

**APPROVED
SAN DIEGO LAFCO
MINUTES OF THE REGULAR / CLOSED SESSION MEETING
APRIL 5, 2010**

2

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

Item 1
Roll Call

The Commission Secretary performed the roll call for the April 5, 2010 LAFCO meeting. All regular commissioners were present with the exception of Regular Commissioners Supervisor Jacob and Councilmember Frye and Alternate Commissioners Cox and Lightner.

Item 2
Approval of Minutes of Meeting Held March 1, 2010

On motion of Commissioner Bill Horn, seconded by Commissioner Mark Lewis, and carried unanimously by the commissioners present; the Commission dispensed with reading the minutes of March 1, 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 will be a closed session meeting regarding Tri-City Healthcare District v. Palomar Pomerado Healthcare District litigation.

Item 5
Public Comment

There were no public comments.

Item 6

**Proposed “San Pasqual Valley Road – Walton Reorganization”
(City of Escondido) RO08-14**

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

On motion of Commissioner Horn, seconded by Commissioner Vanderlaan, 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 City of Escondido. The mitigation is under the jurisdiction of the City and not LAFCO because the affected resources and the extension of public services will be within the city limits upon annexation.
- (2) 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 ordering the reorganization subject to the following conditions:

Payment by property owner of City annexation fees, and State Board of Equalization charges.

Item 7

**Proposed “Carolyn Green Annexation” to the
Lakeside Sanitation District (DA09-02)**

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

On motion of Commissioner Horn, seconded by Commissioner Vanderlaan, 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 (a) of the State CEQA guidelines, this annexation is not subject to the environmental impact evaluation process because the proposal area contains existing public or private structures and is developed to the density allowed by current zoning or rezoning of either the gaining or losing governmental agency whichever is more restrictive, provided however that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities; 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 of State Board of Equalization fees.

Item 8A

Adoption of a service-specific Sphere of Influence for a Latent Powers Utility Undergrounding area within the Rancho Santa Fe Community Services District (SI(U)09-10)

Item 8B

Proposed Activation of Latent Powers for Utility Undergrounding within a service specific area of the Rancho Santa Fe Community Services District (LPA(U)09-10)

Item 8C

Proposed Amendment to Sphere of Influence for the Rancho Santa Fe Community Services District (SA09-14)

Item 8D

Proposed “Banks Annexation” to the Rancho Santa Fe Community Services District (DA09-14)

Item 8E

Proposed Amendment to the service-specific Sphere of Influence for Latent Powers Utility Undergrounding area within the Rancho Santa Fe Community Services District (SA(U)09-14)

Item 8F

Proposed Expansion of the Utility Undergrounding Latent Powers area of the Rancho Santa Fe Community Services District (LPE(U)09-14)

Michael Ott provided a brief report to the Commission about the Rancho Santa Fe Community Services District (CSD) Latent Powers Activation and Expansion request for Utility Undergrounding of existing overhead electric and communications facilities to underground locations within the CSD. Mr. Ott provided an explanation of important terms. He also said that there is a split parcel within the community services district that requires correction and can be added to the latent powers activation proposal. Mr. Ott also said that Robert Barry will be providing a PowerPoint presentation.

Robert Barry provided a PowerPoint presentation to the Commission. Mr. Barry said that the request for latent powers was submitted by the Rancho Santa Fe CSD. He also described the services currently provided by the Rancho Santa Fe CSD including sewer collection and treatment and landscape maintenance.

Mr. Barry said that the proposal before the Commission is to activate the latent powers within the covenant area due to the predominance of overhead utility lines. He also said that LAFCO staff discovered a parcel that was bisected by the CSD service area and sphere of influence and should be included in the CSD sphere of influence and annexed which would consolidate the parcel within the service area.

Mr. Barry also said that LAFCO received correspondence from landowners outside/adjacent of the covenant area that have requested to be included within the latent powers area and allowing them to participate within the assessment for potential installation of natural gas lines and undergrounding service.

Mr. Barry summarized several options for the landowners that are outside of the covenant: (1) approve the proposal as submitted and activate the latent power for the Rancho Santa Fe Covenant only; (2) to retain the latent power area to be coterminous with the covenant area but expand the sphere of influence coterminous with the CSD sphere; or (3) establish the latent power area to be coterminous with the current CSD service area.

