

Chair

Jo MacKenzie, Director
Vista Irrigation District

Vice Chair

Ed Sprague, Director
Olivenhain Municipal Water

Members

Catherine Blakespear, Mayor
City of Encinitas

Bill Horn, Supervisor
County of San Diego

Dianne Jacob, Supervisor
County of San Diego

Andrew Vanderlaan
Public Member

Bill Wells, Mayor
City of El Cajon

Lorie Zapf, Councilmember
City of San Diego

Alternate Members

Lorie Bragg, Councilmember
City of Imperial Beach

Chris Cate, Councilmember
City of San Diego

Greg Cox, Supervisor
County of San Diego

Judy Hanson, Director
Leucadia Wastewater District

Harry Mathis
Public Member

Executive Officer

Keene Simonds

Counsel

Michael G. Colantuono

15

AGENDA REPORT
Business | Action

December 3, 2018

TO: San Diego Commissioners

FROM: Keene Simonds, Executive Officer
John Traylor, Project Manager

**SUBJECT: Results of Protest Proceedings and Related Actions |
Julian-Cuyamaca Fire Protection District Reorganization (RO18-09)**

SUMMARY

The San Diego Local Agency Formation Commission (LAFCO) will receive the results of the protest hearing conducted for the “Julian-Cuyamaca Fire Protection District Reorganization” and consider taking related actions. The noticed protest hearing was held by the Executive Officer on October 16, 2018 and produced written objections from both landowners and registered voters with the latter category necessitating an election to confirm the Commission’s earlier approval of the reorganization. The Commission is now tasked with taking actions to formalize the results of the protest through an ordering resolution requesting the County of San Diego Board of Supervisors call an election along with making recommendations on election date and type. The Commission must also approve an impartial analysis to appear on the ballot.

BACKGROUND

Proposal Filings

In April 2018, San Diego LAFCO received a proposal from the Julian-Cuyamaca Fire Protection District (FPD) to dissolve and cease all corporate powers subject to requested terms. The requested terms included concurrent approval to designate the County Fire Authority through County Service Area (CSA) No. 135 as the successor agency. CSA No. 135 – and through the Board of Supervisors – filed a supporting application in May 2018 to expand its established latent power area for fire protection and emergency medical services and consent therein to serving as the successor agency.

Commission Action

On September 10, 2018, San Diego LAFCO held a public hearing to consider the joint-reorganization proposal filed by Julian-Cuyamaca FPD and CSA No. 135. The Commission proceeded to approve the joint-reorganization proposal and concurrently (a) dissolve Julian-Cuyamaca FPD and (b) expand CSA No. 135's established latent power area for fire protection and emergency medical services to include the affected territory.¹ Specified terms applied and the Commission delegated protest hearings to the Executive Officer.

DISCUSSION

This item is for San Diego LAFCO to receive the results of the protest hearing delegated to the Executive Officer involving the Commission's earlier approval of the Julian-Cuyamaca FPD Reorganization and consider taking related actions. The protest hearing was held on October 16, 2018 and produced written objections from both landowners and registered voters with the latter category necessitating an election to confirm the reorganization. The Commission, accordingly, is tasked now with taking two distinct actions to (a) adopt a resolution for filing with the Board of Supervisors ordering the reorganization subject to an election along with recommendations on date and type and (b) approve an impartial analysis for the resulting ballot measure. Additional details follow.

Protest Results | Landowners and Registered Voters

San Diego LAFCO staff worked with the County Assessor's Office and Registrar of Voters to validate written submittals received and not withdrawn from landowners and registered voters, respectively, following the closure of the protest hearing held on October 16th. The results of the validation process are summarized below.

- **Landowner Protest**

As of the date of the protest hearing, there were 4,809 legal parcels within the affected territory with a combined assessed land value of \$736,584,333. At the conclusion of the protest hearing, the County Assessor's Office validated 63 landowners of these legal parcels representing a cumulative assessed land value of \$5,976,157 had filed protest with LAFCO.² These validated amounts represent 1.3% and 0.8% of the respective totals and are below the 25.0% threshold to require an election and the 50.0% threshold to terminate the proceedings.

