

**SAN DIEGO LAFCO
MINUTES OF THE REGULAR MEETING
JULY 12, 2004**

There being a quorum present, the meeting was convened at 9:01 a.m. by Chairwoman Patty Davis. Also present were: Regular Commissioners - Councilmember Donna Frye, Councilmember Jill Greer, Supervisor Bill Horn, Supervisor Dianne Jacob, Bud Pocklington, Andrew Vanderlaan, and Ron Wootton; Alternate Commissioners - Harry Mathis, Andy Menshek, and Betty Rexford; LAFCO and County Staff - Executive Officer Michael Ott; Chief, Governmental Services Ingrid Hansen; Local Governmental Analyst Robert Barry; and LAFCO Legal Counsel, William Smith. Absent was: Alternate Commissioner - Supervisor Greg Cox.

Item 1
Approval of Minutes
of Meeting Held May 3, 2004

With Commissioners Greer and Pocklington abstaining, on motion of Commissioner Horn, seconded by Commissioner Vanderlaan, the commissioners dispensed with reading the minutes of May 3, 2004, and approved said minutes.

Item 2
Executive Officer's Recommended Agenda Revisions

Michael Ott recommended that the Commission consider Item 13 directly after Item 5.

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

The Commission will consider Item 13 (Introduction of John Traylor, LAFCO Governmental Consultant; and Update on Fire Protection and Emergency Medical Services Regionalization Efforts) directly after Item 5 (Public Comment).

In addition, Mr. Ott recommended that the Commission hear testimony on Items 9 and 10, Tijuana Watershed Municipal Services Review and Sphere of Influence Updates, and the proposed Dissolution of the Tia Juana Valley County Water District, then continue these items to the August 2, 2004 LAFCO meeting. He indicated that the continuance would allow staff sufficient time to respond to a letter from the City of San Diego, received on July 9, 2004, regarding successor responsibilities.

Item 3
Commissioner/Executive Officer Announcement

Michael Ott introduced LAFCO Legal Counsel, Bill Smith, who provided an update on the *Citizens for Responsible Sanitation Planning v. San Diego Local Agency Formation Commission et.al*; Superior Court No. GIE020483-Lawsuit Contesting Blossom Valley Middle School Annexation. Bill Smith reported that on May 13, 2004, the Superior Court ruled in favor of LAFCO. Mr. Smith said that Ellen Pilsecker, Senior Deputy County Counsel, and the attorneys for the school district, were very impressed with the excellent reports prepared by LAFCO staff member Ingrid Hansen. Mr. Smith indicated that the reports, as well as numerous letters from public members in support of the school project, were very important and effective in persuading the Court to rule in favor of LAFCO.

Item 4
Public Comment

No members of the public requested to speak.

Item 5
Introduction of John Traylor, LAFCO Governmental Consultant; and Update on Fire Protection and Emergency Medical Services Regionalization Efforts

Michael Ott introduced John Traylor, LAFCO Governmental Consultant, and indicated that Mr. Traylor's has over 30 years of firefighting experience. Mr. Ott asked Mr. Traylor to provide an update to the Commission on the regionalization efforts.

Mr. Traylor said that the Phase I proposal involves consolidating a portion of the unincorporated areas in the east county. He indicated that the portion includes fire protection districts, professional and volunteer departments, and county service areas. Mr. Traylor said that he has prepared a cost analysis for implementation of Phase I of the proposal, which requires approximately \$16.5 million in new funding. He indicated that 40% of the requested new funds would bring parity to existing employees, 50% would provide new services, and 10% would go towards ongoing capital projects. He reported that the Task Force and its subcommittee will continue to look into options for increasing services in unincorporated areas, as well as other associated areas.

Mr. Traylor reported that the fire protection districts' draft Municipal Service Review (MSR) for the unincorporated area has been completed; and the MSR for the remaining fire service providers (cities, tribal lands, and military facilities) is being processed.

Commissioner Horn said if there is a need to call upon volunteer fire entities, their contact information should be available to agencies when their services are needed. Alternate Commissioner Menshek explained that regionalization would enact a provision for volunteer fire resources to be involved with fire protection districts in providing fire services throughout the county. He said that, currently, there is no single entity that coordinates volunteer fire resources. Alternate Commissioner Menshek said that one concern regarding volunteer fire resources is that OSHA mandates firefighters to have

proper training and equipment to provide fire services. He said there is enough funding to comply with OSHA for current personnel, but not for volunteers.

