

**DRAFT
SAN DIEGO LAFCO
MINUTES OF THE REGULAR MEETING
NOVEMBER 2, 2009**

There being a quorum present, the meeting was convened at 9:00 a.m. by Chairman Bill Horn. Also present were: Regular Commissioners - Councilmember Carl Hilliard; Supervisor Dianne Jacob; Councilmember Donna Frye; John Ingalls; Mayor Mark Lewis and Public Member Andy Vanderlaan. Alternate Commissioners – Jo Mackenzie and Mayor Jim Janney. LAFCO Staff – Executive Officer Michael Ott; Chief, Policy Research Shirley Anderson; Local Governmental Analyst Robert Barry; LAFCO Consultant Harry Ehrlich; and Legal Counsel William Smith. Absent were: Regular Commissioner – Vice Chairman Bud Pocklington; Alternate Commissioners – Supervisor Greg Cox and Public Member Harry Mathis.

Item 1

Roll Call

The Commission Secretary performed the roll call for the November 2, 2009 LAFCO meeting. All regular commissioners were present with the exception of Commissioner Pocklington and Alternate Commissioners Mathis and Supervisor Cox.

Item 2

Approval of Minutes of Meeting Held October 5, 2009

On motion of Commissioner Lewis, seconded by Commissioner Vanderlaan, and carried unanimously by the commissioners present, the Commission dispensed with reading the minutes of October 5, 2009 and approved/amended said minutes. (Amended the October 5, 2009 minutes on pages 1, 7 and 10).

Item 3

Executive Officer's Recommended Agenda Revisions

Michael Ott indicated that there will be revisions to Item 6 involving a requested continuance.

Item 4

Commissioner/Executive Officer Announcements

Michael Ott indicated that there were several announcements. Mr. Ott provided a brief report about LAFCO staff member Claire Riley participating in the Burn Institute golf tournament and receiving an award.

Mr. Ott also announced that LAFCO's Legal Counsel, William Smith will be retiring and thanked him for his dedicated services to LAFCO for 25 years.

William Smith, Legal Counsel thanked LAFCO staff and commissioners for his service at LAFCO. He also introduced Karen Landers of County Counsel as his replacement for LAFCO.

Item 5
Public Comment

Chairman Horn indicated there were no public comments.

Item 6
Proposed continued item October 5, 2009:
“Rincon Oaks Estates Reorganization” (City of Escondido) (RO08-26)

Chairman Horn asked the Executive Officer if Item 6 will be a continuance.

Michael Ott indicated that the property owner requested continuance until the December meeting. Mr. Ott said that the property owner needs to discuss some financial mitigation issues with Deer Springs Fire Protection District. He also said that if any new information is provided, it must be submitted to LAFCO staff no later than November 16, 2009 in order to be included in the December 7th LAFCO Agenda.

Chairman Horn asked the property owner Ed Bonanni to speak about the proposed project.

Ed Bonanni, property owner addressed the Commission with the support of the continuance. He explained that he needs to address some issues with the fire district.

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

Continued the proposal until financial issues are resolved by the proponent and Deer Springs Fire Protection District, subject to the November 16th stipulation of the Executive Officer.

Commissioner Jacob commented about the letter from the County Department of Planning and Land Use dated May 16, 2008 stating that the County provided comments on the *Notice of the Mitigated Negative Declaration*, not comments on the *Mitigated Negative Declaration* itself. Commissioner Jacob suggested that the applicant and the City of Escondido work with the County Department of Planning and Land Use.

Chairman Horn said the item is to be continued.

Commissioner Jacob expressed concern about property in the unincorporated area being next to a city's sphere of influence. Supervisor Jacob suggested that the Commission approve Executive Officer recommendation no. 1 and direct LAFCO staff to propose a policy / procedure to facilitate collaboration and consultation among local agencies in the County.

Commissioner Jacob placed a motion on the floor to include direction for Executive Officer recommendation no. 1:

- (a) Direct the Executive Officer to develop a LAFCO policy that would require cities and the county to consult and collaborate when a development is proposed for territory within or adjacent to a city's sphere of influence.

Commissioner Frye seconded the motion.

Chairman Horn asked for clarification of a motion that was made by Supervisor Jacob and if the motion can be done without notice. Michael Ott explained that Supervisor Jacob can make the motion without a notice - it applies to the existing recommendation.

Item 7A

Adoption of an Amendment to the Sphere of Influence for the Pauma Valley Community Services District (SA09-03)

Item 7B

Proposed "Club Estates Annexation" to the Pauma Valley Community Services District (DA09-03)

Chairman Horn indicated there were speaker slips submitted to the Commission for the item.

Michael Ott indicated that Robert Barry will provide a brief PowerPoint presentation.

