

**DRAFT
SAN DIEGO LAFCO
MINUTES OF THE REGULAR MEETING
OCTOBER 5, 2009**

There being a quorum present, the meeting was convened at 9:00 a.m. by Chairman Bill Horn. Also present were: Regular Commissioners – Councilmember Carl Hilliard; Supervisor Dianne Jacob; Councilmember Donna Frye; John Ingalls; Mayor Mark Lewis and Bud Pocklington. Alternate Commissioners – Jo MacKenzie and Mayor Jim Janney. LAFCO Staff – Executive Officer Michael Ott; Chief, Local Governmental Analyst Ingrid Hansen; Local Governmental Analyst Robert Barry; Local Governmental Analyst Claire Riley; LAFCO Consultant Harry Ehrlich; and LAFCO Legal Counsel William Smith. Absent were: Regular Commissioner – ~~Councilmember~~ Andy Vanderlaan; Alternate Commissioners – Supervisor Greg Cox and Harry Mathis.

Item 1
Roll Call

The Commission Secretary performed the roll call for the October 5, 2009 LAFCO meeting. All regular commissioners were present with the exception of Commissioner Andy Vanderlaan.

Item 2
Approval of Minutes of Meeting Held August 3, 2009

On motion of Commissioner Pocklington, seconded by Commissioner Frye, and carried unanimously by the commissioners present, the Commission dispensed with reading the minutes of August 3, 2009 and approved said minutes.

Item 3
Executive Officer's Recommended Agenda Revisions

Michael Ott indicated that there is a revision to move Item No. 13 Request by Yuima Municipal Water District for a Sphere of Influence and Municipal Service Review Update to Item No. 11 on the agenda.

Item 4
Commissioner/Executive Officer Announcements

Commissioner Bud Pocklington commented on the Metropolitan Water District's labor negotiations decision. Mr. Pocklington said he opposes the revision of the proposed retirement system.

Michael Ott indicated that there were no Executive Officer announcements.

Item 5

Public Comment

Michael Ott indicated there were no public comments.

Item 6

Proposed “Acacia Avenue – Haber Annexation” to the Spring Valley Sanitation District (DA08-12)

Michael Ott responded to a question from Commissioner Jacob regarding Item #6. He indicated the Department of Environmental Health (DEH) stated that space is available for repair of the current septic system and that a pump system would be required based on soil percolation. Commissioner Jacob asked the reason for annexation if the septic system can be repaired. Michael Ott explained that the letter also noted that the vast majority of the unoccupied part of the parcel would be the location for the septic system and it would be a large septic system to allow for the remodeling and expansion of this use. Mr. Ott indicated that expansion of the septic system could occur but it would be cost ineffective.

Commissioner Dianne Jacob said she will not oppose the project since DEH provided a letter and she moved approval of consent item.

On motion of Commissioner Jacob, seconded by Commissioner Pocklington, and carried unanimously by the commissioners present, the Commission took the following actions:

- (1) Find in accordance with the Executive Officer’s determination, that pursuant to Section 15319(b) of the State CEQA guidelines, this annexation is not subject to the environmental impact evaluation process because the proposal area contains not more than three single-family residences to be constructed or converted as defined by Section 15303; and
- (2) Adopt the form of resolution approving this annexation for the reasons set forth in the Executive Officer’s Report, waiving the Conducting Authority proceedings according to Government Code Section 56663(c), and ordering the annexation subject to the following conditions:
 - (a) Payment by property owner of Spring Valley Sanitation District capacity fees and sewer service fees, and State Board of Equalization charges.

Item 7

Proposed “T.E.R.I. Reorganization” (Vallecitos Water District) (RO08-12)

At the request of Michael Ott, the Commission waived the staff report.