Commissioner Jacob commended the volunteer firefighters who assisted in the 2003 fires, and welcomed John Traylor to LAFCO. Commissioner Jacob said that there is no question that bringing all fire service entities together would have benefits. She said that she is planning to address the Board of Supervisors to request funding and collaborate with LAFCO to establish regionalization.

Commissioner Andy Vanderlaan welcomed John Traylor and said that pursuing funding resources is very important and necessary for the establishment of regionalization.

This was an information item and no action was required.

Item 6
Proposed "Valley Meadows Reorganization"
(City of El Cajon) (RO04-09)

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

- (1) Certified that the information contained in the Mitigated Negative Declaration prepared by the City of El Cajon has been reviewed and considered; and
- (2) Adopted the form of resolution approving this 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 ordered the reorganization subject to the following condition:

Property owners to pay all annexation fees and State Board of Equalization fee to the City of El Cajon; and payment of all San Diego LAFCO processing fees.

Item 7
Proposed "Montiel Road Reorganization"
(Vallecitos Water District) (RO04-13)

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

- (1) Certified that the determination by the City of San Marcos that this reorganization is exempted from environmental review has been reviewed and considered; and
- (2) Adopted the form of resolution approving this 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 ordered the reorganization, subject to the following terms and conditions:

Vallecitos Water District:

- (a) Payment of the following annexation fees to the Vallecitos Water District for inclusion of the property in Sewer Improvement Districts 1, 2, & 6 for water and sewer services:

Payment of sewer annexation fee	=	\$4,935.45
Payment of water annexation fee	=	\$1,296.27
State Board of Equalization fee	=	<u>\$ 350.00</u>
TOTAL AMOUNT	=	\$6,581.72

- (b) Submit copy of title report with metes and bounds legal description of the subject property to be annexed including tract maps and traverse calculations, if applicable;
- (c) No construction of or connection to any water or sewer mains will be allowed until completion of the annexation and detachment from Vista Irrigation District, payment of all annexation fees, payment of all current fees and charges and acceptance of all water and sewer facilities required for the project;
- (d) Completion of LAFCO proceedings;
- (e) Upon completion of annexation, the existing water service with Vista Irrigation District will be terminated and four water and sewer service connections with Vallecitos Water District will be required prior to service being available.

Vista Irrigation District:

- (a) Payment of the following detachment fees to the Vista Irrigation District:

VID detachment fee	=	\$ 310.62
VID administration fee	=	\$ 640.00
VID document preparation fee	=	<u>\$ 65.00</u>
TOTAL AMOUNT	=	\$1,015.62

- (b) Execution of the Assignment of Water Rights document;
- (c) Removal of the existing VID water meter.

Item 8A
Adoption of an Amendment to the Sphere of Influence
for the Vallecitos Water District (SA04-06)

Item 8B
Proposed "Sierra Madre Academy Annexation" to the
Vallecitos Water District (DA04-06)

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

Chairwoman Davis opened the public hearing.

With no members of the public wishing to speak in support or in opposition of the item, and no discussion from the Commission, Chairwoman Davis closed the public hearing.

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

- (1) Certified that the information contained in the Mitigated Negative Declaration and Addendum prepared by the City of San Marcos has been reviewed and considered;
- (2) Amended the sphere of influence for the Vallecitos Water District to include the territory shown on the attached map; and
- (3) Adopted the form of resolution approving the minor sphere amendment and 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 ordered the annexation, subject to the following terms and conditions:
 - (a) Payment of an annexation fee to the District of \$10,454.67;
 - (b) Payment of the State Board of Equalization fee;
 - (c) Annexation into Sewer Improvement Districts 1, 2, 6, & "A" for sewer service only;
 - (d) Connection to the proposed sewer line will be allowed upon approval from LAFCO, provided annexation fees and all current fees and charges are paid, and acceptance of all sewer facilities required for the project.

Item 9

Tijuana Watershed Municipal Service Review and Sphere of Influence Updates (MSR02-20; SR02-20[A]; SR02-20[B]; SR02-20[C])

Michael Ott provided introductory comments, indicating that the Tia Juana Valley County Water District (CWD) was established in 1946. He said that in 1956 and 1957, the territory encompassing the CWD annexed to the City of San Diego and was also included in the newly incorporated City of Imperial Beach. Mr. Ott said that since the CWD exists within the boundaries of two municipalities, it has become a redundant layer of government. He said that the City of Imperial Beach has adopted a resolution supporting the dissolution of the Tia Juana Valley County Water District.