Mr. Barry said that the total cost estimated for undergrounding existing utilities within the covenant area exceeds over \$300 million. He also explained that the utility undergrounding power is a service that is available to the CSD and is not being currently exercised; therefore, it requires LAFCO's discretionary approval.

Mr. Barry reiterated to the Commission that there are three options for the activation of the latent powers: (1) limitation to the covenant area; (2) limitation to the covenant area and expand the sphere to be coterminous with the CSD sphere; or (3) activate the latent power area to be coterminous with the current CSD boundary. He also said that the bisected parcel of approximately 1.57 acres which lies outside of the CSD's service area and sphere requires annexation to the district to unify the ownership within one jurisdiction.

Commissioner John Ingalls inquired about the parcel address that is proposed to be annexed.

Commissioner Bud Pocklington asked about the property owner consent process for the proposed assessment district. In response to the question, Robert Barry said activation of this power would enable the CSD to form Assessment Districts and it would require approval from a majority of local landowners.

Alternate Commissioner Harry Mathis commented about the impact that the latent power action may have on a future incorporation proposal involving Rancho Santa Fe. In response to the question, Michael Ott said that this latent power proposal will not have an impact on incorporation.

Commissioner Carl Hilliard asked for clarification about the process and procedures of forming an Assessment District. In response to the question, Michael Ott said there is a representative of the CSD and Rancho Santa Fe Association in the audience that would be able to answer the assessment district procedures.

Chairman Pocklington opened the public hearing.

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

Ivan Holler, representative for Rancho Santa Fe Association, addressed the Commission and said that the Association supports Option 1 of the Executive Officer's recommendation. Mr. Holler said that the Association opposes Options 2 and 3 and expressed concerns about delays and additional costs for the ability of residents to begin the process of forming individual assessment districts. He also said that the Government Code requires that a specific task must be performed first when requesting a latent powers activation. He added that the Rancho Santa Fe Association in conjunction with the CSD have worked for the last four years putting together a service plan.

Mr. Holler also said that submittal of the assessment engineer's report was prepared for the Association which was provided to the CSD for submittal of a formal application to LAFCO and the Board of Supervisors adopted a resolution for the property tax exchange that was only applied to the area defined by Option 1.

Commissioner Pocklington inquired about the delay difference between Option 1 and Option 3 and whether there will be any additional paperwork to process. In response to the question, Ivan Holler said if the Commission approved Option 3, the latent powers activation could be subject to a delay.

Michael Ott addressed the Commission informing them there may have been some concerns about a delay with the Commission acting on Options 2 or 3 – but clarified that Options 1, 2 or 3 will not be any different with respect to delays. He also said there would be no additional LAFCO costs or fees associated with the options.

Peter Smith, General Manager, Rancho Santa Fe Association addressed the Commission and expressed support for Option 1. Mr. Smith expressed concerns about the delay process, study impacts and fire safety in the community.

Jeff Pape, Representative, Rancho Santa Fe Community Services District addressed the Commission and expressed support of Option 1. Mr. Pape said that Option 1 was only discussed during this process and there have not been any other homeowners associations outside of the covenant area that are in need of utility undergrounding. He explained that most of the communities outside of the covenant area are undergrounded, and have no poles.

Michael Ott asked Mr. Pape about the assessment district formation process and how it is initiated in a community services district and if there are voting provisions. In response to the question, Mr. Pape explained the procedure of forming an assessment district, he said that the boundaries must be drawn and a public hearing held to finalize the boundaries. He said that a majority protest at the CSD hearing would prevent the CSD from forming an assessment district.

Commissioner Hilliard commented about how the assessment districts are formed and said that it is the same requirement for a city or district. Mr. Hilliard asked Mr. Pape if the entire area has to be covered by an assessment. In response to the question, Mr. Pape said multiple districts could be formed for financing the undergrounding of utilities. Commissioner Hilliard questioned how the approval of Option 3 would delay the process.

In response to the question, Mr. Pape said that the district wants to obtain the latent powers and start the process and the Board of Directors did not request Options 2 or 3.

Alternate Commissioner James Janney commented about the staff report and the PBS&J report saying that you must meet certain requirements before latent powers can be approved. Mr. Janney said that Option 3 would add an area to the latent powers proposal with no cost estimates.

Commissioner Janney also asked for clarification about the items in the PBS&J report and the 3 items not provided in Option 3 that are required in State Law.