¹ Conforming sphere of influence amendments were also approved consistent with the staff recommendation.

² The County Assessor's Office invalidated 53 other landowner protest submittals received by the close of the protest hearing on the basis of being duplicates, parcels not in service area, no date listed, no proposal information listed, or a signature from a non-verified owner.

- **Registered Voter Protest**

As of the date of the protest hearing, there were 2,410 registered voters within the affected territory. At the conclusion of the protest hearing, the Registrar of Voters validated 626 registered voters had filed protest with LAFCO.³ This validated amount represents 26.0% of the total and surpasses the 25.0% threshold to require an election, but is below the 50.0% threshold to terminate the proceedings.

Required Actions | Ordering Resolution and Impartial Analysis

The protest results for registered voters necessitates San Diego LAFCO adopt a resolution ordering the Julian-Cuyamaca FPD Reorganization subject to an election. The resolution serves to certify the results of the protest hearing and request the County Board of Supervisors call an election pursuant to State law.⁴ It is also the opportunity for the Commission to provide recommendations to the Board of Supervisors with respect to specifying the date and type of election as further detailed in the accompanying footnote.⁵

The protest hearing results also task San Diego LAFCO with preparing an impartial analysis of the ballot measure given the underlying action (i.e., reorganization) is within the jurisdiction of the Commission. The impartial analysis must be approved by the Commission at a public meeting prior to the deadline set by the Registrar of Voters and will appear on the ballot with or without arguments for or against the action that are submitted to and selected by the Registrar of Voters. The impartial analysis must be no more than 500 words, exclusive of a general description of the boundaries of the affected territory. Given the Commission historically does not meet in January, and because we do not yet know what deadline the Registrar of Voters might set, it is appropriate to proceed now with the impartial analysis.

ANALYSIS

The Julian-Cuyamaca FPD Reorganization and the underlying action approved by San Diego LAFCO to transfer fire protection and emergency medical services in the affected territory to the County Fire Authority now requires voter approval. This outcome was recognized as a distinct possibility by the Commission in approving the reorganization proposal on September 10th and tracks with the membership's collective statements encouraging the community to participate in the decision-making. Proceeding forward as expeditiously as possible also tracks with the Commission's earlier statements, and as such it is recommended the Commission request the Board of Supervisors call a special election at the earliest possible date – March 11, 2019 – and ahead of the baseline scenario of waiting to the

³ The Registrar of Voters invalidated 177 other registered voter protest submittals received by the close of the protest hearing on the basis of being duplicates, not residing in the service area, no date listed, no proposal information listed, or a signature from a non-verified owner.

⁴ Reference to Government Code Section 57000(d)

⁵ Once an election is called by the Board of Supervisors, there is a minimum 88 day period before an election can be held to confirm a LAFCO approved action (Government Code 57132). Unless provided otherwise, the election shall be held on the next established election date calendared under State law: March 3, 2020. Election type varies between mailed ballots and polling precincts.

next general primary date of March 3, 2020. This option serves to lessen the governance challenge that now exists with a new JCFPD Board assuming office but statutorily obligated to maintain the status quo until voters decide whether to confirm or reject the proceedings. It is also recommended the Commission request the special election be done by mail ballot in contrast to opening one or more polling precincts. This option would help to facilitate broader community participation in the election and is markedly less expensive than opening one or more polling precincts as detailed in the accompanying footnote.⁶

RECOMMENDATION

Staff recommends San Diego LAFCO proceed with certifying the results of the protest hearing and adopt the attached draft resolution ordering the reorganization subject to an election for formal filing with the County Board of Supervisors. It also – and as detailed in the preceding section – includes Commission recommendations to hold the election by mail ballot and as early as possible and no less than 100 days from notifying the Registrar of Voters. Approving an impartial analysis now is also recommended. These recommendations are consistent with the actions outlined in the following section as Alternative One.