Michael Ott introduced Jo MacKenzie, Vice Chairwoman of LAFCO's Special Districts Advisory Committee. Mr. Ott said that Ms. MacKenzie would be providing a summary of the Advisory Committee's actions taken on December 12, 2003, regarding the municipal service review. Mr. Ott indicated that elected board members and staff of independent special districts in San Diego County voted, as members of the Advisory Committee, to support the dissolution of the Tia Juana Valley County Water District.

Michael Ott said that on July 9, 2004, LAFCO received a fax letter from the City of San Diego regarding this issue. Mr. Ott indicated that LAFCO has been requesting the City's position for two years, but has been unsuccessful, until now, in receiving an official response. Mr. Ott requested that the Commission grant LAFCO staff time to review the City's letter, which contains questions regarding successorship. Mr. Ott recommended that the Commission receive the staff report, Ms. Mackenzie's meeting summary, testimony on Items 9 and 10, and then continue the public hearing to the August 2, 2004 Commission meeting to allow time for staff to respond to the City's concerns. He introduced Ingrid Hansen who provided a PowerPoint presentation and the staff report.

Chairwoman Davis opened the public hearing.

In response to questions from Commissioner Bud Pocklington, Ingrid Hansen said that the Tia Juana Valley CWD stopped collecting taxes in 1958, and then in 1992 imposed a Fixed Charge Special Assessment on district property owners. She said that in 1989, the CWD's Board of Directors contributed approximately \$1.7 million, in cash and property, to the County of San Diego, and voted to dissolve the District; however, a resolution to dissolve the District was never adopted. Mr. Ott referred the question regarding Proposition 13 to LAFCO Legal Counsel, Bill Smith, who indicated that the Water Code states that an agency that has not received enough revenues from water sales can levy an ad valorem property tax, and that the CWD's Fixed Charge Special Assessment is not permitted by the Water Code and an ad valorem property tax is not permitted by Proposition 13.

In response to a question from Mr. Pocklington, Mr. Smith said that cities and special districts are responsible for monitoring the legality of their own charges.

Michael Ott said that LAFCO staff conducted an independent review of the District's operation, administration, and financing with respect to LAFCO's statutory authority. He indicated that the MSR revealed troubling information pertaining to the legality of the CWD's Fixed Charge Special Assessment. Mr. Ott said that one of the recommendations in the MSR encourages the County of San Diego, cities, and special districts to become proactive in validating the assessments, taxes, and charges, which agencies are imposing.

In response to questions from Commissioner Jacob, Mr. Ott said that the Tia Juana Valley CWD has an elected governing board. He said the board did not ask the residents for their approval of the Fixed Charge Special Assessment, but imposed the Fixed Charge Special Assessment by resolution.

Commissioner Jacob said that the CWD should be held accountable for the misuse of public funds, illegality of collecting those funds, and the illegality of expenditures and placed a motion for LAFCO staff to refer this matter to the District Attorney, the Attorney General, and any other appropriate investigative agency.

Chairwoman Davis said that she would like to receive additional input from the Commission, as well as involved agencies. She asked Commissioner Jacob to defer her motion to the August 2, 2004 meeting.

Commissioner Jacob asked to strike the motion from the records and placed another motion for the Commission to direct LAFCO to staff draft a letter to the District Attorney and the Attorney General, as well as any other appropriate agency, to refer issues regarding any matter that LAFCO has determined unlawful.

Howard Freelove, representative of the Citizens Action Committee for the Dissolution of the Tia Juana Valley County Water District, addressed the Commission in support of the dissolution and provided a PowerPoint presentation.

Michael Ott asked Jo MacKenzie to provide a summary to the Commission regarding the Advisory Committee's action pertaining to the MSR and dissolution. Ms. MacKenzie reported that on December 12, 2003, the Advisory Committee considered LAFCO staff's draft Tijuana Watershed MSR and Sphere Update Study. She said that the committee extensively reviewed the report and accepted public testimony. Ms. MacKenzie reported that a number of speakers were in favor of the dissolution of the Tia Juana Valley County Water District, and that no representatives from the subject agencies were present. Ms. MacKenzie said that the committee agreed that the MSR is thorough and well written. She said that the committee was concerned about the CWD imposing the \$50 Fixed Charge Special Assessment upon the property owners. She reported that the Committee voted in favor of accepting the draft report and directed LAFCO staff to conduct further research on the legality of the imposed assessment and to look into dissolving the Tia Juana Valley CWD.