On motion of Commissioner Jacob, seconded by Commissioner Pocklington, and carried unanimously by the commissioners present, the Commission took the following actions:

- (1) Certify, pursuant to Section 15091 of the State CEQA Guidelines, that the Commission has reviewed and considered the attached Environmental Impact Report. The mitigation measures included in the attached resolution of approval of the County of San Diego for the impacts identified in the attached Environmental Impact Report have been adopted by the County of San Diego, and that the mitigation is within the jurisdiction of the County and not LAFCO because the affected resources and services are within the County; and
- (2) Adopt, pursuant to Section 15096(h) of the State CEQA Guidelines, the Findings of Fact and Statement of Overriding Considerations previously adopted by the County of San Diego as lead agency, as shown in Exhibit B; and
- (3) Adopt the form of resolution approving the reorganization for the reasons set forth in the Executive Officer's report, waiving the Conducting Authority proceedings according to Government Code Section 56663(c), and ordering the reorganization and the following terms and conditions:

Vista Irrigation District

- (a) Payment of the Vista Irrigation District administration fee of \$1,176.00.
- (b) Payment of the Vista Irrigation District document preparation fee of \$91.00 for the Assignments of Water Rights document.
- (c) Execution of the Assignment of Water Rights document.
- (d) The property owner is responsible to pay Vista Irrigation District \$4,692.00 to terminate the existing service laterals for the 1"meter (Vista Irrigation Account #1050-012), 2' meter (Vista Irrigation District Account #9999-578), and Test Station.

Vallecitos Water District

- (a) Payment of water annexation fee of \$5,010.00 per acre (19.83) = \$99,348.30.
- (b) Payment of sewer annexation fee of \$6,809.00 per acre (19.83) = \$135,022.47.
- (c) Payment of State Board of Equalization fee of \$800.00.

Item 8

Proposed “Fernandez Annexation” to the Spring Valley Sanitation District (DA09-04)

At the request of Michael Ott, the Commission waived the staff report.

On motion of Commissioner Jacob, seconded by Commissioner Pocklington, and carried unanimously by the commissioners present, the Commission took the following actions:

- (1) Find in accordance with the Executive Officer’s determination, that pursuant to Section 15319(b) of the State CEQA Guidelines, this annexation is not subject to the environmental impact evaluation process because the proposal area contains not more than three single-family residences to be constructed or converted as defined by Section 15303; and
- (2) Adopt the form of resolution approving the reorganization for the reasons set forth in the Executive Officer’s report, waiving the Conducting Authority proceedings according to Government Code Section 56663(c), and ordering the annexation and the following terms and conditions:
 - (a) Payment by property owner of Spring Valley Sanitation District capacity fees and sewer service fees, and State Board of Equalization charges.

Item 9

Proposed “Cham Annexation” to the Lakeside Sanitation District (DA09-05)

At the request of Michael Ott, the Commission waived the staff report.

On motion of Commissioner Jacob, seconded by Commissioner Pocklington, and carried unanimously by the commissioners present, the Commission took the following actions:

- (1) Find that the Commission, acting as a responsible agency, has considered the environmental effects of the project as shown in the attached Mitigated Negative Declaration prepared by the County of San Diego and that the mitigation is within the jurisdiction of the County and not LAFCO because the affected resources and services are within the County; and
- (2) Adopt the form of resolution approving the reorganization for the reasons set forth in the Executive Officer’s report, waiving the Conducting Authority proceedings according to Government Code Section 56663(c), and ordering the annexation and the following terms and conditions:
 - (a) Payment of State Board of Equalization fees.

Item 10**Proposed “Casa de Amparo Annexation” to the Vallecitos Water District (DA09-07)**

At the request of Michael Ott, the Commission waived the staff report.

On motion of Commissioner Jacob, seconded by Commissioner Pocklington, and carried unanimously by the commissioners present, the Commission took the following actions:

- (1) Certify, pursuant to Section 15091 of the State CEQA Guidelines, that the Commission has reviewed and considered the attached Environmental Impact Report. The mitigation measures included in the attached resolution of approval of the County of San Diego for the impacts identified in the attached Environmental Impact Report have been adopted by the County of San Diego, and that the mitigation is within the jurisdiction of the County and not LACFCO because the affected resources and services are within the County;
- (2) Adopt, pursuant to Section 15096(h) of the State CEQA Guidelines, the Findings of Fact previously adopted by the County of San Diego as lead agency, as shown in Exhibit B; and
- (3) Adopt the form of resolution approving the reorganization for the reasons set forth in the Executive Officer’s report, waiving the Conducting Authority proceedings according to Government Code Section 56663(c), and ordering the annexation and the following terms and conditions:
 - (a) Payment of annexation fees to Vallecitos Water District.
 - (b) State Board of Equalization fees.

