

**SAN DIEGO LAFCO
MINUTES OF THE REGULAR MEETING
DECEMBER 5, 2011**

There being a quorum present, the meeting was convened at 9:00 a.m. by Chairman Deputy Mayor Carl Hilliard. Also present were: Regular Commissioners – Vice Chairwoman Supervisor Dianne Jacob, Supervisor Bill Horn, Mayor Mark Lewis, Special District Members Bud Pocklington and John Ingalls, Public Member Andy Vanderlaan and Councilmember Lorie Zapf (arrived at 9:10 a.m.). Alternate Commissioners–Special District Member Jo MacKenzie, Public Member Harry Mathis and Mayor Jim Janney. LAFCO Staff – Executive Officer Michael Ott, Assistant Executive Officer Shirley Anderson, Chief of Governmental Services, Ingrid Hansen, Local Governmental Analyst, Robert Barry and LAFCO Legal Counsel Thomas Bosworth. Absent were: Alternate Commissioners – Supervisor Greg Cox and Councilmember Sherri Lightner.

Item 1
Roll Call

The Commission Secretary performed the roll call for the December 5, 2011, LAFCO meeting. With the exception of Alternate Commissioners Cox and Lightner, and Commissioner Zapf (who arrived the commission meeting at 9:10 a.m.), all commissioners were present.

Item 2
Approval of Minutes of Meeting Held November 7, 2011

On motion of Commissioner Horn, seconded by Commissioner Vanderlaan, and carried unanimously by the commissioners present; the Commission dispensed with reading the minutes of November 7, 2011 and approved said minutes.

Item 3
Executive Officer's Recommended Agenda Revisions

Michael Ott indicated that there no agenda revisions.

Item 4
Selection of 2012 LAFCO Chair and Vice Chairman

Chairman Carl Hilliard provided comments to the Commission about the current status of LAFCO's Chair and Vice Chairman.

Commissioner Bud Pocklington placed a motion on the floor to rotate the 2012 Chair and Vice Chair for 2012 and that Supervisor Dianne Jacob and Andy Vanderlaan serve as Chairwoman and Vice Chairman, respectively.

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

Appointed Supervisor Dianne Jacob as LAFCO's 2012 Chairwoman and Public Member Andy Vanderlaan as the 2012 Vice Chair.

Item 5

Installation / Reinstallation of LAFCO Regular and Alternate City Member Mayor Sam Abed (City of Escondido) and Mayor Jim Janney (City of Imperial Beach)

Michael Ott provided comments about the rotation of the City members that serve on the Commission. Mr. Ott indicated that Mayor Jim Janney will serve as a regular city commissioner and Mayor Sam Abed will serve as the alternate city commissioner beginning with the December 5th meeting according to the Commission's rotation plan. Commissioner Jim Janney was installed as the regular city member by Assistant Clerk of the Board of Supervisors David Hall; Mayor Sam Abed was not present for the installation.

Item 6

Commissioner / Executive Officer Announcements: Presentation of Appreciation Plaque to Deputy Mayor Carl Hilliard

Chairwoman Dianne Jacob presented Deputy Mayor Carl Hilliard a recognition plaque for services he provided to LAFCO.

Deputy Mayor Carl Hilliard thanked LAFCO staff and the Commission for their accomplishments and quality of services. He commended the Executive Officer and staff for the thoroughness of their reports before departing the dais.

Item 7

Public Comments

Supervisor Jacob assumed the role of Chairwoman and asked the public if anyone requested to speak on an item that is not related to the agenda. Chairwoman Jacob stated that there were no speaker slips received from members of the public for comments.

