

**LOCAL AGENCY FORMATION COMMISSION
SPECIAL DISTRICTS ADVISORY COMMITTEE
MINUTES OF THE DECEMBER 12, 2003 MEETING**

There being a quorum present, the meeting was convened at 10:09 a.m., by Chairman Harry Ehrlich (Olivenhain MWD). Also present were: **Committee Members** – Barbara Barber (Helix WD), Ron Fuller (Alpine FPD), Daniel Goldberg (Fallbrook HCD), Trish Hannan (Vallecitos WD), Judy Hanson (Leucadia WD), Dr. Hanno E.G. Ix (Rincon del Diablo MWD), Darrell Jobes (East County FPD), Jo Mackenzie (Vista Irrigation District), Tom Pocklington (Bonita-Sunnyside FPD), and Dennis Shepard (North County CD); **LAFCO Staff** – Executive Officer Michael D. Ott and Chief, Governmental Services Ingrid Hansen. Absent were: **Committee Members** – Gary Arant (Valley Center MWD), Keith Lewinger (Fallbrook PUD), Augie Scalzitti (Padre Dam MWD) and John Pastore (Rancho Santa Fe CSD).

Item 1

Executive Officer's Agenda Revisions

Mr. Ott indicated there were no revisions to the agenda, however, Mr. Ott said that the 2004 Special Districts Advisory Committee meeting schedule and LAFCO's fire study, *Funding Fire Protection*, which is an overview of funding issues facing fire protection districts in San Diego County, were distributed to each Advisory Committee member prior to the meeting.

Mr. Ott said a special meeting is scheduled for February 2, 2004; and that this meeting would be the final joint meeting of the LAFCO Commission, the Special Districts Advisory Committee and the Municipal Service Review Working Group.

Item 2

Public Comment

No members of the public requested to speak.

Item 3

Approval of Minutes of October 6, 2003

With Dr. Hanno E.G. Ix, Tom Pocklington and Dennis Shepard abstaining, ON MOTION OF Judy Hanson, seconded by Barbara Barber, and carried unanimously by the committee members present, the committee dispensed with reading the minutes of the October 6, 2003 meeting, and approved said minutes.

Item 4

Draft Data Summary and Analysis: Municipal Service Review and Sphere of Influence Update: Agencies Providing Floodwater and Sewage Control, Waterworks Construction, and Groundwater Management, and Protection in the Tijuana Watershed (Western Hydrologic Unit)

Chairman Ehrlich introduced the item. Chairman Ehrlich asked if the Tia Juana Valley County Water District had received notification of the Special Districts Advisory Committee meeting, because representatives from the district were not in the audience. Mr. Ott indicated that the agenda packet had been mailed to the Tia Juana Valley County Water District.

Mr. Ott gave an overview of the item and introduced Ingrid Hansen, who presented the staff report, which included a PowerPoint presentation. Ms. Hansen indicated that the Tia Juana Valley County Water District received six copies of the agenda and background information, which were for the General Manager and the district's board members.

Chairman Ehrlich thanked Ms. Hansen for the comprehensive report and opened the meeting for questions of staff and discussion by the Committee.

Tom Pocklington indicated the report was well written and said that he would like to thank Ms. Hansen, because the report makes it apparent what steps need to be taken next by the Advisory Committee.

Trish Hannan asked for additional information on the parcels involved, including how many property owners are in the area. In response, Mr. Ott indicated there is a population involved of approximately 23,000, with 6,500 registered voters. Mr. Ott said there is a tax of \$50 per parcel, and the district revenues are approximately \$200,000 per year.

Ms. Hansen indicated that the overlap area within the City of Imperial Beach consists of 13 parcels that are owned by the State or Federal governments. She said the City of San Diego overlap area has approximately 3,000 parcels. Mr. Ott further explained the 13 parcels within the City of Imperial Beach are exempt from the \$50 per parcel tax because they are Federal- or State-owned. He said that approximately 3,000 private properties within the City of San Diego are assessed the \$50 tax.

Ron Fuller said it appears that the Tia Juana Valley County Water District had "surrendered their charter," and asked if the term had legal significance and meant that the district gave up their purpose without actually dissolving the "structural or institutional part of the district." Mr. Ott explained that there does not appear to be a legal definition for the term "surrendered their charter," and indicated that staff

believes the original intent was to dissolve the district approximately 20 years ago, but the district did not actually file a dissolution application with LAFCO.

Jo MacKenzie said the report indicated the City of San Diego would become successor agency even though it does not want to, and could continue collecting the \$50 per parcel tax to pay off the \$134,000 debt. She asked what the mechanism would be to make certain that the \$50 tax is discontinued.