Item 11**Proposed “Rincon Oaks Estates Reorganization” (City of Escondido) (RO08-26)**

Chairman Bill Horn opened the public hearing.

Michael Ott indicated there were speaker slips submitted to the Commission for the item.

Mr. Ott provided brief details to the Commission for the appropriate actions associated with the recommendation. Mr. Ott indicated that there will be a PowerPoint presentation for this item that will cover additional information.

Robert Barry provided the PowerPoint presentation to the Commission. Mr. Barry indicated that the area proposed for annexation is in the sphere of influence for the City – and explained details of the roadway segments and parcels. Mr. Barry indicated that

the affected parcels are currently in agricultural use and are proposed for a higher density within the City than in the County.

Mr. Barry said the proposed project consists of 41 single-family residential lots and several open space lots. Mr. Barry also said that the territory has not been developed for any use other than agricultural.

Mr. Barry said there are two issues that need to be addressed under the review factors and State Law for LAFCO proposals: (1) the conversion of agricultural to residential uses; and (2) the timely availability of water supplies for projected needs. He also provided details about the drought conditions and the level 2 drought declaration made by the Metropolitan Water District and County Water Authority.

Mr. Barry said the City has approved a higher density and urban development for the proposed territory with residential lots ranging in size from approximately 8,000 – 19,000 square feet.

Mr. Barry said that Valley Center MWD indicated there is adequate water supply to serve the proposed project. He also said that Valley Center MWD indicated that the territory is under an agricultural discount program and has allocated 34 acre feet of water for this territory based on the year 2006 allocations that were set aside for this project area.

Mr. Barry said agricultural conversion issues were not addressed to LAFCO staff's satisfaction. He said according to the Cortese-Knox-Herzberg Act there are different criteria for defining prime agricultural lands than in CEQA - it deviates from CEQA and is based on soil content and the fact that it has not been developed for a use other than agriculture. Mr. Barry also said that LAFCO has determined that the proposal does constitute prime agricultural lands under the criteria specified. Mr. Barry also explained the details of the Executive Officer's recommendation for Option #1 or Option #2.

Commissioner Donna Frye indicated that the attachment for Item #11 (Mitigated Negative Declaration) has missing information. She placed a motion on the floor to continue the item until all documentation from the Mitigated Negative Declaration can be presented.

Commissioner Jacob seconded the motion.

Commissioner Jacob said that all information should be before LAFCO because there may be an issue before the Commission can legally consider the item.

Commissioner Jacob expressed concerns that need to be addressed for continuance of the item: (1) Agricultural conversion – she indicated the territory does qualify for prime agricultural lands as specified under the State law and the State law directs LAFCO to guide development away from prime agricultural lands - State law encourages the development of existing vacant or non-prime agricultural lands with a jurisdiction before

LAFCO approval of any jurisdictional change; (2) Jurisdiction shopping – she expressed concerns about the 15 acres that are within the unincorporated area and zoned for a higher density in the City of Escondido. She asked if the City staff worked with the County of San Diego Planning Department in the process of applying to LAFCO; (3) Fire issue – she asked if a representative was available from Deer Springs Fire Protection District to provide details if there will be a lost of revenue for the annexation; and (4) Water issue – she said there is no indication confirming water availability and assuring that services will be available due to the water supply shortage.

Gary Arant, General Manager Valley Center Water District addressed the Commission. Mr. Arant provided details about the standard statement he issues to applicants regarding water supply. He also said that there are factors that can intervene and could interrupt the development of the project. He indicated that the property is in the District and has sufficient allocations under MWD programs for service.

Commissioner Jacob inquired about the letter from the Water District stating that the facilities will be there but there may not be water available. Mr. Arant said there may be conditions for the property to be restricted. She also asked about water supply for fire purposes when the District does their assessment of how much water the district has. In response to the question, Mr. Arant said the fire suppression water is contained through the reservoirs and water in storage for firefighting purposes – the actual use of water for fire protection purposes is in the overall planning for that property.