Dexter Wilson, Representative, Rancho Serena Homeowners Association addressed the Commission in support of Option 3. Mr. Wilson also said he would like to contribute to the project in order to participate for a future assessment district.

Chairman Pocklington closed the public hearing.

Alternate Commissioner Janney inquired about the Government Code requirements for cost estimates.

Commissioner Ingalls commented about Option 1 and Option 3. Mr. Ingalls inquired about page 5 of the staff report regarding the plan for services and its applicability to Options 2 and 3. He asked if these items must be provided before LAFCO can authorize the exercises of a latent power in the territory.

Michael Ott explained to the Commission and the members of the public that Option 2 would be approval of the latent powers area coterminous with the covenant area of Rancho Santa Fe but with a sphere of influence for undergrounding service area which would extend over the entire community services district boundaries and sphere of influence. Mr. Ott also said to the Commission that there is no need for supplemental cost estimates for Option 2. Mr. Ott explained that Option 3 would expand the latent powers authority District-wide. He explained that the plan for services submitted with the proposal was broad enough to cover Option 3, but the CSD would likely need to perform additional engineering work and cost projections.

Commissioner Ingalls commented about the special study areas and the sphere of influence within the Rancho Santa Fe Community Services District that were listed in the Municipal Service Review in 2005. He also commented about The Bridges project which currently does not have a sewer district and an area known as Sun Valley that was identified for a special study for possible inclusion in the sphere of influence for the boundaries of community services districts.

Commissioner Pocklington asked the Executive Officer Michael Ott whether Options 1-3 would be subject to delays.

Michael Ott said none of the options would result in any delays - but Option 2 is an option that is closest to the proposal, as submitted by the Rancho Santa Fe Association CSD.

Commissioner Bill Horn commented about the Sun Valley area and the options being explained by the Executive Officer and that the Rancho Santa Fe Association has completed their process. Commissioner Horn placed a motion on the floor to approve Option 1 and that it does not preclude Options 2 or 3 returning to the Commission.

Commissioner Hilliard seconded the motion for Option 1 of the Executive Officer's recommendations.

Commissioner Andy Vanderlaan asked if Option 2 only included the split parcel of the property owner for approval. In response to the question, Michael Ott said the "Bank Annexation" was included in all of the options.

Commissioner Ingalls commented about a need for natural gas in the unincorporated county area. He also commented about page 7 of the staff report and whether natural gas services could be provided without the latent powers utility undergrounding. In response to the question, Michael Ott said that natural gas is not one of the authorized service functions of a community services district; however, under a related statute, the CSD could use the assessment district as a mechanism to finance the undergrounding of natural gas facilities.

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

Option 1: Latent Powers (as proposed)

- (1) (a) Concur in the determination by the Rancho Santa Fe Community Services District that this latent power activation is exempt from CEQA review pursuant to Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and the activity is not subject to CEQA.

(b) Find in accordance with the Executive Officer's determination, that pursuant to Section 15061(b)(3) of the State CEQA Guidelines, this sphere of influence establishment is not subject to the environmental impact evaluation process because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and the activity is not subject to CEQA.
- (2) Approve the activation of the Rancho Santa Fe Community Services District utility undergrounding latent power proposal (conversion of existing overhead electric and communications facilities to underground locations) as submitted and add this service/function to Section 4.4 of the Commission's Rules.
- (3) Designate a utility undergrounding sphere of influence coterminous with the latent powers boundary and authorize the Executive Officer to prepare related sphere determinations to establish the nature, location, and extent of the functions and class of services to be provided per Government Code Section 56425(i)(2).
- (4) Concur in the determination by the Rancho Santa Fe Community Services District that the sphere of influence amendment, Banks Annexation, and utility undergrounding latent power expansion are exempt from CEQA review pursuant to Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, and the activity is not subject to CEQA.
- (5) Amend the sphere of influence of the Rancho Santa Fe Community Services District and the latent power utility undergrounding area to include the Banks property and authorize the Executive Officer to prepare the written Statement of Determinations;

- (6) Adopt the form of resolution approving the latent power activation, sphere determination, minor sphere amendment, annexation, and utility undergrounding latent power expansion 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 inclusion in Landscape Maintenance Improvement District No. 1; and
- (7) Determine that Option 1 is in conformance with the North Central San Diego County Municipal Service Review and Sphere of Influence Update Study approved by LAFCO on May 2, 2005, and the Municipal Service Review and Sphere of Influence Review approved by LAFCO on August 6, 2007.