Item 8A

Proposed Adoption of an Amendment and / or Affirmation of the Spheres of Influence for CSA No. 109 (Mt. Laguna) (a); CSA No. 110 (Palomar Mt.)(b); CSA No. 113 (San Pasqual)(c) and CSA No. 135 (San Diego Regional Communications / Fire Protection)(d) [SA11-05(a-d)]

Item 8B

Proposed “Hybrid Plan Step II Reorganization” – Dissolution of County Service Area (CSA) No. CSA No. 109 (Mt. Laguna); CSA No. 110 (Palomar Mt.); CSA No. 111 (Boulevard); CSA No. 112 (Campo) and CSA No. 113 (San Pasqual) (RO11-05)

Item 8C

Expansion of Latent Powers are for structural fire protection within CSA No. 135 (San Diego Regional Communications / Fire Protection) to include territory of dissolved CSAs Nos. 109, 110, 111, 112 and 113 (136,818 acres) (LPE11-05)

Michael Ott addressed the Commission regarding Items 8A, 8B and 8C. Mr. Ott indicated that these items required an adoption of an amendment and / or affirmation to the sphere of influences for County Service Areas (CSA) 109 (Mt. Laguna), 110 (Palomar Mt.) and 113 (San Pasqual). He said that a reorganization involving CSA Nos. 109, 110, 111, 112, and 113, plus an expansion of latent powers for CSA No. 135 (San Diego Regional Communications / Fire Protection) are also proposed. He also said that this is the second phase of a three step process for the reorganization. Mr. Ott said that Shirley Anderson will provide a staff report.

Shirley Anderson, Assistant Executive Officer provided a PowerPoint presentation to the Commission regarding the “Hybrid Plan Step II Reorganization”. Ms. Anderson indicated that LAFCO approved the Step I “Hybrid Plan Reorganization” in October 2008 which required a three step plan process. She said that the Board of Supervisors unanimously proposed the second step of the “Hybrid Plan Step II Reorganization” to improve structural fire protection and emergency medical services in certain unincorporated areas of the county. She also indicated that Step II consists of two actions: The first action involves a reorganization consisting of: Dissolution of five dependent County Service Areas (CSAs): CSA Nos. 109 (Mt. Laguna); 110 (Palomar Mt.); 111 (Boulevard); 112 (Campo) and 113 (San Pasqual); and (2) Expansion of the fire protection latent powers within CSA No. 135.

Ms. Anderson indicated that 501(c)(3) non-profit organizations exist within each of the CSAs. She said that the CSAs receive an increment of property taxes and three of the districts have voter-approved assessments. Ms. Anderson said that

the San Diego County Fire Authority (SDCFA) has a contract with CALFIRE and receives funds from other sources.

Ms. Anderson provided a map for background information to the Commission regarding the reorganization. She indicated that the reorganization will strengthen and expand the command and control for fire protection in the unincorporated area. She said that the map identifies the agencies that have the responsibility for structural fire protection and emergency medical services. She also said that the Commission in December 2007 conditionally approved a LAFCO sub-committee recommendation to approve Phase I and authorize the activation of latent powers for fire protection within a service-specific subarea of CSA No. 135.

Ms. Anderson explained that the latent powers area was eventually adopted by the Commission in 2008. She said that LAFCO must now expand the latent powers area for the Step II process to include territory of the dissolved CSAs (CSA Nos. 109, 110, 111, 112, and 113) and that the territory would need to be expanded again in the future for Step III, if approved by the Commission.

Ms. Anderson said that the property tax from the dissolved CSAs will be transferred to the SDCFA (CSA 135: San Diego Regional Communications / Fire Protection) into a general fund account. Ms. Anderson said that there is about \$122,970 voter-approved assessment in three of the CSAs and these funds must be spent within the communities where the special assessments are levied.

Ms. Anderson said that the Commission adopted Policy L-107 and the representatives from the SDCFA signed Policy L-107 forms indicating that jurisdictional issues have been resolved. Ms. Anderson said that a Municipal Service Review of fire protection services was initiated for Step I of the Hybrid Plan. She addressed issues regarding the citizens about their property tax and voter-assessments revenue. She indicated that a term and condition was added for Commission consideration to indicate that property tax revenue should be tracked and identified for CSA No. 135.

Commissioner Bud Pocklington asked about the funding process and who is responsible for funding CSA No. 135. In response to the question, Shirley Anderson said that the SDCFA has a proposed budget per FY11/12 and that the County Board of Supervisors is the responsible agency. Ms. Anderson indicated that CSA No. 135 will receive property tax revenue when the five CSAs are dissolved.

