

**DRAFT
SAN DIEGO LAFCO
MINUTES OF THE REGULAR MEETING
SEPTEMBER 13, 2010**

There being a quorum present, the meeting was convened at 9:05 a.m. by Chairman Bud Pocklington. Also present were: Regular Commissioners – Supervisor Dianne Jacob, Supervisor Bill Horn, Mayor Mark Lewis, Special District Member John Ingalls and Public Member Andy Vanderlaan. Alternate Commissioners – Special District Member Jo MacKenzie, Mayor Jim Janney and Public Member Harry Mathis. LAFCO Staff – Executive Officer Michael Ott, Local Governmental Analyst, Robert Barry, Legislative Director Harry Ehrlich and LAFCO Legal Counsel Karen Landers. Absent were: Regular Commissioner - Councilmember Carl Hilliard. Alternate Commissioners – Supervisor Greg Cox, and Councilmember Sherri Lightner.

Item 1
Roll Call

The Commission Secretary performed the roll call for the September 13, 2010 LAFCO meeting. All regular commissioners were present with the exception of Vice Chairman, Councilmember Carl Hilliard.

Item 2
Approval of Minutes of Meeting Held August 2, 2010

On motion of Commissioner Vanderlaan, seconded by Commissioner Lewis, and carried unanimously by the commissioners present, the Commission dispensed with reading the minutes of August 2, 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

There were no Commissioner/Executive Officer Announcements.

Item 5
Public Comments

There were no public comments.

Item 6A

“San Diego County Sanitation Services Reorganization” Municipal Service Review and Sphere of Influence Update Study: Alpine(a), Julian(b), Lakeside(c), Pine Valley(d) and Spring Valley(e) Sanitation Districts [MSR10-04; SR10-04]

Item 6B

Adoption of an Amendment to the Sphere of Influence for the Alpine, Julian, Lakeside, Pine Valley, and Spring Valley Sanitation Districts [SA10-049(a-e)]

Item 6C

Proposed “San Diego County Sanitation Services Reorganization” – Dissolution of the Alpine, Julian, Lakeside, and Pine Valley Sanitation Districts; with concurrent annexation to the Spring Valley Sanitation District of the territory within the boundaries of the dissolved sanitation districts; annexation of territory within the boundaries of the East Otay Mesa, Harmony Grove, and Winter Gardens Sewer Maintenance Districts, and the Campo Sewer and Water Maintenance District (RO10-04)

Michael Ott provided a brief report and a handout to the Commission regarding the San Diego County Sanitation Services Reorganization and the dissolution of the Alpine, Julian, Lakeside and Pine Valley Sanitation Districts. He indicated that the errata handout included changes to the terms and conditions of the Municipal Service Review and the disclosure of the Charges and Fees that apply to the district. Mr. Ott also said that there are currently 89 Special Districts in the County and after approval by the Commission there will be 85. He also indicated that the Commission has dissolved a total of 69 Special Districts since 1963. He introduced the representatives from the County of San Diego that could provide information if needed.

Robert Barry provided a PowerPoint presentation to the Commission regarding the proposed “San Diego County Sanitation Services Reorganization”. He indicated that the five sanitation districts (Alpine, Julian, Lakeside, Pine Valley and Spring Valley) each function as a separate entity with the Board of Supervisors serving as the governing board. He also said that the sanitation and maintenance districts provide separate budgets, sewerage infrastructure, operational permits and environmental criteria. Mr. Barry also indicated that the County of San Diego, Department of Public Works (DPW) administers, operates and maintains sewerage facilities for all nine sanitation and maintenance districts. He indicated that LAFCO completed and adopted a Municipal Service Review (MSR) and Sphere of Influence Update Study in 2007 which addressed the five sanitation districts and water and sewer maintenance districts.

