

**DRAFT
SAN DIEGO LAFCO
MINUTES OF THE REGULAR MEETING
MAY 3, 2010**

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

Item 1

Roll Call

The Commission Secretary performed the roll call for the May 3, 2010 LAFCO meeting. All regular commissioners were present with the exception of Donna Frye and John Ingalls. The Commission Secretary indicated that Jo MacKenzie will vote in place of Commissioner John Ingalls who is absent.

Item 2

Approval of Minutes of Meeting Held April 5, 2010

On motion of Commissioner Mark Lewis, seconded by Alternate Commissioner Jo MacKenzie, and carried unanimously by the Commissioners present, the Commission dispensed with the reading the minutes of April 5, 2010 and approved said minutes.

Item 3

Executive Officer's Recommended Agenda Revisions

Michael Ott indicated that there were no revisions to the agenda.

Item 4

Commissioner / Executive Officer Announcements

Executive Officer, Michael Ott announced that there were several guest speakers that will participate on Items 8 and 9 of the agenda. Mr. Ott introduced to the Commission Gary Croucher, Vice Chairman of the LAFCO Special Districts Advisory Committee, Jeff Murphy, Deputy Director of the Department of Planning and Land Use and Melissa Ayers, Director of Community Development of the City of El Cajon.

Commissioner Pocklington commented about the Metropolitan Water District water rates being increased for the next two years (2011: 7.5 percent and 2012: 7.5 percent). Commissioner Pocklington also said that the Delegation Committee has submitted a letter opposing the proposed water rate increase over the next two years.

Commissioner Bill Horn inquired about the water supply mixture and the high mineral content of the water. In response to the question, Commissioner Pocklington said that due to the water and pump restraint issues the water is blended and that the Metropolitan Water District has tried to resolve these issues.

Item 5
Public Comments

There are no public comments.

Item 6
Proposed "Church of the Good Shepherd Annexation" to the Spring Valley Sanitation District (DA09-13)

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

On motion of Commissioner Jacob, seconded by Commissioner Horn, 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. The mitigation is under the jurisdiction of the County and not LAFCO because the affected resources and the extension of public services will continue to be the responsibility of the County and special districts since the subject territory will remain unincorporated; 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 terms and conditions:
 - (a) Payment by the property owner of the State Board of Equalization fee.

Item 7
Administrative Approval of a Contractual Service Agreement: Otay Water District / Samir Farhat (OAS10-03)

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

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

This was an information item and no action was required by the Commission.

Item 8

San Diego LAFCO Water Supply and Reliability Policy Guidelines: Guidelines Covering Policy, Legislative, and Regulatory matters

Michael Ott provided a brief report to the Commission about the Water Supply and Reliability Policy Guidelines. He said that the LAFCO staff has contacted the water agencies for input or discussion of the water policy guidelines. He indicated that the LAFCO staff developed two types of water supply guidelines. He also said that Harry Ehrlich and Vice Chairman of the Special Districts Advisory Committee Gary Croucher will be providing a brief presentation and comments about the policy guidelines.

LAFCO Consultant Harry Ehrlich addressed the Commission and provided a staff report about the Water Supply and Reliability Policy Guidelines. He said that the Commission requested direction of the LAFCO staff and the Special Districts Advisory Committee in April 2008 to work with the water purveyors to develop policy guidelines that involve the availability of reliable water supply to proposed projects. He said that the Committee voted unanimously at its February 19, 2010 meeting to recommend that the Commission approve the proposed guidelines. Mr. Ehrlich indicated that LAFCO staff and the Special Districts Advisory Committee developed two policy guidelines, which are as follows: (1) Legislative Policy Guidelines which LAFCO that would address the legislative proposals or regulatory proposals by entities; and (2) Regulatory Guidelines that would be used to determine proposal processing for adequate, reliable and sustainable supply of water for a project or service area.

Mr. Ehrlich said the guidelines will direct LAFCO to consider the availability of reliable and adequate long term water supply according to the Cortese-Knox-Hertzberg Act. He said that LAFCO staff will continue to review the water supply availability and work with water purveyors and suppliers as a primary source of documentation and verification for a proposed project for governmental reorganizations or annexations. He indicated that a report describing the project would be included to assist LAFCO with submittal of an application. He also said that other water agencies are continuing to update their policy on water supply and service due to the current drought and state supply emergency.