Chairwoman Dianne Jacob commented that the Board of Supervisors has provided funding and invested over \$200 million in terms of vegetation management; equipment and improvements for the unincorporated area for fire protection and emergency medical services, since 2003. Chairwoman Jacob indicated that when SDCFA was formed in 2008 that the Board funded \$15.5

million. She said that the \$15.5 million has been on-going funding and is part of the \$6.5 million annual budget.

Chairwoman Jacob asked why the property tax of \$178,426 must be tracked in Step II and not tracked in Step I of the communities. In response to the question, Shirley Anderson said that there were no property taxes and no agencies were dissolved in Step I.

Commissioner Bill Horn asked if the new fire fees that the Governor proposed for the unincorporated areas would affect the CSA. Commissioner Horn said that it may be affected because the county is paying for a contract and may not be receiving any additional fire protection from the State of California. Commissioner Jacob explained a law was passed for prevention only. She said the County opposed the legislation.

Chairwoman Jacob opened the public hearing.

There were two speaker slips submitted in support to this item.

Ralph Steinhoff, Fire Authority Coordinator, San Diego County Fire Authority, addressed the Commission in support of the Item. Mr. Steinhoff inquired about tracking the property tax revenue and suggested that the staff recommendations, Roman Numeral No. 8 be removed because it is considered a single fund for CSA No. 135 unincorporated area and the money is not segregated.

Ken Miller, Fire Authority Coordinator, San Diego County Fire Authority, addressed the Commission in support of the item. Mr. Miller also commented about the tracking of the funds.

Chairwoman Jacob asked why the Auditor could not provide the property tax information. In response to the question, Shirley Anderson indicated that if the revenue is not tracked it would be difficult to provide information on these dissolved districts. Michael Ott, Executive Officer indicated that members of the community previously expressed concerns about property tax revenue generated within their communities and the public wanted to track the revenue following the reorganization.

Vice Chairman and Commissioner Andy Vanderlaan asked if there is a need to track the property tax separately. In response to the question, Ralph Steinhoff, suggested that the 2.7 percent property tax not be separated because it will have to be re-visited frequently.

Andy Parr, Chief, Lakeside Fire Protection District, addressed the Commission and in support of the item. He commented about the SRA fire fees affecting Lakeside Fire Station and other local fire districts; and said that he supports Step III. Chief Parr suggest that the inclusion of two specific fire districts in the option of a third fire district. He suggested that a Special Study be done for three additional areas in Area 2 of the map that has no fire protection or emergency

medical services and bring those areas into CSA No. 135 and try and establish a mutual aid agreement.

Chairwoman Jacob commented that the County has 65 individual fire agencies throughout the area. She said that consolidating agencies in the unincorporated area would eventually result in the creation of a Joint Powers Authority.

Commissioner John Ingalls asked about the Special Study Areas timelines that affect Lakeside and others in the North County area. In response to that question, Shirley Anderson said that Area 2, which is the largest unserved area is on hold. She indicated that LAFCO staff and Supervisor Jacob met with the residents from the area to explain how fire protection would be funded. She said that the residents were informed to contact Lakeside Fire Protection District; Supervisor Jacob's office, or LAFCO – there was no additional response from the residents.

Commissioner John Ingalls inquired about cities being in or not in CSA No. 135 shown on Map 2 of the report. In response to the question, Shirley Anderson said that CSA No. 135 (Regional Communications System) was formed in 1994 and some cities opted out and contracted with the City of San Diego or they just opted out because they had their own communications system. Commissioner Ingalls also asked about Dispatch Joint Powers Authorities. In response to the question, Ms. Anderson said that the dispatch agencies are different from the regional communications system.

Alternate Commissioner Harry Mathis asked for clarification regarding staff recommendation no. 8 – about the residents concern of the usage and utilizing the property tax for fire protection in the community. In response to the question, Michael Ott said that people within the communities expressed concerns how their tax money would be used following reorganization. Commissioner Mathis also asked how would individuals review their tax bill and see the assessment. In response to the question, Chairwoman Jacob said only if there was a special assessment or a specific item, then it would be reflected on the bill.