In response, Ms. Hansen said that discontinuing the collection of the \$50 tax could be imposed as a term and condition. Mr. Ott said that one issue LAFCO would have to address is how to complete the affairs of the district, which includes the \$134,000 debt. Mr. Ott said that, in this case, the City of San Diego would be the successor agency because, under the law, the city that contains the majority of the assessed valuation of the properties within the district and by default is the successor agency. He said that LAFCO would lose jurisdiction of the proposal after the dissolution of the district has been finalized. Mr. Ott indicated that he would have to research whether LAFCO could direct the San Diego City Council to continue collecting the assessment fee for a certain amount of time, and then instruct them to discontinue the tax after the affairs of the district are finalized. Mr. Ott indicated that this is a legal issue that would be researched by staff and LAFCO Legal Counsel.

Dan Goldberg said the report was well written and easy to understand. He said that in reading the executive summary there have been repetitive attempts from various agencies to dissolve this district and for legal reasons this has not happened and wondered why the dissolution has not occurred. Mr. Ott said several Grand Jury investigations have concluded that this district should be dissolved, and LAFCO first concluded that the district should be absorbed by the City of San Diego over 20 years ago. Mr. Ott said the Commission would have to either initiate the dissolution of the district, respond to a citizens' movement, which would be a petition of the voters or landowners, or respond to an agency-initiated proposal.

Judy Hanson said that some of the research of the Tia Juana Valley County Water District is important and asked if another agency would assume the responsibility for the studies if the district is dissolved. Mr. Ott said there is no dispute regarding the value of some of the district's research; however, the question is whether the Tia Juana Valley County Water District is the appropriate agency to conduct the research when the district is located entirely within the jurisdictional boundaries of a full-service city that is authorized not only to conduct the research or studies, but to implement changes that result from the findings of the studies.

Ms. Hanson said she read in the staff report that the cities do not have an interest in pursuing the studies of the Tia Juana Valley County Water District, and said the City is not interested in protecting groundwater in the Tijuana Watershed area. Chairman Ehrlich said he has personally participated with the City in the selection of

consultants who are doing groundwater studies throughout the city, with a timeframe for completing the study.

Darrell Jobes asked if the \$50 per parcel tax had been voter-approved or was a special district assessment. He indicated that it may affect the revenue stream unless it was approved by the voters. Mr. Ott indicated it was not a voter-approved assessment. Mr. Ott said the tax was a pre-Proposition 218 imposed charge, and appears to be a legitimate tax by the District. Mr. Ott said, however, that staff would further research the imposition of the tax.

Chairman Ehrlich opened the meeting to public comment on the Municipal Service Review.

Howard Freelove addressed the Advisory Committee, indicating that he represents the Citizens' Action Committee for the Dissolution of the Tia Juana Valley County Water District. Mr. Freelove distributed handouts to the Advisory Committee and staff that were distributed to the Nestor area homeowners and voters. Mr. Freelove indicated the core members of the organization are former Board members of the Tia Juana Valley County Water District that have tried for many years to dissolve this District. In response to Judy Hanson's statement that some of the research of the Tia Juana Valley County Water District is important, Mr. Freelove said that the Citizen's Action Committee feels the projects of the District are not important, and if they are important and will benefit all of San Diego, why isn't all of San Diego County paying for the projects. Mr. Freelove said the reason the people in the Nestor area are being "used" is because so many of them do not speak English. He said that many of these are hard-working people with two jobs. Mr. Freelove said it has been argued that the District is an advisory group to the citizens. Mr. Freelove asked why their area is paying for an advisory group, when the area's elected representatives perform the same service free of charge. Mr. Freelove said the citizens want to know exactly how the District uses their tax money. He said the citizens are paying for cell phones, benefits, and for staff to attend meetings that are of no benefit to the citizens of the Nestor area. He said that even if they do get groundwater out of the aquifer, the water is polluted. He said that it seems that the Tia Juana Valley County Water District is searching for a purpose to exist. Mr. Freelove thanked Ms. Hansen and the LAFCO staff for preparing the municipal service review report.

Dr. Hanno Ix asked if the citizens had the right to call for an election to dissolve the district, or only to recall the Board of Directors. Mr. Freelove said the purpose of the recall would be to remove the existing Board members of the Tia Juana Valley County Water District, and to elect Board members that would take the initiative to dissolve the district.

Tom Pocklington said that the report was well written and states clearly what the citizens of the area are trying to accomplish. He commented that the true intent of

Proposition 218 was to allow the citizens to establish their own fees and taxes. He said that he personally feels that the \$50 tax imposed on the citizens is an illegal fee. He said that if the City of San Diego is the successor agency, and also imposed this tax, it would have to be by a vote of the citizens.

