, including the potential amounts that the district owes or owed. **EXHIBIT “D”**

VII: Alternatives

Prior to considering the dissolution of the district other alternatives were also considered, including the merger of the district with another district, the dissolution and subsequent formation of a new district such as a Community Service District (CSD) or a County Service Area (CSA).

The merger with another district in that area was found to be largely infeasible insofar that the only other district is a water district, and the addition of a fire services district was not reasonably nor possible.

The reorganization by dissolution and formation of a new district such as a CSD was also ruled out as the community could not reasonably support such a district. The formation of a County Service Area, CSA, was also

ruled out as the County already provides fire protection services in that area, consequently no need for the formation of a CSA.

Given that through the County's Fire protection services already being provided, it did not appear a necessity to create a new or successor district.

VIII: Conclusion/Findings:

Given the current condition of the Winterhaven Fire District, namely the lack of financial support, the fact that the district has already ceased to provide services, the fact that the district lacks equipment and supplies and given that the County already provides fire services to the area, the need for the district to continue is non-existent.

The Commission is therefore asked to order the dissolution of the district through the attached resolution making findings and conditions. **EXHIBIT "B"**

IX: Public Notice:

Public notice for the proposed 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 IV Press at least twenty-one (21) days prior to said hearing, and posted on our webpage. In addition, direct mail notices were sent to all property owners within the district.

X: 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 District, the County Counsel, County Executive Office, County Public Works, Imperial Irrigation District, and the Quechan Nation.

XI: Conflict of Interest Statement:

To date November 16, 2016 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, but does own a home within an older section of the City of El Centro.

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:

Option # 1:

Approve the Resolution ordering the dissolution of the Winterhaven Fire District upon the terms and findings within the Resolution.

Option # 2:

Continue the hearing for a period of time not to exceed 70 days with instructions.

LAFCO Policy:

The proposed dissolution 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
Imperial Irrigation District, General Manager
Tony Rohoutas, Fire/OES
County Counsel
Jim Minnick, Planning Director/County
WFD

Winterhaven Fire District Board
Douglas R. Newland, Auditor - Controller
County Public Works Director
APCD
County Office of Education

ATTACHMENTS:

EXHIBIT A - Map
EXHIBIT B - Resolution #WFD 2016-01
EXHIBIT C - Sphere of Influence Map
EXHIBIT D - List of Debtors