Commissioner Vanderlaan made a motion to accept the staff recommendations and delete (Roman Numeral) No. 8 of the Terms and Conditions.

Chairwoman Jacob seconded the motion.

Commissioner Vanderlaan commented about the history and involvement of consolidating fire protection districts. Commissioner Vanderlaan thanked Supervisors Jacob and Horn for their County's involvement, LAFCO staff, CALFIRE, CSAs, Fire Chief's and SDCFA for their involvement with the reorganization.

Commissioner Ingalls inquired about the removal of (Roman Numeral) No. 8 and said that if the Commission accepts staff's recommendations to keep No. 8 and

have the permanent system to separate the accounts for property tax and how long will the system be available. He also asked that if the Commission accepts staff recommendations including paragraph 8 whether it would prevent the Commission from revisiting the question in the Step III process. In response to the question, Michael Ott said that the deletion of the number 8 from the recommendation will not be critical to Step II or Step III – it was only recommended to allow better accountability.

Chairwoman Jacob thanked the County staff, John Traylor, County Service Areas, Fire Districts, CALFIRE, other agencies and LAFCO staff for a job well done.

Commissioner Jacob called for the vote and the motion to approve the staff recommendation with the deletion of Recommendation Number 5a (Roman Numeral No. 8).

Chairwoman Jacob closed the public hearing.

With no more speakers from the public and no further discussion from the Commission, on motion of Commissioner Vanderlaan, seconded by Commissioner Jacob, and carried unanimously by the commissioners present, the Commission closed the public hearing and took the following actions:

- (1) Find in accordance with the Executive Officer's determination, that pursuant to Section 15061(b)(3) of the State CEAQ Guidelines, sphere amendments for CSAs Nos. 109, 110, and 113 and for the service-specific sphere of influence for the latent powers subarea within CSA No. 135 are not subject to the environmental impact evaluation process because it can be seen certainly that there is no possibility that the sphere actions would have a significant effect on the environmental and is not subject to CEQA; and
- (2) Amend and / or Affirm the spheres of influence for CSAs Nos. 109, 110, and 113 to transitional and adopt the Statements of Written Determinations in Attachment B; and amend the service-specific sphere of influence for the latent powers subarea within CSA No. 135 to include the unincorporated territory of dissolved CSAs Nos. 109, 110, 111, 112, and 113 per Map 2;
- (3) Find in accordance with the Executive Officers determination, that pursuant to Section 15320 of the State CEQA Guidelines, the proposed *Hybrid Plan Step II Reorganization*, consisting of dissolution of CSAs Nos.109, 110, 111, 112, and 113 and the expansion of the latent powers subarea for fire protection services within CSA No. 135 are not subject to the environmental impact evaluation process because the proposed jurisdictional changes do not change the geographical area in which previously existing powers are exercised;

- (4) Find that the Board of Supervisors has by unanimous resolution consented to the dissolution of CSAs Nos. 109, 110, 111, 112, and 113 and authorize the Executive Officer to order the dissolutions without an election pursuant to [Government Code § 57000(c), 57102, and 57078];
- (5) Adopt 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:
- (a) Approve the *Hybrid Plan Step II Reorganization* consisting of dissolution of CSAs Nos. 109, 110, 111, 112, and 113 and concurrent expansion of the latent powers subarea for structural fire protection and emergency medical services within CSA No. 135 subject to the following Terms and Conditions:
- i. The effective date the *Hybrid Plan Step II Reorganization* shall be the date of recordation [Government Code § 56886 (p)];
 - ii. As of the effective date, CSAs Nos. 109, 110, 111, 112, and 113 shall be dissolved, terminated, disincorporated, and extinguished, and all corporate powers of the subject CSAs shall cease [Government Code § 56886(m)(v)];
 - iii. No inhabitant, property owner, or taxpayer within the territory of CSAs Nos. 109, 110, 111, 112, and 113 shall be entitled to the following:
 1. Any refund by reason of any taxes, assessments, service charges, rentals, or rates collected prior to the effective date of dissolution (Government Code § 57455);
 - iv. As of the effective date, CSA Nos. 135 shall be the successor to CSAs Nos. 109, 110, 111, 112, and 113 for the purpose of succeeding to all powers, right, duties, contractual obligations, function, permits and properties of the dissolved districts [Government Code § 56886(m)(v)];
 - v. CSA No. 135 shall be the successor to all assets, liabilities, and service responsibilities of CSAs Nos. 109, 110, 111, 112, and 113, including land, equipment, vehicles, contractual rights and obligations, materials, supplies, and all monies, including cash on hand, monies due but not collected, all accounts payable and any other obligations. Assets and liabilities owned by 501(c)(3) corporations are not affected by the *Hybrid Plan Step II Reorganization* [Government Code § 58866(m)(v)];