Barbara Barber asked about the total cost of gathering the signatures and placing the recall item on the ballot. Mr. Freelove responded that the Registrar of Voters would have that information, but the item would be "piggy-backed" with a general election, so the cost would not be that great. Mr. Freelove indicated the Citizens' Action Committee hopes the dissolution petition will be effective to remove the \$50 tax and also to dissolve the district.

Michael Girogino addressed the Advisory Committee, indicating that he is an attorney, but was in the U.S. Navy for 20 years. He said he has rarely heard a report as concise, clear and objective as the one presented at this Advisory Committee meeting. He said the right thing to do is to dissolve the District. He said the Grand Jury has spoken repeatedly urging dissolution of this District. He said it is a water district that provides no water, does not treat sewage, does not provide flood control, and is entirely within the boundaries of another agency that does provide these services. He said he would urge the Advisory Committee to dissolve the District and indicated that he supported Mr. Freelove and the citizens who are urging the Committee to dissolve the District. Mr. Girogino said not one member of the Tia Juana Valley County Water District came to the meeting to address the Advisory Committee regarding the values the District offers the public in return for being paid to attend meetings, and maintaining a full-time staff at the District. Mr. Girogino said these are tight budgetary times for California, and the citizens are "sick and tired of politics as usual." He said he commends agencies such as LAFCO for looking at ways to streamline government. He said this is a clear example of a redundancy, and, by dissolving the district, would lift an oppressive burden from the citizens in the area and shift it to the citizens of San Diego. Mr. Girogino indicated he is not a resident of the District, but that he is very involved in public policy issues within an area that encompasses the District.

Dr. Ix asked Mr. Girogino how this issue personally affected him. In response, Mr. Girogino said that he was running for Congress against Congressman Bob Filner. Mr. Girogino said that Congressman Filner has defended the Tia Valley County Water District on the basis that it provides valuable information to him and his staff. Mr. Girogino said the Citizens' Action Group will establish a list of candidates, who will pledge to not derive any salary, not take money to attend meetings, dissolve the full-time staff, work out of their homes instead of renting office space, and satisfy the \$134,000 debt.

Chairman Ehrlich commented that, while he agrees with virtually everything that was presented, some of the studies done by the District have merit. He said that studies

of water management and planning are long-range issues that are difficult, and indicated that if the District is dissolved, he hoped the City of San Diego would consider continuing the studies a priority. Chairman Ehrlich said that Ms. Hansen presented an excellent report to the Advisory Committee.

Tom Pocklington asked if the Advisory Committee would be making recommendations, or if the report was presented for information. Mr. Ott explained the report was for review, comment and recommendations.

Tom Pocklington made a motion to forward the report, with additional research to be completed by staff, to the Local Agency Formation Commission in support of the dissolution of the Tia Juana Valley County Water District.

Chairman Ehrlich asked if this motion is in compliance with the municipal service review process, because the Cortese/Knox/Hertzberg Act indicates the report would not have final recommendations, but would be the basis of future actions by the Local Agency Formation Commission.

Mr. Ott said he would restate Mr. Pocklington's motion. Mr. Ott indicated that the motion was for staff to conduct additional research about how services are, and should be, provided to the region; and that the Special Districts Advisory Committee recommends that LAFCO pursue the dissolution of the Tia Juana Valley County Water District. Mr. Ott said this would give direction for future action by the Local Agency Formation Commission. Mr. Pocklington agreed with Mr. Ott's restatement of the motion.

Ron Fuller seconded the motion, indicating that staff has done an excellent job and, while the report may need to be modified, there is clearly enough information presented for the Advisory Committee to make a recommendation based on the excellent work on the MSR report. He said that he is not aware of any restriction on the Committee, as an advisory body, to recommend dissolution of the District.

Dr. Ix said that with what he has heard at the meeting he is uneasy with the motion to dissolve the District because Congressman Filner has not presented his arguments to the Committee. He said that he would not support the proposal for this reason.

Chairman Ehrlich indicated he is also disappointed that the Tia Juana Valley County Water District was not present to provide other perspectives to the Committee. He said that was why he wanted to make sure that the District had been informed of, and was invited to, the Advisory Committee meeting.

Jo MacKenzie suggested the Advisory Committee bifurcate the motion to forward it to the Local Agency Formation Commission, with another motion to recommend to LAFCO that dissolution be pursued.

Tom Pocklington said there is a motion on the table that had been seconded. He said the Committee should deal with the original motion.