Michael Giorgino addressed the Commission in support of the Citizens Action Committee for the Dissolution of the Tia Juana Valley CWD. He commended Michael

Ott, Ingrid Hansen, and LAFCO staff for their courage to make a recommendation to streamline government.

Barry Newman, representing the San Diego County Taxpayers Association, asked that the Commission support the proposed dissolution. He said that the 1999-2000 County Grand Jury voted to dissolve the District, and said the district provided no legitimate service and added a financial burden to the residents.

Wayne Yarroll, resident of the Tia Juana Valley CWD, addressed the Commission indicating he has paid approximately \$575 towards the Fixed Charge Special Assessment and has not received one drop of water from the District. He asked that the Commission uphold the Grand Jury's findings, and LAFCO's MSR determinations and dissolve the CWD.

David Gomez, President of the Tia Juana Valley County Water District, addressed the Commission in opposition of the proposed dissolution. He said that the District is an advocate for their residents. Mr. Gomez provided a history of the District's accomplishments, and said that in 1991, the Board and their legal counsel transmitted the required documents to the County of San Diego Auditor and Controller's Office to create the Fixed Charge Special Assessment.

In response to a question from Commissioner Frye, Michael Ott said that the San Diego County Auditor and Controller's Office acts as the implementing agency for the Fixed Charge Special Assessment relative to billing, mailing, and collecting the funds. He indicated that the County Auditor and Controller's office does not determine the legality of the assessment.

Legal Counsel Bill Smith said that the San Diego County Auditor and Controller's Office requires agencies to affirm the validity of their assessments before placing them on the County's tax bill. Mr. Smith indicated that the board directors from each agency have the responsibility to ensure that assessments comply with the law.

David Gomez stated that the District held public hearings and presented the San Diego County Auditor & Controller's Office with approved resolutions. He said that the District was not required to conduct a vote at that time the assessment was imposed.

Jose King, General Manager of the Tia Juana Valley CWD, addressed his concerns to the Commission in opposition to the dissolution, and provided a handout to the Commissioners. In response to a question from Commissioner Pocklington, Mr. King said that there is a \$1.4 million dollar request in Congressman Filner's Transportation Bill that is pending authorization. Mr. King agreed with Commissioner Pocklington that it would be more efficient if the City of San Diego were to pursue the request for funding.

In response to a clarification request from Commissioner Frye, Mr. Gomez said that the City of San Diego has not indicated that they are not interested in proceeding with the Groundwater Project.

Commissioner Jacob and LAFCO Legal Counsel Bill Smith asked Mr. King to provide copies of any opinions regarding the Fixed Charge Special Assessment that the District received from their Legal Counsel.

Mario Lopez, Community Representative for Congressman Bob Filner, indicated that Congressman Filner asked that the District's Groundwater Project study be completed before any action is taken. He also said that Congressman Filner requested that the dissolution be placed on the November election ballot to let the voters decide whether or not the CWD should be dissolved.

Mary Odermatt, former Board Member of the Tia Juana Valley CWD from 1976 to 1990, addressed the Commission with a history of the District's actions during her tenure. She reported that in 1989, the Board unanimously voted to transfer \$1.7 million to the County of San Diego, and that she turned the funds over to Supervisor Brian Bilbray before a meeting of the San Diego County Board of Supervisors. Responding to a question from Commissioner Pocklington, Ms. Odermatt indicated it was a unanimous decision by the Tia Juana Valley CWD's Board of Directors to transfer the \$1.7 million to the County of San Diego.

Chairwoman Davis closed the public hearing.

Commissioner Frye asked Commissioner Jacob to amend the motion to include a request that staff respond, on August 2, 2004, to the comment letter received by the Commission from the Tia Juana Valley CWD. Commissioner Jacob agreed to amend the motion. Commissioner Horn, as second to the motion, agreed to amend the motion.

Commissioner Frye also said she would like staff to research the outcome of the \$1.7 million dollars that was turned over to the County of San Diego in 1989.