Mr. Barry indicated that the reorganization would consist of dissolving the Alpine, Julian, Lakeside and Pine Valley Sanitation Districts with the annexation of territory within the Alpine, Lakeside Julian, Pine Valley Sanitation Districts, and the East Otay Mesa Sewer Maintenance District, Campo Water and Sewer

Maintenance District, Harmony Grove Maintenance District and Winter Gardens Sewer Maintenance District to the Spring Valley Sanitation District and Re-name the Spring Valley Sanitation District as the "San Diego County Sanitation District". He said that the Board of Supervisors approved the initial proceedings with LAFCO for the reorganization. He also indicated that the County's sanitation services would provide services and benefits as follows: 1) provide increased financial stability and rate stabilization to avoid rate spikes; 2) provide a single user rate with standardized levels of service; 3) improve timely infrastructure maintenance, repair and replacement capabilities; 4) promote a more streamlined and comprehensive process for district administration by eliminating a complex and fragmented system based on multiple districts; 5) consolidate tasks currently budgeted, monitored, and tracked separately for each of the districts; 6) provide uniform governance structure and increased flexibility for planning, funding and implementing capital improvements; 7) provide for fair distribution of costs associated with personnel training, equipment acquisition and district administration; 8) reduce the number of hearings conducted by the Board of Supervisors on behalf of the existing districts; 9) increase bonding capacity to finance sewer improvements; 10) enhance the ability to pursue water reclamation opportunities; and 11) assist the small less viable districts without impacting the larger districts.

Mr. Barry indicated that an application was submitted to update the adopted MSR / Sphere Study which included current population figures, service provision data, and changes to boundaries and/or spheres. He also said that transitional zero spheres of influences would be adopted for the four existing sanitation districts and a new sphere would be adopted for the proposed "San Diego County Sanitation District", which will not expand or reduce territory.

Chairman Bud Pocklington asked if the Commissioners had any questions to address.

Commissioner Donna Frye inquired about staff positions and the billing system after the consolidation. In response to the question, Michael Ott said that the reorganization would not affect staffing and there will also be a uniform sewer rate of \$336 after the reorganization. Mr. Ott indicated that Dan Brogadir can provide more information about the billing system.

Dan Brogadir, Representative, County of San Diego Wastewater Management addressed the Commission. He explained the responsibilities and operation of the district. He said the only separation is the accounting and budget and that the department is currently working on this matter.

Commissioner John Ingalls asked for clarification about the Spring Valley Sanitation District sphere of influence that appears to be smaller than the district's boundaries. In response to the question, Robert Barry indicated that the sphere is smaller than its boundaries and there is a policy that allows the Spring Valley Sanitation District to annex outside of the sphere.

Commissioner Dianne Jacob asked for clarification about the \$336 per EDU comparison rate with the current rate. In response to the question, Mr. Brogadir said that \$336 equals to \$28 a month which is the service charge for the Spring Valley Sanitation District. He indicated that two districts would see an increase in rate which is East Otay Mesa and Winter Gardens. He also said that the County of San Diego, Wastewater Management is currently proposing to offset the rate increase for Winter Gardens Sewer Maintenance District.

Commissioner Jacob asked what effect it has to the rate payers in these areas. In response to the question, Mr. Brogadir indicated that the 61% of the population's located within the Spring Valley Sanitation District.

Commissioner Jacob asked Legal Counsel, Karen Landers if there was a conflict for the Board of Supervisors to vote on the item. In response to the question, Mrs. Landers said that there will be no conflict in voting on the item.

Commissioner Jacob thanked Department of Public Works, Director John Snyder for their assistance. She also indicated that she would like a news release regarding the consolidation on all the other reorganizations approved by the Commission.

Commissioner Harry Mathis asked for clarification of the Governing Board for each of the districts. In response to the question, Michael Ott said that the Board of Supervisors acts as the serving board for each of the districts.

Chairman Pocklington opened the public hearing.

There were no public comments. Chairman Pocklington closed the public hearing.