ALTERNATIVES FOR ACTION

The following alternative actions are available and can be accomplished a single motion:

Alternative One (recommended):

- (a) Certify the results of the protest hearing held on October 16, 2018 for the Julian-Cuyamaca FPD Reorganization and adopt the attached draft resolution ordering the reorganization subject to an election with recommendations on date and type.
- (b) Approve the impartial analysis on the Julian-Cuyamaca FPD Reorganization prepared by Commission Counsel in consultation with the Executive Officer for submittal to the Registrar of Voters with any desired changes by the Commission.

Alternative Two:

Continue the item to a future meeting and provide direction to staff for any additional information as requested.

⁶ The approximate cost to hold an all mail-ballot election for the reorganization is \$50,000. The approximate cost to hold a polling precinct election for the reorganization is \$95,000. The approximate cost to hold the reorganization election as part of the next primary (March 3, 2020) is \$5,000-10,000. San Diego LAFCO is responsible for all costs as part of an earlier approved fee waiver.

PROCEDURES FOR CONSIDERATION

This item has been placed on the agenda as part of the business calendar. The following procedures, accordingly, are recommended in the consideration of this item:

- 1) Receive verbal report from staff unless waived;
- 2) Invite comments audience members (voluntary); and
- 3) Discuss item and consider action on recommendation.

On behalf of staff,



Keene Simonds
Executive Officer

Attachments:

- 1) Draft Resolution Ordering the Julian-Cuyamaca FPD Reorganization Subject to an Election for Filing with the County Board of Supervisors
- 2) Impartial Analysis on the Julian-Cuyamaca FPD Reorganization for Filing with Registrar of Voters

Page Blank for Photocopying

RESOLUTION OF THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION

**REQUESTING THE SAN DIEGO COUNTY BOARD OF SUPERVISORS
DIRECT THE COUNTY ELECTIONS OFFICIAL TO CONDUCT AN ELECTION
OF THE REGISTERED VOTERS OF THE JULIAN-CUYAMACA FIRE PROTECTION DISTRICT
TO CONFIRM THE SAN DIEGO LOCAL AGENCY FORMATION COMMISSION'S
ORDER RO18-09 ET AL. DISSOLVING THE
JULIAN-CUYAMACA FIRE PROTECTION DISTRICT AND DESIGNATING
COUNTY SERVICE AREA NO. 135 AS SUCCESSOR**

WHEREAS, on April 10, 2018, the Board of the Julian-Cuyamaca Fire Protection District (“District”) adopted a “Resolution of Application” to dissolve the District, Resolution No. 2018-03 (“Resolution”); and

WHEREAS, the District submitted the “Resolution of Application” to the San Diego Local Agency Formation Commission (“Commission”) on April 11, 2018; and

WHEREAS, the District’s application requests dissolution and cession of all corporate powers within its approximate 52,000 acre jurisdictional boundary subject to certain terms, including concurrent Commission approval to transfer fire protection and emergency medical service responsibilities to the County of San Diego and its Fire Authority through County Service Area (“CSA”) No. 135; and

WHEREAS, On May 15, 2018, the San Diego County Board of Supervisors, acting on behalf of CSA No. 135, filed a supporting resolution of application with the Commission requesting expansion of CSA No. 135’s existing latent power fire protection and emergency medical service area to include the affected territory; and

WHEREAS, the application filings by the District and County were complementary and processed by the Commission as a joint-reorganization proposal; and

WHEREAS, on September 10, 2018, Commission adopted RO18-09 et al., approving the joint reorganization proposal to dissolve the District, expand CSA No. 135’s existing latent powers to include the affected territory and designate CSA No. 135 as the successor agency, subject to the outcome of a protest hearing; and

WHEREAS, Commission provided landowners and registered voters with notice of the protest hearing on September 17, 2018; and

WHEREAS, on October 16, 2018 Commission conducted a protest hearing and received 803 signed written protests; and

WHEREAS, Commission submitted the written protests to the San Diego County Registrar of Voters on October 19, 2018 to verify the 803 signatures submitted; and