Commissioner Dianne Jacob inquired about whether the Water Policy and Guidelines apply to areas within the water districts or the County Water Authority - or areas that are groundwater dependent within the eastern portion of the County area. In response to the question, Mr. Ehrlich said that the guidelines apply to any proposed project or development that is submitted to LAFCO.

Commissioner Pocklington commented about the San Diego County Water Authority approving new annexation requirements.

Gary Croucher addressed the Commission in support of the Water Policy and Guidelines. He commented about the policy guidelines, availability letters and water drought issues. Mr. Croucher said that these guidelines will help individual

districts answer and sign availability letters and will be more informed when an application is submitted to LAFCO. He also said that each agency must explain how a proposed project will impact the individual agency and/or County.

Commissioner Bill Horn commented about water issues within the water management system.

Commissioner Pocklington commented about the treatment plants in the northern area that has caused a concerned related to the water processing and Delta issues.

Commissioner Carl Hilliard expressed concerns about the guidelines requirements and compliance with the Cortese-Knox-Hertzberg Act which directs LAFCO to consider the availability of a reliable adequate long term water supply as part of the determinations. He suggested a modification be made to Attachment B, paragraph 4 of the staff report regarding the "will serve letter" from the water agency. He explained that "will serve" indicates there is pipeline capacity available but not necessarily the availability of water. He said the proposed modification should read, "In the future, any such water agency must also verify that enough water is reasonably expected to be available from that agency to provide the proposed service during a drought emergency", which would allow the agency assurance for a proposed project that is submitted to LAFCO for processing requirements.

Commissioner Pocklington said a motion was placed on the floor by Commissioner Hilliard and second by Commissioner Lewis for modification of the Executive Officer recommendations.

On motion of Commissioner Hilliard, seconded by Commissioner Lewis, and carried with Commissioners Jacob, Pocklington, Vanderlaan and Alternate Commissioner MacKenzie voted in support of the motion and Commissioner Horn voted in opposition, the Commission took the following action and proposed modification:

- (1) Review and approve the attached Policy Guidelines for Water Supply and Reliability and the Regulatory Policy Guidelines for Processing Proposals Impacting Water Supply and Reliability and modify the Regulatory Guidelines Policy, paragraph 4 to add the following language: "In the future, any such water agency must also verify that enough water is reasonably expected to be available from that agency to provide the proposed service during a drought emergency requirements."; and
- (2) Direct the Executive Officer to implement the Guidelines as part of future consideration of policy and regulatory issues.

Commissioner Horn expressed opposition to the guidelines, given the management issues associated with the water system in California.

Commissioner Jacob expressed comments and concerns about the water agencies availability of water for future proposed projects and the modified language for the proposed guidelines. She suggested that a water assessment should be required to help with decision-making on proposed development annexations or reorganizations.

Michael Ott responded to Commissioners Hilliard's and Jacob's comments. He indicated that the Special Districts Advisory Committee and LAFCO staff addressed these concerns and issues. He stated that as a result of LAFCO's involvement, water agencies will in the future provide more meaningful "will serve" and service availability statements. Harry Ehrlich also commented about the Commissioners concerns and suggestions regarding "will serve" letters and the availability of water for future proposed projects.

Alternate Commissioner Jo MacKenzie commented about the "will serve" letters being a basic guide for development projects and that water districts are required to inform a developer at the time of an application that water is available. She also explained that a proposed project may take up to 10 years before final or tentative approval is made and that the districts are reluctant to make a decision whether there is sufficient reliable water supply for a project in advance.

Jeff Murphy, Director, Department of Planning and Land Use addressed the Commission about issues water districts being unwilling to serve and provide commitment letters for a proposed development. Mr. Murphy said that the water districts should be coordinating with the Cities and County for long range plans. He also suggested that the water districts should develop a system in their Master Water Plans for potential development growth.

Alternate Commissioner MacKenzie commented that "will serve" letters should indicate whether or not the districts have the facilities available to serve an area of a proposed development.

Commissioner Jacob expressed concerns about the language of the water availability letters and the availability for future developments.

Commissioner Hilliard said that LAFCO has a statutory obligation regarding the water of availability "will serve" letters and indicated that LAFCO can make decisions accordingly to an annexation or change of reorganization.

Commissioner Jacob commented about agricultural and water usage issues in the state.