Robert Barry provided a PowerPoint presentation to the Commission. Mr. Barry indicated that a sphere amendment is proposed for the Pauma Valley Community Services District. Mr. Barry said that the County of San Diego approved a tentative map and adopted a Mitigated Negative Declaration. He explained the water and prime agricultural land issues and the San Diego LAFCO Policy L-101 related to the proposed project.

Commissioner Horn asked about the water supply services. In response to the question, Robert Barry said the water is supplied from a private company that supplies groundwater.

Commissioner Horn opened the public hearing.

Cindy Eldred, property owner representative, addressed the Commission in support of the proposal. Ms. Eldred provided a brief report about the development process and details of the water supply and agriculture in the area.

Commissioner Jacob said she supports Option #1 of the recommendations and commented about the County's Mitigated Negative Declaration potential impact and agricultural resource findings being less than significant.

Alternate Commissioner Jo MacKenzie asked for clarification regarding the County's Mitigated Negative Declaration comments on secondary access for fire – Robert Barry explained the access area for the proposed project.

Michael Ott clarified that fire services are provided by the Pauma Valley Municipal Water District that has a joint contract with Yuima and Mootmai Water District along with CAL FIRE. Mr. Ott said that the Pauma Valley Municipal Water District has an insurance service office rating of 9.

Commissioner John Ingalls commented about egress access for the proposed project.

Commissioner Donna Frye inquired about the difference between the acreage provided in the staff report and the mitigated negative declaration that will be annexed. Michael Ott said part of the parcel exists within the community services district and a portion will be annexed and the remaining 10 acres are open space.

Commissioner Frye inquired about the agricultural resources in the Mitigated Negative Declaration and LAFCO's Policy L-101 being less than significant and the accumulative impacts from 2004-05 of overall agriculture in the County of San Diego increase and if there will be any net impact reduction in agricultural land. Robert Barry said that according to current data and the amount of agricultural land will increase.

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

Option #1

- (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 within the jurisdiction of the County of San Diego and not LAFCO because the affected resources and services are within the County; and
- (2) Determine that the sphere of influence amendment and annexation will have a minimal effect on maintaining the physical and economic integrity of agricultural lands in conformance with Government Code § 56668(e) and San Diego LAFCO Policy L-101; and
- (3) Amend the sphere of influence of the Pauma Valley Community Services District and adopt the written Statement of Determinations as shown in Exhibit A; and
- (4) Adopt the form of resolution approving this 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 ordering the annexation.

Item 8

Update: Survey of Local Jurisdictions Regarding Extending Structural Fire Protection and Emergency Medical Services to Unincorporated Service Island No. 2

Michael Ott provided a brief report to the Commission about the update of the unincorporated services islands. Mr. Ott said that the unincorporated service islands were intentionally omitted as a result of activating the fire authority County Service Area No. 135. Mr. Ott indicated that Shirley Anderson will provide a PowerPoint presentation.

Shirley Anderson provided a PowerPoint presentation to the Commission. Mrs. Anderson said that in 2008 the Commission and Board of Supervisors approved an activation of latent powers for fire protection and emergency medical services within a restricted zone of County Service Area No. 135 to form the San Diego County Regional Fire Authority. She said that the regional fire authority proposed to implement a plan to improve structural fire protection and emergency medical services in three phases: Step I - covers territory provided by six self-funded volunteer fire protection companies and the County contracted with volunteer companies to continue providing emergency services; Step II - proposed to occur in 2010 or 2011 to expand the latent powers; and Step III - proposed to include all remaining territory and expanding the latent powers area and dissolve the Pine Valley and San Diego Rural Fire Protection Districts and reorganize them into the San Diego County Regional Fire Authority.

Mrs. Anderson said some of the areas are within the spheres-of-influence of the City of Poway and Lakeside Fire Protection District and a majority of the Island No. 2 is not within the spheres of surrounding jurisdictions. She said that there are 257 parcels and 64 developed single-family residences in the area. She also said there are several responses about 100 times a year in the area by the surrounding agencies.

Mrs. Anderson provided details regarding allocations of property tax revenue and the proposed property tax transfer for the Island No. 2 area. She said that 1% of County's property tax allocation annual basis is about \$112,000 – there are 32 Tax Rate Areas (TRA's) in the area and the average is about 0.14. Mrs. Anderson also said that County staff is responsible for the negotiated tax transfers if annexation occurs. Mrs. Anderson indicated that the Lakeside Fire Protection District estimate about approximately \$50,000 in revenue is needed to avoid a district subsidy in the Island No. 2 area.