- vi. As of the effective date, the latent powers subarea for fire protection services within CSA No. 135 shall be expanded to include the territory of dissolved CSAs Nos. 109, 110, 111, 112, and 113;
- vii. Benefit fees or special taxes generated by the dissolved districts shall be maintained under CSA No. 135 and shall be used to fund services exclusively within the areas where fees or taxes are generated [Government Code § 56886(b)(v)]; and
- viii. Direct the Executive Officer to initiate a Municipal Service Review of the fire protection and emergency medical services within the latent powers subarea of CSA No. 135 following the effective date of the *Hybrid Plan Step II Reorganization*.

Item 9

2011 Directory of Sphere of Influence and Municipal Service Review Actions. This item covers sphere and service review actions of the Special Districts, County Service Areas and Cities approved in 2011

Michael Ott indicated that Ingrid Hansen, Chief of Governmental Services, will provide a brief presentation for this item.

Ingrid Hansen, Chief of Governmental Services provided a brief report to the Commission regarding the Directory of Sphere of Influence and Municipal Service Review Actions. She indicated that the directory contains descriptions of adopted spheres and all related sphere activity over the past year for each city and special district in San Diego County.

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

Accepted and approved the 2011 Directory of Sphere of Influence and Municipal Service Review Actions.

Item 10

Implementation of Senate Bill No. 244 (Wolk) and Assembly Bill No. 54 (Solorio) in FY 2011-2012 and FY 2012-2013. This item covers the work program associated with implementation of statutes that will be effective in 2012

Michael Ott addressed the Commission regarding the Implementation of Senate Bill (SB) No. 244 (Wolk) and Assembly Bill (AB) No. 54. He indicated that

LAFCO has tracked these bills through the Legislative Program. Mr. Ott said that LAFCO opposed SB244 (Wolk) due to concerns related to the bill. He also said that the bill will be effective in January, 2012 and the law requires LAFCO to implement new provisions which will create new work tasks. Mr. Ott said that Robert Barry will provide a PowerPoint presentation for the item.

Robert Barry, Local Governmental Analyst provided a brief report to the Commission regarding the Implementation of Senate Bill (SB) No. 244 (Wolk) and Assembly Bill (AB) No. 54 (Solorio) in FY2011-2012 and FY2012-2013. He said that the Governor signed these bills into law on October 7, 2011. He said that these two bills are effective January 1, 2012 and a specific requirement for LAFCO, special districts, cities and counties will be implemented. He indicated that the presentation will discuss the responsibilities of these bills.

Mr. Barry provided information on SB244 (Wolk) which requires identification and analysis of disadvantaged unincorporated communities. He indicated that the law defines a *disadvantaged unincorporated community* as an inhabited area (containing 12 or more registered voters) with a median household income of 80 percent or less of the statewide annual median household. Mr. Barry said that the U.S. Census Bureau tracked the statistics in 2010 and the median household income was at \$54,459. Mr. Barry also said that a qualified *disadvantage unincorporated community* would therefore be a median household income of \$43,567 or less.