Commissioner Pocklington expressed concern about converting agricultural land. He also said there are two major reasons for getting out of the agricultural business - the cost of water and labor.

In response to a question from Commissioner Pocklington – Mr. Arant said that agricultural deliveries are down 48% in the District - FY08-09 finished at 32,000 acre feet of water – FY06-07 delivered 49,000 acre feet and FY03-04 at 54,000 acre feet of water.

Commissioner Pocklington asked Michael Ott and Chairman Horn how long will it require for the continuance of the item to get the additional facts to bring back to the Commission.

Chairman Horn said the item will return to the Commission in November as the next available meeting date.

Ed Bonanni, property owner addressed the Commission in support of the item. He provided a brief report on the project. He said that converting the land to homes will consume less water in the long term than agricultural operations.

In response to a question from Commissioner John Ingalls about the agricultural history of the property. Mr. Bonanni said the property had historically been used as a Nursery facility.

Michael Ott provided clarification about agricultural provisions in State law that apply to the property. Mr. Ott indicated that the Commission needs to follow what is in the LAFCO statute regarding agricultural preservation. Mr. Ott responded to questions that were asked by Commissioners Jacob and Frye.

In response to a question from Commissioner Jacob regarding fire issues. Mr. Ott said that LAFCO did contact the fire marshal of the Deer Springs Fire Protection District and the fire district had not expressed opposition to the detachment. He mentioned that the District will lose about \$200 a year in annual property tax. Mr. Ott indicated that due to the continuance of the proposed proposal, LAFCO staff will look further into the fire issue.

In response to a question from Commissioner Jacob regarding water supply issues. Mr. Ott said that Gary Arant has provided clarification about water availability for the development of the property. Mr. Ott also said that the LAFCO staff will return in November with a complete environmental document for the project.

In response to a question from Commissioner Jacob inquiring if the applicant worked with the County of San Diego Department of Planning on processing this application along with the City of Escondido. In response to the question, Mr. Bonanni said he went to the City of Escondido and asked them to adopt the Resolution to annex the property in 2003 – the guidelines were followed to get approval of the Tentative Map.

Commissioner Jacob said the County of San Diego has tried to get jurisdictions to work together. Commissioner Jacob also expressed concerns about the density in the City being three times the amount as it would be in the County under the County's General Plan and the affect this may have on adjacent areas. She also said she is concerned about the decision to process through the City to get around the County's General Plan and Zoning. Mr. Bonanni said he will follow up with information.

Commissioner Frye indicated the Mitigated Negative Declaration for the proposed residential development site did not list prime agricultural land per the LAFCO statutes. She also inquired about the City of Escondido not identifying non-prime agricultural land that could be used for development.

Chairman Horn clarified that a motion was placed on the floor for continuance and discussion of these issues will return for discussion at the next meeting.

Alternate Commissioner Jo MacKenzie inquired about providing to the Commission a copy of the public comments from the County regarding the Negative Declaration.

Commissioner John Ingalls inquired if the Valley Center Community Planning Group responded to the proposal. In response to the question, Robert Barry indicated there is not a Community Planning Group in this unincorporated area.

Commission Horn commented about the issues of agricultural land. He said that because these cities have a sphere of influence and go into old agricultural land there may have been farming on it in the 30's or 1940's – you will then preclude every jurisdiction from pulling in agricultural land into any development if you make that a policy.

Mr. Ott said he will try to return with responses to the Commission at the November meeting. Mr. Ott asked Legal Counsel, William Smith to comment about the continuance provisions.

William Smith, Legal Counsel said that since the item was not a mandatory hearing item, LAFCO could continue the matter indefinitely or set a later date than November. Chairman Horn informed the Commission to let the Executive Officer decide to return in November or a later date for the item.

With no more speakers from the public and no further discussion from the Commission, on motion of Commissioner Frye, seconded by Commissioner Jacob, and carried unanimously by the commissioners present, the Commission, continued the public hearing and took the following action regarding Option #2:

Option 2

- (1) Continue the proposed “Rincon Oaks Estates Reorganization” until the water supply and agricultural issues discussed in the Executive Officer’s Report have been satisfactorily addressed and/or resolved. Authorize the Executive Officer to return to the Commission at the November 2, 2009 meeting or a later date with a response to these items and concerns identified by Commissioners related to the Mitigated Negative Declaration and Compliance with LAFCO statutes and policy(ies).