Mrs. Anderson said that the Island No. 2 area is surrounded by several agencies. She indicated that Lakeside Fire Protection District provides structural fire protection and emergency medical services to the area and has an annual average of 68 responses within a five-year period - the District stated it would require compensation of 0.18 of the County's base property tax transfer allocation in order to continue serving Island No. 2.

Mrs. Anderson indicated that the committee reviewed alternatives for a funding mechanism that would provide revenue - the primary mechanism is a Mello-Roos district. She said it would require a two-thirds election by property owners and if the

election was not approved the surrounding agencies would be responsible to provide service without funding.

Mrs. Anderson indicated that the agencies were reevaluating to determine if they are available to respond in Area 2. She said the Lakeside Fire Protection District Board adopted a motion that will direct the district to continue to respond in Area 2 until June 2010. She indicated a representative from the Lakeside Fire Protection District is present.

Commissioner Jacob asked about the ISO rating in the Island No. 2 area. Shirley Anderson said there is no rating to report of the ISO. Commissioner Jacob also asked if Area no. 2 is designated as a State Responsibility Area for wildland fire protection. Mrs. Anderson said that Area no. 2 is a State Responsibility Area.

Commissioner Jacob said that a legal issue is whether other entities in the vicinity are required by law to respond to emergency medical or fire services if the area is not in their jurisdiction.

Commissioner Jacob asked if Lakeside Fire Protection District provided a cost amount to continue service in the area. Shirley Anderson said an estimated amount was based on a portion of the area.

Commissioner Horn asked the cost of the allocation for the District. Shirley Anderson said the allocation is above the County's average of 2%.

Commissioner Jacob inquired about the property owners being notified of the hearing and report and the fact not being in a fire entity. Shirley Anderson said 257 parcels and other public owners were notified.

Commissioner Jacob clarified that the County has a San Diego County Fire Authority that includes over 900,000 acres and has a contract with other entities.

Commissioner Frye asked about the development process for fire protection. Chairman Horn and Commissioner Jacob said that minimal development requirements were available at the time of development processing for portions of this unincorporated area.

Jeff Murphy, representative of Department of Planning and Land Use addressed the Commission. Mr. Murphy said to build on legal lots the department follows the State building code and state and local fire code requirements. He said that territory does not need to be within a fire department for purposes of issuing a building permit. He indicated that subdivisions are required to have adequate services including fire service.

Commissioner Horn said fire protection services have been an on-going issue and the County has now been involved in the matter.

Commissioner Ingalls inquired about a building permit process with the county. Mr. Murphy indicated that a building permit can be obtained without being in a fire protection district – insurance is another issue with the property owners, however.

Michael Ott commented about Area 2 suffering from the wildfires and damage to structures. He said that some homes were rebuilt on legal lots and the property owners were able to rebuild and obtain a building permit without a fire district or department serving the area.

Commission Horn said there were speaker slips and opened the public.

Commissioner Horn commented about the County signing the Amador Contract that allows the increase of fire protection services in the unincorporated areas.

Mark Baker, Fire Chief of Lakeside Fire Protection District addressed the Commission. Chief Baker provided a handout. Chief Baker said there were some issues that need to be resolved within the Island No. 2 area. He indicated that there were insufficient funds to include the annexation in the district. He also said the District Board passed a motion to: (1) continue the emergency response to the area until June 30, 2010; (2) change the manner and scope for responses to requests for emergency services within Island No. 2; (3) reduce the number of resources (4) work with LAFCO and other surrounding jurisdictions for other opportunities; or (5) stop responding to emergency services and forward requests to the County.

In response to some questions that were addressed by the Commission. Chief Baker said that Area 2 has an insurance service office rating of 10 – unprotected. He said responses can not be served by any of the neighboring agencies due to the development and access to Island No. 2. He also explained the TRA issue stating that the District will not subsidize or provide service to parcels or property owners that have different rates outside of the District.

Commissioner Jacob asked what the cost will be to the property owners. Chief Baker said the amount is estimated to be \$50,000.

Commissioner Jacob asked if the District has the legal authority not to respond to emergency services. Chief Baker said the District is not required to respond outside of jurisdictional areas.

Commissioner Jacob asked if the District has considered a fee for service in this area. Chief Baker said the district is working with Legal Counsel to develop an ordinance that would allow the district to provide services outside of its jurisdictional boundaries. Shirley Anderson said Ramona Municipal Water District is trying to pursue contracts with individual property owners but agencies are not allowed under state law to contract with individual property owners without LAFCO approval.

Michael Ott stated that the average cost per emergency service call from other agencies is between \$1,500 – \$2,500. Mr. Ott also asked Chief Baker to comment on the average cost in the Lakeside Fire Protection District. Chief Baker said the district reviewed the issue two ways based on an hourly rate of about \$200 per unit/hour and a standby service fee. He said the district used an annual budget and averaged the cost of about \$2,000 per incident to provide resources and a standby capacity to respond to emergencies. Mr. Ott said the district responds to the area around 60 times a year on

an average and that would be around \$160,000 - \$200,000 for fire protection cost. Chief Baker indicated that 10 -15% of the call responses are to a care facility.