On motion of Commissioner Jacob, 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 Sections 15061(b)(3) and 15320 of the State CEQA Guidelines, that the Sphere of Influence Update and Amendments, in association with the "San Diego County Sanitation Services Reorganization" are exempt from CEQA review because: (1) 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 [Section 153061(b)(3) of the State CEQA Guidelines], and (2) the project consists of changes in the organization or reorganization of local governmental agencies and sphere of influence amendments, where the changes do not change the geographical area in which previously existing powers are exercised [Section 15320 of the State CEQA Guidelines];

- (2) Find in accordance with the Executive Officer's determination, pursuant to Section 15262 of the State CEQA Guidelines, the Proposed Municipal Service Review in association with the "San Diego County Sanitation Services Reorganization" involves only feasibility or planning studies for possible future actions which LAFCO has not approved, adopted or funded and does not require the preparation of an EIR or Negative Declaration, and will not have a legally binding effect on later activities;
- (3) Concur in determination by the County of San Diego for the "San Diego County Sanitation Services Reorganization" is exempt from CEQA review pursuant to Sections 15061(b)(3) and 15320 of the State CEQA Guidelines because: (1) 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 [Section 153061(b)(3) of the State CEQA Guidelines], and (2) the project consists of changes in the organization or reorganization of local governmental agencies and sphere of influence amendments, where the changes do not change the geographical area in which previously existing powers are exercised [Section 15320 of the State CEQA Guidelines];
- (4) For the reasons set forth in the Proposed Municipal Service Review and Sphere of Influence Update Study, amend the sphere of influence of the Spring Valley Sanitation District to: include the current (2007) sphere designations of the Alpine, Julian, Lakeside, and Pine Valley Sanitation Districts; include the territory within the East Otay Mesa, Harmony Grove, and Winter Gardens Sewer Maintenance Districts, and the Campo Sewer and Water Maintenance District; amend and establish transitional (zero) sphere of influence designations for the Alpine, Julian, Lakeside, and Pine Valley Sanitation Districts, and adopt the written Statements of Determinations as proposed in Exhibits B and C;
- (5) Determine that the information on file regarding the maintenance districts and the written statements on file for the Alpine, Julian, Lakeside, and Pine Valley Sanitation District's written statements specifying the functions or classes of services provided to establish the nature, location, and extent of the functions and classes of services provided by the Spring Valley Sanitation District;
- (6) Find that the Board of Directors of the Alpine, Julian, Lakeside, and Pine Valley Sanitation Districts have by unanimous resolution, consented to the dissolution of each district and annexation of the territory to the Spring Valley Sanitation District;
- (7) For the reasons set forth in the Executive Officer's Report, subject to the terms and conditions as modified in Exhibit A, approve the proposed reorganization involving dissolution of the Alpine, Julian, Lakeside, and Pine Valley Sanitation Districts, with concurrent annexation to the Spring Valley Sanitation District of territory within the boundaries of the dissolved

sanitation districts, plus annexation of territory within the boundaries of the dissolved sanitation districts, plus annexation of territory within the boundaries of the East Otay Mesa, Harmony Grove, and Winter Gardens Sewer Maintenance Districts, and the Campo Sewer and Water Maintenance District; and

- (8) Delegate to the Executive Officer responsibility for holding conducting authority proceedings (Protest Proceeding) pursuant to Government Code Section 57000(c).

Commissioner Frye inquired about the 2011 / 2012 Table 3 current District Rates and Proposed Consolidated Rate and Revenue. In response to the question, Mr. Ott indicated that the Terms and Conditions cover the rates for the reorganized district.

Commissioner Andy Vanderlaan thanked LAFCO staff and the County of San Diego for a job well done on the consolidation.

Item 7

Update of Compensation Range for Local Agency Formation Commission position

Chairman Pocklington introduced the item and then indicated Michael Ott will be presenting it to the Commission.