Chairman Horn said the item is continued.

Item 12

Administrative Approval of a Contractual Service Agreement: City of Escondido / Acenath Lira, in association with the “Lira Reorganization” (OAS09-06; RO09-06)

At the request of Michael Ott, the Commission waived the staff report.

This was an information item and no action was required.

Item 13

Request by Yuima Municipal Water District for a Sphere of Influence and Municipal Service Review Update

Chairman Horn indicated that there was one speaker slip for the item.

Michael Ott said there will be a PowerPoint presentation. Mr. Ott indicated that the Commission's rules allow for the study of services provided by local agencies at five-year increments. The Yuima Municipal Water District (MWD) requests the review and LAFCO staff scheduled this for Commission consideration.

Ingrid Hansen provided a PowerPoint presentation to the Commission. Ms. Hansen explained the reason for the requested update of the District's sphere of influence and municipal service review. She said the District's coterminous sphere was affirmed in August 2007. She explained the Policy that discourages sphere changes when less than five years have lapsed. Ms. Hansen also indicated the policy can be waived under certain conditions.

Ms. Hansen provided details about the District. She indicated the District's land area is 21 square miles located in Pauma Valley - groundwater basin lies under portions of the region which is primarily agricultural and the open space. She also said the District service area surrounds two non-contiguous segments of the Pauma Valley MWD and surrounds a major portion of the Mootamai MWD. Ms. Hansen said the Yuima MWD distributes imported and local well water to meet agricultural and domestic needs. She indicated that the District's request for the municipal sphere and service review actions are justified due to the drought in the area and significantly reduced output.

Ms. Hansen said the District has received requests for annexation of territory based on the need to secure a reliable source of water. She also said the conditions in the area have caused a shortage of groundwater concurrent with population increases. Ms. Hansen said annexation cannot occur without amending the District's coterminous sphere.

Linden A. Burzell, representative of Yuima Municipal Water District addressed the Commission, in support of the item. Mr. Burzell said he will address any issues or questions from the Commission.

Commissioner Pocklington asked Linden A. Burzell to comment on the San Diego County Water Authority. Mr. Burzell explained the conditions and terms the San Diego County Water Authority established for changes of any territory that involves the County Water Authority. Mr. Burzell also provided information about groundwater resources.

On motion of Commissioner Pocklington, seconded by Commissioner Ingalls, and carried unanimously by the commissioners present, the Commission took the following actions:

- (1) Grant the waiver to Policy L-102 as requested by the Yuima Municipal Water District; and
- (2) Authorize your Executive Officer to initiate a sphere of influence and municipal service review update study that covers the central/north county geographic area of San Diego County. Subject agencies within the sphere and municipal service

review study area include Yuima, Pauma, and Mootamai Municipal Water Districts plus portions of the San Diego County Water Authority and Metropolitan Water District of Southern California.

Item 14

Quarterly Self-Approved Expense Claims Report

At the request of Michael Ott, the Commission waived the staff presentation.

On motion of Commissioner Pocklington, seconded by Commissioner Frye, and carried unanimously by the commissioners present, the Commission took the following action:

Accepted and ratified the October 5, 2009 Quarterly Self-Approved Expense Claims Report.

Item 15

Status Report on Development of Water Supply and Availability Guidelines

Harry Ehrlich, Legislative Director and LAFCO Consultant, provided the Commission with an update on the Water Supply and Availability Guidelines. Mr. Ehrlich indicated that a meeting was held with the Advisory Committee and he is waiting for the County Water Authority to provide comments.

This was an information item and no action was required.

Item 16

Legislative Report

Harry Ehrlich, Legislative Director and LAFCO Consultant provided a staff report to the Commission. He said there are no changes in the bills. He mentioned that the Legislative Session is closed – due to budget reform discussions. The LAFCO status report provided is still current and no action is recommended.

There being no further business to come before the Commission, the meeting adjourned at 10:00 a.m. to the November 2, 2009 meeting, in Room 302, County Administration Center.

**Tamaron Lockett
Administrative Assistant**