Gary Harvey, property owner addressed the Commission. He expressed concern about the Island No. 2 area and asked questions about the type and location of fire service calls.

Commissioner Jacob expressed concern about property owners being notified and suggested formation of another working group. She suggested that LAFCO staff contact Lakeside Fire Protection District, City of Poway and the Ramona Municipal Water District for information relating to responses for emergency services to Highway 67 or residences. Mr. Ott asked Chief Baker if the district could provide such information. Chief Baker said the district can provide information on a general basis which is about an 80 - 20% of a split, 20% for parcels – 80% for traffic corridor or recreational. Mr. Ott said based on the County's Assessor's records, 300 property owners were notified.

Mr. Harvey asked if a special assessment district or Mello-Roos will be created whether property owners will be entitled to the same response time as that of a municipally. Mr. Ott said there are no specific facilities or stations located in the area. He said the area will not have a municipal level of fire response due to access problems in the area.

Bryan Higgins, property owner addressed the Commission. Mr. Higgins provided a handout. He expressed concern of the Island No. 2 area near Highway 67 and Scripps Poway in the unincorporated area. He also expressed concern about the area being excluded from the County Service Area No. 135 reorganization.

Ronald J. Bonnin, property owner addressed the Commission. Mr. Bonnin expressed concern about being excluded from the County Service Area No. 135 reorganization. He also said he is concerned about fire protection and emergency medical services within the area.

Commissioner Horn asked Michael Ott and LAFCO staff to contact the agencies and provide data of responses to the area and outside of these areas of Highway 67, Gooden Ranch, San Vicente and the care facility center. He also said before making a proper allocation, a decision or a recommendation for the item several issues need to be addressed.

Commissioner Jacob suggested the formation of another working group of LAFCO staff, County staff and local agencies to resolve some of these issues related to the Rio Maria area.

Commissioner Horn also suggested that the County create an ordinance plan jointly with Lakeside Fire Protection District for reimbursement.

Commissioner Frye asked if the parcels had been analyzed for fire protection and emergency medical services. Shirley Anderson said the parcels were not previously analyzed.

Commissioner Frye asked if it possible for property owners to obtain a building permit without addressing fire protection and emergency medical service issues. Jeff Murphy said property owners can obtain a building permit if the application complies with the building codes and local fire codes – whether or not the area is within a fire district.

Commissioner Frye asked if there are existing requirements for an approving authority to review or provide fire protection and emergency medical services for development of a parcel.

Commissioner Vanderlaan commented about issues being resolved in the Island No. 2 area and the agencies providing service to the area.

Commissioner Ingalls commented about fire protection and emergency medical services being provided to the Island No. 2 area.

Commissioner Hilliard said he will support Commissioner Jacob's recommendations.

Alternate Commissioner MacKenzie inquired about the special assessment district being for a single-family residence or an undeveloped parcel.

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

- (1) Received the November 2, 2009 Island No. 2 Update Report;
- (2) Directed the Executive Officer to refer the funding options discussed in this report and Commission comments received at the November 2, 2009 LAFCO meeting, including formation of a special assessment district within Island No. 2 to appropriate county staff and fire officials for further discussion and possible action;
- (3) Directed the Executive Officer to obtain the number of responses and locations of calls within Island Area No. 2;
- (4) Authorized the formation of a working group with LAFCO staff, County, Lakeside Fire Protection District and the property owners to resolve some of these issues; and
- (5) Direct the Executive Officer to regularly update the Commission about the activities regarding the extension of emergency services into Island No. 2.

Item 9

First Quarter Budget Report and Update FY 2009-10

Michael Ott provided the Commission with a brief staff presentation.

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

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

Item 10

Legislative Report Update

Harry Ehrlich provided a verbal report to the Commission. He discussed the water issues being addressed by the Assembly and the Senate. He said 12 bills have been introduced pertaining to conservation, control of the delta, and a water bond for 2010 of \$12 billion. Mr. Ehrlich said that LAFCO has been tracking these bills of how they will affect the water supply and policies that are being developed.

Commissioner Horn commented about how agricultural issues are being addressed due to the water supply decreases.

Commissioner Vanderlaan commented about water information being provided at the conference and thanked LAFCO staff for their services.

No action was taken by the Commission.

There being no further business to come before the Commission, the meeting adjourned at 10:50 a.m. to the December 7, 2009 meeting, in Room 302, County Administration Center.

**Tameron Lockett
Administrative Assistant**