Item 9A

Adoption of an Amendment to the Sphere of Influence for the Spring Valley Sanitation District (SA09-11)

Item 9B

Proposed "Houska-Helix Terrace Annexation" to the Spring Valley Sanitation District (DA09-11)

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

Chairman Pocklington opened the public hearing.

Since no speaker slips were submitted in opposition to this item, and there was no discussion from the Commission, on motion of Commissioner Horn, seconded by Commissioner Pocklington, 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 by LAFCO that pursuant to Section 15319 (b) of the State CEQA guidelines, this annexation is not subject to the environmental impact evaluation process because the annexation area consists of individual small parcels of the minimum size for facilities exempted by Section 15303, New Construction or Conversion of Small Structures;
- (2) Amend the sphere of influence of the Spring Valley Sanitation District and adopt this written Statement of Determinations as shown in Exhibit A; and
- (3) 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 of all District annexation fees to the Spring Valley Sanitation District.

Item 10

Administrative Approval of a Contractual Service

Agreement: City of Escondido / Young Family Trust (OAS10-02)

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

On motion of Commissioner Horn, seconded by Commissioner Hilliard, 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 11

Third Quarter Budget Update FY 2009-10:

A status report on LAFCO's budget

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

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

Received and ratified the FY 2009-10 Third Quarter Budget Update.

Item 12

Quarterly Self-Approved Expense Claims Report: A report summarizing expense claims approved by the Executive Officer

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

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

Accepted and ratified the Quarterly Self-Approved Expense Claims Report.

Item 13

Legislative Report: A summary of pertinent legislation introduced in 2010

LAFCO Consultant Harry Ehrlich provided a staff presentation to the Commission and said that there has been no change in the legislative activities since the LAFCO meeting on March 1st. He also said that LAFCO staff submitted a letter to the Legislative Committee in support of the AB 419 (this bill allows an item to be placed on the ballot within 45 days of notification) that was directed by the Commission at its LAFCO meeting in March.

Mr. Ehrlich also provided an update to the Commission about AB 300. He said that he contacted the ACWA and no action has been taken due to the bill being controversial. He said that LAFCO staff will continue to monitor the bill.

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

Item 14

**Closed Session: Conference with Legal Counsel – Existing Litigation
Pursuant to Subdivision (a) of Government Code Section 54956.9
*Tri-City Healthcare District et al. v. Palomar Pomerado Healthcare
District et. al***

Legal Counsel Karen Landers explained to the Commission that the Item 14 will be considered in closed session regarding litigation in the matter of *Tri-City Healthcare District v. Palomar Pomerado Healthcare District*.

Commissioner Pocklington adjourned the regular meeting at 10:00 a.m. to closed session in Room 306A of the County Administration Center.

There being a quorum present, the closed session meeting was convened at 10:10 a.m. by Chairman Bud Pocklington. Also present were: *Commissioners Hilliard, Horn, Ingalls, Lewis, Pocklington and Vanderlaan; LAFCO Executive Officer Michael Ott and LAFCO Legal Counsel Karen Landers.*

With no further discussion of the Commission, Pursuant to Government Code section 54957.1(a)(2), and carried by the Commissioners present subject to a vote of 6-0, (Commissioners Jacob and Frye absent), the following action was taken by the Commission:

The Commission authorized LAFCOs Legal Counsel and County Counsel to defend the Commission in *Tri-City Healthcare District and Lia Bianca and Robert Walsh, individuals v. Palomar Pomerado Healthcare District; Michael Covert, Chief Executive Officer, Palomar Pomerado Health; and Does 1-20, Inclusive; and designated Real-Party-In-Interest: San Diego Local Agency Formation Commission, San Diego Superior Ct. Case No. 37-2010-00051641-CU-WM-NC*. The lawsuit includes causes of action for Writ of Mandate in Violation of the LAFCO Act, Writ of Mandate for Violation of the Public Records Act, Declaratory Relief, and Restraint of Illegal Expenditures of Public Funds.

There being no further business to come before the Commission, the meeting adjourned at 11:00 a.m. to the May 3, 2010 meeting, in Room 302, County Administration Center.

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