Mr. Ott presented the recommendation to the Commission for approval to establish an updated salary band and activation of the position for the Assistant Executive Officer classification. He explained the current salary is below the staff analyst positions with a maximum annual salary of \$84,739. He indicated this position has remained unfilled for a number of years, causing the associated compensation to be out-of-date. He also indicated his intention of reclassifying Shirley Anderson, of his staff, to place her in this position. Mr. Ott recommended the Commission update the salary wage band at \$95,000 minimum to \$120,000 maximum, annually. He indicated there would be a minimal financial impact because Ms. Anderson's annual salary would be increased only 1% more than the 2% scheduled increase she is due as Chief of Policy Research.

On motion of Commissioner Vanderlaan, seconded by Commissioner Pocklington, and carried unanimously by the Commissioners present (Commissioners Pocklington, Jacob, Vanderlaan, Horn, Ingalls, Lewis, Frye and Alternate Commissioner Janney), the Commission approved the Executive Officer's recommendation.

The Commission approved the following actions:

- (1) Established the salary wage band for the Assistant Executive Officer at \$95,000 minimum and \$120,000 maximum, annually.

- (2) Ratified the reclassification of Shirley Anderson, as LAFCO's Assistant Executive Officer.

Item 8

Legislative Report: A summary of pertinent legislation introduced in 2010

LAFCO Legislative Director, Harry Ehrlich provided a 2010 Legislative update to the Commission. Mr. Ehrlich indicated that the Legislature did not approve the budget; but did consider a budget proposal. He indicated that the Legislature approved 300 bills. He provided an update on two bills that CALAFCO was watching. He indicated that AB 853 (Arambula) did pass and was awaiting either approval or veto from the Governor. He also said that LAFCO submitted a letter concerning issues associated with this bill.

Harry Ehrlich explained the status of AB 1174 (Wolk) and that it failed to pass due to concerns of how disadvantaged communities would be defined. Mr. Ehrlich indicated that the remaining bills were already acted upon and no concerns were addressed.

Chairman Pocklington asked Mr. Ehrlich if any recommendations were need by the Commission. In response to the question, Harry Ehrlich said that he will continue to provide an update report on the remaining bill and no action is needed at this time.

Item 9

Closed Session: Conference with Special Legal Counsel - Existing Litigation, Pursuant to Subdivision (a) of Government Code Section 54956.9: City of El Cajon v. the San Diego LAFCO et al. (Orange County Superior Court Case No. 06CC133348 and Court of Appeal Case No. G041793)

Special Legal Counsel Holly O. Whatley explained to the Commission that Item 9 will be considered in closed session regarding litigation in the matter of City of El Cajon v. the San Diego LAFCO et al. The Commission opted to remain in Room 302 of the County Administration Center. There being a quorum present, the closed session meeting was convened at 9:45 a.m. by Chairman Bud Pocklington. Also present were: Commissioners Horn, Jacob, Vanderlaan, Ingalls, Lewis, and Janney; LAFCO Executive Officer Michael Ott, Special LAFCO Legal Counsel Holly O. Whatley, and LAFCO Legal Counsel Karen Landers. Absent was Commissioner Hilliard. *Alternate Commissioners who were not serving in place of regular members did not attend the Closed Session.*

With no further discussion of the Commission, Pursuant to Government Code Section 54957.1(a)(2), on Motion of Commissioner Frye and seconded by Commissioner Jacob and carried unanimously (subject to a vote of 6-0-1), with Commissioner Lewis abstaining, the Commission approved the following actions:

- (1) Authorized LAFCO's Special Counsel (Holly O. Whatley, Esq. and Michael G. Colantuono, Esq.) to file the Commission's Petition for Review (Appeal) with the California Supreme Court related to the aforementioned litigation (Court of Appeal Case No. G041793).
- (2) Authorized the members of the Board of Supervisors who are members of LAFCO (Supervisor Dianne Jacob and Supervisor Bill Horn) to discuss the Commission's September 13, 2010 decision on the aforementioned litigation and the reasoning associated with the decision with the Board of Supervisors.

There being no further business to come before the Commission, the meeting was reconvened to open session and the action taken in closed session was announced to the public by the Commission. The Commission adjourned at 10:25 a.m. to the October 4, 2010 meeting, in Room 302 of the County Administration Center.

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