WHEREAS, the Registrar of Voters certified the results of the verification to the Commission on November 5, 2018, finding 177 signatures to be invalid and 626 signatures to be valid, which Certification is attached as Exhibit A; and

WHEREAS, the 626 valid written protests amount to 26% of the District's total registered voters which exceed the 603 protest, or 25% voter, threshold required to trigger an election of the voters; and

NOW, THEREFORE, BE IT RESOLVED, the Commission hereby finds, determines, and orders the following:

1. The October 16, 2018 protest hearing yielded the following protest counts as validated by the County Assessor as to landowners and the County Registrar of Voters as to the registered voters:
 - a. Landowner Protest: As of the date of the protest hearing, there were 4,809 legal parcels within the affected territory with a combined assessed land value of \$736,584,333. At the conclusion of the protest hearing, the County Assessor's Office validated 63 protests from landowners of these legal parcels representing a cumulative assessed land value of \$5,976,157. These validated amounts represent 1.3% of the total landowners and 0.8% of the combined assessed value and are below the 25.0% threshold to require an election and the 50.0% threshold to terminate the proceedings.
 - b. Registered Voter Protest: As of the date of the protest hearing, there were 2,410 registered voters within the affected territory. At the conclusion of the protest hearing, the Registrar of Voters validated protests from 626 registered voters. This validated amount represents 26.0% of the total registered voters and surpasses the 25.0% threshold to require an election, but is below the 50.0% threshold to terminate the proceedings.
2. The Commission certifies the results of the protest proceedings as detailed in Paragraph 1 above, and under Government Code Section 57000(d), the Commission determines that an election must be conducted and requests the San Diego County Board of Supervisors direct the County elections official to conduct the necessary election.
3. The question put to the voters should be phrased as required by Government Code Section 57133(g) for reorganizations as follows: "Shall the order adopted on September 10, 2018, by the San Diego Local Agency Formation Commission (Resolution No. RO18-09 et al.) ordering the reorganization affecting the Julian-Cuyamaca Fire Protection District and County Service Area No. 135 and providing for the dissolution of the Julian-Cuyamaca Fire Protection District, the expansion of County Service Area No. 135's existing latent powers in the affected territory, and designating County Service Area No. 135 as the successor agency to the dissolved district be confirmed subject to the terms and conditions specified in the order?"
4. Per Government Code Section 57000(e)(1), the Board of Supervisors is requested, within 45 days from the date of this Resolution, to direct the County elections official to conduct the election.
5. The Board of Supervisors has the discretion to determine the date and method of elections consistent with the deadlines set forth in Government Code sections 57000 et seq., but the Commission requests the Board consider a special election conducted wholly by mailed ballot on any date, including dates other than an established date authorized by the County elections

official, as authorized to Government Code Section 57125(b). The Commission further recommends the special election be set for a date no later than 100 days from the date the Board of Supervisors calls the special election.

6. As allowed under Government Code 56107, the Commission authorizes the Executive Officer to make non-substantive corrections to this resolution to address any technical defect, error, irregularity, or omission.

PASSED AND ADOPTED by the San Diego County Local Agency Formation Commission on December 3, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

Page Blank for Photocopying



County of San Diego

REGISTRAR OF VOTERS

County Operations Center Campus

5600 Overland Avenue, Suite 100, San Diego, California 92123-1278

Telephone: (858) 565-5800 Toll-free: 1 (800) 696-0136 TTY / TDD: (800) 735-2929

Facsimile: (858) 694-2955 Web Address: www.sdvote.com

MICHAEL VU
Registrar of Voters

CYNTHIA L. PAES
Assistant Registrar of Voters

November 5, 2018

Keene Simonds, Executive Officer
San Diego Local Area Formation Commission
9335 Hazard Way, Suite 200
San Diego, CA 92123