When Mr. Ott indicated to the Commission that LAFCO staff had been invited to a meeting composed of a quorum of the Tia Juana Valley CWD's Board of Directors, which was held in the private office of City of San Diego Councilmember Ralph Inzunza, Commissioner Wootton recommended that all of the members on the Tia Juana Valley CWD Board take a refresher course on the Brown Act. Commissioner Wootton also recommended that the District obtain a current written legal opinion on the Fixed Charge Special Assessment, and submit it to the Commission at the August 2, 2004 meeting. Commissioner Wootton also said there are special provisions in the Brown Act regarding conducting meetings outside a district's jurisdiction.

Alternate Commissioner Harry Mathis left the meeting at 11:29 a.m.

Commissioner Jacob added to her motion to continue the public hearing to the August, 2, 2004 meeting, and asked that a representative from the County of San Diego Auditor and Controller's Office be invited to the meeting to explain the ramifications of Determination 3.10, "The County is encouraged to institute a program that scrutinizes all special assessments, taxes, fees, and charges imposed by local agencies." (Page 84 of the MSR).

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

1. Continued the Public Hearing to the August 2, 2004 meeting, and directed staff to invite a representative from the County of San Diego Auditor and Controller's Office to explain the ramifications of Determination 3.10 in the Municipal Service Review, "The County is encouraged to institute a program that scrutinizes all special assessments, taxes, fees, and charges imposed by local agencies." (Page 84, Municipal Service Review);
2. Directed the Executive Officer to draft a letter to the District Attorney, the Attorney General, and any other appropriate investigative agency regarding LAFCO's intent to dissolve the District and the alleged violations of the Tia Juana Valley County Water District; and
3. Directed the Executive Officer to respond to the Tia Juana Valley CWD's letter that was presented to the Commission, and also research the outcome of the \$1.7 million that was turned over to the County of San Diego by the Tia Juana Valley CWD.

Item 10

"Dissolution of the Tia Juana Valley County Water District" (DT04-10)

On motion of Commissioner Pocklington, seconded by Commissioner Frye, and carried unanimously by the commissioners present, the Commission continued this item to the August 2, 2004 meeting.

The meeting recessed at 11:45 a.m.

The meeting reconvened at 11:52 a.m.

Commissioner Frye and Alternate Commissioner Rexford left at 11:45 a.m.

Item 11

Proposed "Discovery Valley Equestrian Center Reorganization" (City of San Marcos) (RO03-37)

Michael Ott introduced Local Governmental Analyst Robert Barry, who gave a PowerPoint presentation along with the staff report.

In response to a question from Commissioner Horn, Mr. Barry said that the proposed road improvements by the City of San Marcos are to widen the intersection of Twin Oaks Valley and Deer Springs roads to create turn lanes into the proposed facility, and to add a temporary traffic signal and additional striping to the roads.

With no other questions for staff from the Commission, Chairwoman Davis opened the public hearing.

Paul Malone, Assistant City Manager, City of San Marcos, addressed the Commission in support of the proposal, and said that he was available to respond to questions or comments from the Commission.

Jerry Backoff, Planning Director, City of San Marcos, addressed the Commission in support of the proposal and gave a PowerPoint presentation on the proposal.

Gabriel P. Castaño, owner of the property, addressed the Commission in support of the proposal.

James Hernandez, President, HB&A Architecture, addressed the Commission in support of the proposal, and indicated he was the architect for the proposal and that he was available to respond to questions or comments from the Commission.

Carol Shuttleworth addressed the Commission on behalf of herself and Sarah Baldwin, who could not attend the hearing, indicating their opposition to the proposal.

Robert Peterson addressed the Commission on behalf of himself and indicated his opposition to the proposal.

Henry L. Palmer addressed the Commission on behalf of himself and indicated his opposition to the proposal.

Deborah E. Love Jemmott, representing the Twin Oaks Valley Property Owners Association, addressed the Commission in opposition to the proposal.

Gil Jemmott, representing the Twin Oaks Sponsor Group, addressed the Commission in opposition to the proposal.

Anthony Bons, representing the Crossroads Church, addressed the Commission in opposition to the proposal.

Elaine Coleman, addressed the Commission on behalf of herself, and indicated her opposition to the proposal.

Eleanor Filkins, representing Friends of Twin Oaks Valley, addressed the Commission and indicated her opposition to the proposal. Ms. Filkins said she would submit petitions and letters from residents and members of the Church who are opposed to the proposal.