Darrell Jobes said discussion indicated that the City of San Diego is not interested in being the successor agency, nor is the City of Imperial Beach, and said he was concerned whether or not the District's work is valid, and if the work needs to continue. He asked if there is an agency willing to continue the responsibilities of the District if the Committee recommends the District be dissolved. Chairman Ehrlich said those concerns would be answered by the public process before the Commission takes action on this matter.

Mr. Ott said that before this matter is presented to the Local Agency Formation Commission, staff would research the City of San Diego's response regarding the services they intend to provide as opposed to the services that are reportedly being provided by the District. He said staff will also research the legality of the parcel charge, the ability to stage terms and conditions for sunset of the parcel charge, cost of an election process to determine if there should be a dissolution.

Agreeing with Mr. Ott's clarification, Chief Jobes indicated he would support the motion as presented.

Dan Goldberg said he agrees that there needs to be follow-up information from staff but with Mr. Ott's comments, he would agree to support the motion. He said that after this motion is completed, he would like to return to Jo MacKenzie's comments regarding a second motion for a specific recommendation to support the report.

Barbara Barber said that the District has done some good things, but said that the Grand Jury findings are that the City of San Diego and the U.S. Army Corps of Engineers should be the agencies responsible for the studies. She indicated she agreed with the motion.

Chairman Ehrlich said there are different perspectives about what agency should be responsible, and what solutions should be implemented, for this area. He said that is the reason for this process, to proceed logically step-by-step. He indicated he was uncomfortable with the motion to actually recommend dissolution of the District. He said there are questions that have not been answered, but that he support staff's report. He said the report was well written; however, he would like assurance that there is an agency that will take responsibility to proceed with the studies.

Tom Pocklington said that he understands members' concerns about water, but that the District has taken advantage of the residents of the community. He said he respects the Advisory Committee members' opinions and their right to disagree, but wants it on record that he does not see any reason for this District to exist any longer.

ON MOTION OF Tom Pocklington, seconded by Ron Fuller, and carried by the following vote of the Advisory Committee members present, the Advisory Committee accepted the Draft Data Summary and Analysis: Municipal Service Review and Sphere of Influence Update: Agencies Providing Floodwater and Sewage Control, Waterworks Construction, and Groundwater Management, and Protection in the Tijuana Watershed (Western Hydrologic Unit), subject to additional research and modifications by staff. The Advisory Committee directed staff to modify the report to include the following:

- a. When preparing the factors of determinations relating to the government structure option, staff is to include an evaluation of how services are, and should be, provided to the region by the successor agency.
- b. Staff is to examine the legality of the \$50 per parcel tax.
- c. Staff is to explore LAFCO's ability to stage terms and conditions for sunset of the \$50 per parcel tax.
- d. Staff is to research the cost of an election process for the voters of the area to determine if the Tia Juana Valley County Water District should be dissolved.
- e. Staff is to indicate that the Special Districts Advisory Committee encourages the Local Agency Formation Commission to pursue the potential dissolution of the Tia Juana Valley County Water District.

AYES: Barbara Barber, Ron Fuller, Daniel Goldberg, Trish Hannan, Darrell Jobes, Jo MacKenzie, Tom Pocklington, and Dennis Shepard

NOES: Harry Ehrlich, Judy Hanson and Dr. Hanno lx

ABSTAIN: None

ABSENT: Gary Arant, Keith Lewinger, John Pastore and Augie Scalzitti

Item 5
Advisory Committee Member Comments

Darrell Jobes said the Task Force on Fire Protection and Emergency Medical Services met earlier and is moving forward, at the request of Chairwoman Dianne Jacob, to present, at the January 23, 2004 meeting, an unincorporated, countywide fire provision service and the associated costs for such a service. He said some agencies in the southern and eastern portions of the County are also looking at the advantages and disadvantages of consolidation of services.

Chairman Ehrlich said that he appreciated Chief Jobses' participation on the Task Force on Fire Protection and Emergency Medical Services, and indicated that Chief Jobses and several other Fire Chiefs are doing excellent work on this Task Force.

Tom Pocklington commended Chief Darrell Jobses for his outstanding work on the recent fires in the County; and indicated, however, there are another two or three years of financial hardships for the fire service.

Mr. Ott announced that LAFCO Commissioners Andy Vanderlaan and Andy Menshek were recently appointed to the joint City-County San Diego Regional Fire Prevention and Emergency Preparedness Task Force, which is co-chaired by Sheriff Bill Kolender, County of San Diego, and Fire Chief Jeff Bowman, City of San Diego.

Item 8
Adjournment

There being no further business to come before the Advisory Committee, the meeting was adjourned at 11:50 a.m.

Jan Bryson
Executive Assistant