Mr. Barry indicated that the implementation tasks would provide different responsibilities for LAFCO, Cities, County and Special Districts. He said that LAFCO will coordinate with the San Diego Association of Governments (SANDAG) to create and develop a Geographic Information System (GIS) database and to analyze the data to identify these communities. He also said that the bill included specific requirements for city annexations that prohibit LAFCO from approving a city annexation of greater than 10 acres with a contiguous *disadvantaged unincorporated community*. Mr. Barry indicated that the bill is exempt if: (1) The application was filed with the Executive Officer to annex within the last five years; and (2) Majority of the residents within the subject territory opposed to the annexation.

Mr. Barry said that the Municipal Service Review and Sphere of Influence Determinations under SB244 require LAFCO and the other agencies to identify the disadvantaged unincorporated communities within the contiguous existing sphere of influence. He indicated that this specify and analyze water, sewer, fire and infrastructure needs and deficiencies within the identified communities and to assess alternatives for improving efficiency and affordable infrastructure and service delivery within the sphere of influence. He also said that the Commission is required to analyze alternatives for improvement and affordable infrastructure and service delivery, which includes benefit assessment districts and/or consolidation of agencies.

Mr. Barry indicated that the bill also includes specific requirements for the Cities and the County General Plan housing elements. He said that Cities and the County will need to identify and define an unincorporated fringe, island and unincorporated legacy community within the respective spheres of influence.

Mr. Barry said that LAFCO will continue to work with SANDAG, the Cities and County. He said that LAFCO will need to update or revise its procedures, policies, forms and the website to reflect the new requirements.

Chairwoman Jacob asked if there were any questions or comments from the Commissioner.

Alternate Commissioner Harry Mathis asked a question regarding the definition of a "Community". In response to the question, Robert Barry indicated that the housing element requirements define a *Community* of 10 or more dwellings that are within a distance of each other and is considered inhabited territory of 12 or more registered voters. Mr. Barry said that there are specific definitions that constitute a fringe, island or legacy community.

Chairman Jacob asked if the legislature provided funds for the requirements and timeline for SB244. In response to the question, Robert Barry said that the bill is an unfunded mandated. Commissioner Zapf asked what if the funds are not available to implement the bill. Michael Ott indicated that LAFCO would be subject to increased legal risk if its jurisdictional actions did not comply with the new statute.

Commissioner Bill Horn asked about the 10 dwelling unit's reference and whether farm agriculture housing is considered a dwelling unit. In response to the question, Michael Ott said that LAFCO staff have various questions that need to be addressed relating to this bill and there will be a lot of analysis and technical clarification in the future.

Mr. Barry indicated that Assembly Bill (AB) No. 54 (Solorio) authorizes LAFCO to include Mutual Water Companies (MWC) in the Municipal Service Review and Sphere of Influence when updating or establishing a sphere. He said that AB54 authorized LAFCO purview of annexations of territory to a city or a special district that provide services by a MWC. He also said that AB54 allows LAFCO to request reasonably or non-confidential information from the MWC and that the agencies have 45 days to provide written information as to why the information is not available. Mr. Barry said that LAFCO will need to identify and establish contact with the MWC within San Diego County and the task would be conducted during 2012. He also said that MWCs will need to develop and submit service area maps by December 2012. Lastly, he said that LAFCO's Policies, Procedures, and Application forms may need to be updated.

Commissioner Pocklington asked about how many private water companies are within San Diego County. In response to the question, Robert Barry said that LAFCO is currently working on getting the information and will be brought back to the Commission.

Alternate Commissioner Mathis commented about private water companies having the authority or capability to encroach on any existing service areas. In response to the question, Robert Barry said that AB54 would not apply.

This item was a discussion item and no action from the Commission was required.

Commissioner Vanderlaan commented about the California Forward letter relating to improvements to state and local government and how funding would be allocated in the future. He said that that the item will be an initiative on the ballot in November. He also thanked LAFCO staff for a job well done.

There being no further business to come before the Commission, the meeting adjourned at 10:50 a.m. to the February 6, 2012 meeting, in Room 302, County Administration Center.

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