Since there were no other speakers, Chairwoman Davis closed the public hearing.

Mr. Backoff again addressed the Commission to respond to questions from Ms. Filkins. He indicated the City of San Marcos is developing an extensive trails program and that Walnut Grove Park is equestrian-oriented.

Commissioner Horn asked the property owner, Gabriel P. Castaño, if he approached the County of San Diego on this proposal. Mr. Castaño said that he did approach the

County and also made a presentation to the Sponsor Group in the early stages of the process. He said the Sponsor Group was receptive to an equestrian use of the property. Mr. Castaño said that when he spoke to the City of San Marcos, they indicated the most logical solution would be annexation to the City of San Marcos.

Commissioner Pocklington said he had concerns regarding the number of dogs that will be allowed. He said he does not think that the dogs and horses are a good mix. He also felt the groundwater could become contaminated because of the number of horses, which would create an additional environmental problem of cleaning up the groundwater.

Commissioner Jacob commented that she thinks the County Zoning Ordinance limits the number of animals in the various zones in the county and that, since the feed store would be a retail operation, a major use permit would be required. Commissioner Jacob said that she agrees with Commissioner Horn that this proposal should have been processed through the County; then, after the land use is approved and if appropriate, an annexation to the City of San Marcos could be considered.

In response to a question from Chairwoman Davis, LAFCO Legal Counsel, Bill Smith, said other projects have come before the Commission that have received City approval prior to annexation.

Mr. Ott said there is a development plan requirement for disclosure purposes that cities process development plans, i.e., conditional use permits or tentative maps, that will disclose the full ramifications of the project to city residents, as well as to unincorporated area residents prior to submission to the LAFCO Commission. Mr. Ott said the steps that the property owner took in the application process with the City of San Marcos are acceptable to LAFCO procedures.

In response to a second question from Chairwoman Davis, Mr. Smith said that the Commission should consider the effects of the annexation, and that the Commission is also required to consider the environmental effects of the project under the California Environmental Quality Act. He said there is broad discretion to consider various factors including land use, but the Commission cannot directly regulate land use.

Commissioner Wootton said that legislation requires pre-zoning and also requires that the pre-zoning not be changed for a period of two years. Mr. Wootton said that he has concerns regarding the issues related to the annexation to the City of San Marcos, and is concerned that LAFCO is not looking at the "real project." He said he is also concerned that horses and dogs are not a good mix.

At the request of James Hernandez, Chairwoman Davis reopened the public hearing so that he would be able to clarify the issues relative to the horses and canines.

James Hernandez, architect for the proposal, addressed the Commission, indicating that there are two separate facilities, and that the canine area is completely enclosed and is insulated for sound. He said the canine facility will be a "doggie day-care facility," and that only some of the dogs would be staying 24-hours, and those would stay only

during client vacation opportunities. He said the facilities are completely separate. He explained to the Commission that there will be 150 horses, and there will be approximately 90 dogs, at maximum. He stated again that the two facilities would be separated by a building, a block wall and fenced areas and the chance of a dog getting mixed in with the horses is extremely small.

Responding to a question from Commissioner Pocklington, Mr. Hernandez said the well water in this area would never be used for drinking.

Chairwoman Davis closed the public hearing.

Commissioner Horn said that his concern is that the intended land use, and the amount of dogs and horses allowed in the proposal, is too intense. Commissioner Horn made a motion to deny the reorganization proposal. Commissioner Jacob indicated that she would second the motion.

Regarding the motion to deny the reorganization proposal, Mr. Smith explained that in order to comply with the requirements of the Cortese/Knox/Hertzberg Act of 2000, as interpreted by the McBail case, the Commission should make determinations indicating that the Commission has considered the effects the proposed action will have on adjacent areas and finds the effects to be negative; that the Commission finds that the proposal would have a negative effect on maintaining the physical and economic integrity of agricultural lands; and that the Commission has reviewed the Mitigated Negative Declaration of the City of San Marcos and finds that the facility, as proposed, would have a significant environmental effect on the environment.

Commissioner Horn said that he would agree to include these determinations in his motion. Commissioner Jacob said that including the determinations in the motion would also be acceptable to her.

Paul Malone asked, since the difficulty with this annexation appears to be the intensity of use, if the Commission would consider continuing this proposal, and provide direction to the applicant as to what could be modified in the conditional use permit so that the intensity of use is appropriate for the area.