Item 9

Proposed Legislative Policy L-107 "Jurisdictional Conflicts Associated with Proposed Development"

Michael Ott provided a brief report to the Commission about Legislative Policy L-107. Mr. Ott said that the policy came about when LAFCO considered several controversial annexation proposals and issues related to service, financial impacts, and land use. He indicated that the Commission directed LAFCO staff to develop a policy that would address these types of issues. Mr. Ott said that Robert Barry will be providing a staff report and that a City and County representative will also be providing remarks about the proposed policy.

Robert Barry provided a brief report to the Commission. He said that the purpose of the policy is to address and identify jurisdictional issues and concerns. He indicated that the proposed consultation process will identify jurisdictional concerns related to different development standards, existing and/or planned

land uses and zoning, community character, and planned provision of governmental services.

Mr. Barry said that the Commission reviewed and accepted the draft policy at its December 7, 2009 meeting and the draft policy was distributed to special districts, city managers and the County of San Diego for a 60-day review period. He said that LAFCO staff received two support letters - one from the City of Encinitas and the other from the County of San Diego. However, some concerns were expressed regarding the lack of an appeal process where the affected jurisdictions may be unable to resolve identified issues. Mr. Barry also said that the Special Districts Advisory Committee met on February 19th and the Ad Hoc Cities Committee met on February 22nd to review and provide comments on the proposed draft policy. He indicated that these comments are provided on pages 3 and 4 of the LAFCO staff report.

Mr. Barry explained the identified changes to the final draft Policy L-107 that were recommended by the committees. He said these changes include: (1) Addition of a procedure for the Executive Officer to waive the required jurisdictional consultation process for proposals that are considered routine. This amendment is intended to facilitate the expedited processing of proposals where there are no significant jurisdictional conflicts identified; (2) Addition of a procedure for affected jurisdictions that have not been able to reach an agreement on the subject proposal's jurisdictional issues; and (3) Addition of an inter-jurisdictional and intra-departmental communication procedure to obtain comments regarding proposed development projects and jurisdictional changes.

Jeff Murphy, Director, Department of Planning and Land Use addressed the Commission in support of the Executive Officer's recommendations. He commented about the modification and review of the policy.

Melissa Ayers, City of El Cajon, Representative addressed the Commission in support of the Executive Officer's recommendations. She commented about the policy's reviewing and comment process.

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

- (1) Review and approve the proposed Final Draft Legislative Policy L-107;
and
- (2) Authorize the Executive Officer to make appropriate changes to LAFCO forms and procedures to reflect the approved policy and its requirements.

Alternate Commissioner MacKenize inquired about how the process would be affected if an agency is unable to reach an agreement. She also commented about the County's General Plan zoning designations and annexation requirements between a city and a district. In response to the question, Michael Ott said that the policy process would be implemented over a period of time, which would include changes to the LAFCO application form and outreach.

Item 10

**Legislative Report: A summary
of pertinent legislation introduced in 2010**

LAFCO Consultant Harry Ehrlich provided a brief report to the Commission and said that there have been amendments made in the legislative activities since the LAFCO meeting on April 5th. He said that LAFCO staff has identified three bills for tracking and positions which are: AB 1668 (Knight); AB 1859 (Norby) and AB 2795 (Committee on Local Government). He also said that AB 1668 will be moving forward to the Local Committee on May 5th and LAFCO is currently watching this bill because it involves cities.

Mr. Ehrlich indicated that AB 853 has been stalled due to opposition from both the CALAFCO, League of Cities and CSAC because the language is not defined from the author; therefore, negotiations are being considered and CALAFCO will continue to oppose the bill and LAFCO will continue to watch the bill.

Commissioner Jacob asked why LAFCO was not opposing AB 853. In response to the question, Harry Ehrlich said that details of the bill are still in a state of change, but LAFCO can oppose the bill to follow CALAFCO.

Commissioner Jacob placed a motion on the floor that we follow the CALAFCO lead in opposing this amendment to bill AB 853.

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

- (1) Receive, provide direction, and concur in staff recommendation, as appropriate, on the Legislative Report and submit a letter of opposition on AB 853.

There being no further business to come before the Commission, the meeting adjourned at 10:03 a.m. to the June 7, 2010 meeting, in Room 302, County Administration Center.

**Tamaron Lockett
Administrative Assistant
San Diego Local Agency Formation Commission**