Re: Julian-Cuyamaca Fire Protection District Reorganization

LAFCO Protests regarding Julian-Cuyamaca Fire Protection District/CSA 135 Reorganization (LAFCO file No. 18.09 et al.) was filed with the Registrar of Voters on October 19, 2018. As directed by your office, the Registrar of Voters conducted a verification of 100 percent of the 803 signatures submitted. **Of this number, a total of 626 signatures have been verified to be valid.** Results of the verification process are as follows:

CERTIFICATION OF RESULTS:

- Number of sections submitted..... 421
- Number of signatures submitted..... 803
- Number of signatures verified (100%)..... 803
- Number of signatures found to be valid 626
- Number of signatures found not to be valid (includes 40 duplicates)..... 177
- Number of signatures required for qualification 603

If you have questions, please contact me at (858) 505-7201 or Javier De Anda at (858) 505-7357.

L. MICHAEL VU
Registrar of Voters

Page Blank for Photocopying

**Impartial Analysis of Proposition _____, the
Reorganization of
Julian-Cuyamaca Fire Protection District and
County Service Area No. 135**

Proposition ___ proposes to confirm San Diego Local Agency Formation Commission's ("LAFCO") approval of a reorganization to dissolve the Julian-Cuyamaca Fire Protection District ("District") and designate the County of San Diego and its Fire Authority through County Service Area No. 135 ("CSA No. 135") as the successor agency.

Affected Territory: The affected territory is the entirety of the District and spans approximately 81 square miles and is located 35 miles to the northeast of the closest incorporated community, City of Poway. The northern half of the affected territory is anchored by the unincorporated community of Julian. The southern half of the affected territory is more rural and includes significant public lands, including the Cuyamaca Rancho State Park. Maps of the affected territory may be viewed online at www.sdlafco.org.

Vote:

- A "Yes" vote means: (1) the District will dissolve and County Fire Authority's professional firefighters will provide fire protection and emergency medical services to the affected territory; (2) the \$50 annual parcel tax adopted to pay to construct the fire station will be retired with the County paying the remaining balance; (3) the \$50 annual parcel tax adopted in 1984 to fund fire protection services will continue; (4) the existing volunteer firefighters who complete the required medical screening will be offered positions with the County volunteer reserves; and (5) a three-member advisory committee of District residents will provide feedback to the County about services provided in the area.
- A "No" vote means: (1) the District will not dissolve; (2) volunteer firefighters will continue to provide fire protection and emergency medical services to the affected territory; (3) the \$50 annual parcel tax adopted in 2006 to pay to construct the fire station will continue; and (3) the \$50 annual parcel tax adopted in 1984 to fund fire protection services will continue.

Reorganization Applications: On 4/10/18, the District adopted a resolution to apply to dissolve the District. On 5/15/18, the County Board of Supervisors adopted a complementary resolution to expand the CSA No. 135's sphere of influence and expand its existing powers within the District. The stated reasons for these applications were to: (1) ensure continuity of fire protection and emergency medical services, (2) ensure long-term security of fire protection services to the communities within the District, and (3) eliminate duplication of management, administration, and oversight from operating multiple special districts providing identical service. LAFCO approved the applications on 9/10/18 subject to conditions as stated in RO18-09, which can be viewed at www.sdlafco.org.

Finances: CSA No. 135 is funded through the County's General Fund. If the reorganization is confirmed, CSA No. 135 would receive approximately \$0.300 million in additional funding, two-thirds from the transfer of the District's existing property tax apportionments, and the remaining one-third from continuing one of two existing annual special parcel assessments. CSA No. 135 will be assigned all revenues from the District's existing \$50 annual parcel tax established in 1984. The District's existing \$50 annual parcel tax established in 2006 to pay for a fire station's construction will be discontinued as the County will pay the remaining balance on the loan. Landowners within the District will not be charged any new or additional assessments as a result of this reorganization.

Governance: The reorganization would dissolve the District's five-member board. The County Board of Supervisors would assume responsibility for providing fire protection and emergency medical services to the District. A three-member Julian-Cuyamaca fire advisory board sub-committee will be created to provide feedback on fire protection services in the affected territory.

The above statement is an impartial analysis of Proposition _____. If you desire a copy of the proposition, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you.