Michael Ott explained that the Commission has two options regarding the proposal. He said the Commission can approve the motion of Commissioner Horn, seconded by Commissioner Jacob, to deny the proposal, subject to LAFCO Legal Counsel's suggested determinations; or the Commission can deny the proposal without prejudice, which means that the applicant and the City of San Marcos can address the issues raised by the Commissioners and return to the Commission at a later date without the required one-year waiting period.

Commissioner Jacob explained that she seconded the motion because she feels the annexation is inappropriate, that the Mitigated Negative Declaration is inadequate, and that there are significant environmental issues that have not been resolved. She said that the landowner has the option to submit an application with the County of San Diego.

Commissioner Davis said she would not support the motion on the floor, although she understands the concerns the other Commissioners have raised. She said that it would be more efficient to deny the proposal without prejudice.

Commissioner Wootton said that he favors the motion.

Commissioner Greer indicated she supports the Chairwoman's recommendation to deny the proposal without prejudice.

Responding to a question from Commissioner Vanderlaan, Bill Smith said the determinations should be adopted by the Commission, regardless of whether the proposal is denied "with" or "without" prejudice. He explained that to deny the proposal "without" prejudice would mean there would not be a one-year waiting period before the applicant can reapply. He said that with the current motion on the floor, it would be one year from today's date before the applicant could return with the proposal. He said if the Commission denied the proposal without prejudice, the applicant could return to the Commission with a new or amended proposal at any time.

Chairwoman Davis restated that the current motion on the floor is to deny the reorganization with prejudice, and to include the determinations as stated by LAFCO Legal Counsel Bill Smith. She asked for a roll call vote by the Clerk to determine the vote on the motion on the floor.

On motion of Commissioner Horn, seconded by Commissioner Jacob, the Commission denies with prejudice the "Discovery Valley Equestrian Center Reorganization" (City of San Marcos) proposal subject to the following determinations:

1. The Commission has considered the effects the proposed action will have on adjacent areas and found the effects to be negative;
2. The Commission finds that the proposal would have a negative effect on maintaining the physical and economic integrity of agricultural lands; and
3. The Commission has reviewed the Mitigated Negative Declaration of the City of San Marcos and finds that the facility, as proposed, will have a significant adverse environmental effect on the environment.

The results of the roll call vote were as follows:

- AYES: Commissioners Pocklington, Wootton, Jacob, and Horn
- NOES: Commissioners Davis, Greer, and Vanderlaan
- ABSTAIN: None
- ABSENT: Commissioner Frye

The motion did not carry.

Michael Ott explained to the Commission that there has to be five affirmative votes to approve this proposal. He said that without the five affirmative votes, by default, the action would be to deny the proposal without prejudice.

Chairwoman Davis asked Commissioner Horn if he wanted to change his motion.

Commissioner Horn indicated that he would change the motion to deny the proposal without prejudice, and to include the determinations as suggested by LAFCO Legal Counsel Bill Smith. Commissioner Jacob seconded the motion.

On motion of Commissioner Horn, seconded by Commissioner Jacob, and carried by a unanimous vote of the Commissioners present, the Commission took the following action:

Denies without prejudice the "Discovery Valley Equestrian Center Reorganization" (City of San Marcos) proposal subject to the following determinations:

1. The Commission has considered the effects the proposed action will have on adjacent areas and found the effects to be negative;
2. The Commission finds that the proposal would have a negative effect on maintaining the physical and economic integrity of agricultural lands; and
3. The Commission has reviewed the Mitigated Negative Declaration of the City of San Marcos and finds that the facility, as proposed, will have a significant adverse environmental effect on the environment.

Item 12

Annual CALAFCO Conference and Designation of CALAFCO Voting Representative and Nominations

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

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

Designated Commissioner Wootton as San Diego LAFCO's primary CALAFCO voting representative, and Executive Officer Michael Ott as the alternate for the CALAFCO Business Session.

Item 13

Self-Approved Expense Claims Report

This was an information item and no action was required.

Item 14
Legislative Report

This was an information item and no action was required.

There being no further business to come before the Commission, the meeting adjourned at 1:19 p.m. to the August 2, 2004 meeting, in Rooms 302-303, County Administration Center.

TITA JACQUE CAYETANO
Administrative Assistant