

**APPROVED
SAN DIEGO LAFCO
MINUTES OF THE REGULAR MEETING
MAY 1, 2017**

4

There being a quorum present, the meeting was convened at 9:00 a.m. by Chairman, Mayor Sam Abed. Also present were: Regular Commissioners – Vice Chairwoman Special District Member Jo MacKenzie; Supervisors Dianne Jacob (arrived 9:04 a.m.) and Bill Horn; City Councilmember Lori Zapf (arrived 9:03 a.m.); Special District Member Ed Sprague and Public Member Andy Vanderlaan. Alternate Commissioners – City Commissioner, Mayor Racquel Vasquez (arrived 9:03 a.m.) and Special District Member Judy Hanson. LAFCO Staff – Executive Officer Michael Ott; Chief Analyst Robert Barry; Local Government Analyst Joe Serrano; LAFCO Consultant Harry Ehrlich; General Legal Counsel Michael Colantuono and Special Legal Counsel Rachel Witt. Absent were: Alternate Commissioners – Supervisor Greg Cox; City Councilmember Chris Cate and Public Member Harry Mathis.

Item 1

Pledge of Allegiance

Public Member Andy Vanderlaan led the Pledge of Allegiance at the meeting.

Item 2

Roll Call

The Commission Clerk performed the roll call for the May 1, 2017, LAFCO meeting. With the exception of Alternate Commissioners: Supervisor Greg Cox; Councilmember Chris Cate and Public Member Harry Mathis, all other Commissioners were present. It was noted, Alternate Commissioner Mayor Racquel Vasquez, voted in place of the vacant City Commissioner position.

Item 3

Approval of Minutes of Meeting Held April 3, 2017

On motion of Commissioner Jacob, seconded by Alternate Commissioner Vasquez, and carried unanimously by the Commissioners present; the Commission dispensed with reading the minutes of April 3, 2017 and approved said minutes.

Item 4

Executive Officer's Recommended Agenda Revisions

Chairman Sam Abed asked the Executive Officer if there were any agenda revisions. Executive Officer Michael Ott indicated that there were no agenda revisions.

Item 5

Commissioner / Executive Officer Announcements

Chairman Sam Abed asked if there were any announcements from the Commissioners or the Executive Officer.

Executive Officer Michael Ott said that there were several announcements. Mr. Ott announced to the Commission about his retirement after 34 years of service at LAFCO. He also said that LAFCO's Chief Local Governmental Analyst Ingrid Hanson and Consultant Harry Ehrlich will also be retiring in August.

Commissioner Lorie Zapf announced that her daughter won the Special Districts Scholarship award. The Commission commended Commissioner Zapf's daughter for this award.

Commissioner Abed and Commissioner Vanderlaan thanked Michael Ott for his great leadership and a job well done at LAFCO. Commissioner Jacob inquired about the actual leaving date for Mr. Ott. In response, Mr. Ott indicated that information will be discussed at the closed session.

Item 6

Proposed "Pacifica Enterprises Annexation" to the Rancho Santa Fe Community Services District (RO17-03)

Michael Ott indicated that the proposal involves annexation of a parcel totaling 20.28– acres to the Rancho Santa Fe Community Services District. He said that the property owner wants to obtain sewer services for the construction of eight-single family residential units.

On motion of Commissioner Horn, seconded by Commissioner Sprague, 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 County of San Diego. The mitigation is under the jurisdiction of the County and not LAFCO because the affected resources and the extension of public services will continue to be the responsibility of the County and special districts since the subject territory will remain unincorporated; and
- (2) Adopt the form of resolution approving the 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 term and condition:
 - a. Owners agree to be subject to all applicable fees and charges associated with sewer service from the District, including but not limited to the payment of all District connection fees and the annual sewer service charge as applicable; and
 - b. Owners agree to provide the District with all sites and easements requested by the District for the construction of sewer facilities; and
 - c. Owners agree to fund, construct, and dedicate to the District all sewer facilities required by the District, to be built in accordance with District approved plans and specifications; and
 - d. Owners agree to pay all District staff time associated with the project; and Owners are responsible for all LAFCO fees and charges for the project.

Item 7A

Adoption of an Amendment to the Sphere of Influence of the Vista Irrigation District (SA16-18)

Item 7B

**Proposed “Carole Haller Reorganization”
(Vista Irrigation District) (RO16-18)**

Michael Ott indicated that agenda item 7A and 7B involves an annexation of a parcel totaling 0.57–acres to the Vista Irrigation District with a concurrent detachment from Vallecitos Water District. He said the property owner wants to obtain water services.

Mr. Ott asked the Commission to waive the staff presentation because no speaker slips were received in opposition. It was moved by Commissioner Horn and second by Commissioner Jacob that the staff presentation be waived.

Chairman Abed opened and closed the public hearing for Item 7A and 7B.

With no speakers from the public and no discussion from the Commission, on motion of Commissioner Horn, seconded by Commissioner Jacob, 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(b) of the State CEQA Guidelines, the 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; and,
- (2) Amend the sphere of influence of the Vista Irrigation District and adopt the written Statement of Determinations as shown in Exhibit A; and
- (3) Adopt the form of resolution approving the 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 term and condition:

Payment by the property owner of all Vista Irrigation District application and annexation fees, connection costs, State Board of Equalization fees, Vallecitos Water District detachment fees, and LAFCO processing fees.

Item 8

**Public Records Access Policy and
Supreme Court Decision**

Michael Ott stated that agenda item 8 pertains to a Supreme Court decision related to records retention and that Legal Counsel Michael Colantuono will provide a presentation.

Michael Colantuono addressed the Commission about the California Public Records Act that applies to electronic communications for local government officials and employees that send communications on private devices from private accounts. He indicated that LAFCO could adopt

a policy that would include the following: (1) prohibiting the use of personal accounts for the conduct of LAFCO business (as the federal government does); (2) allowing the use of personal accounts, but requiring all electronic communications to be copied to LAFCO's server (so that records can be honored without resort to private devices and accounts); or (3) allowing the use of personal accounts only if the electronic communications are stored for a minimum of two years and are searchable.

Mr. Colantuono indicated that the Commission may adopt the policy that designates some or all emails, text messages, and social media posts on personal accounts as non-records because they are not retained in the course of LAFCO business. He said that the County of San Diego email server has a retention policy that retains electronic communication for 60-days and then are deleted from the server. He suggested that a copy of all electronic communications pertaining to LAFCO business could be archived for two years.

Commissioner Abed asked if LAFCO officials and employees must comply with copying all electronic communications to LAFCO's server. In response, Mr. Colantuono said that LAFCO staff drafted a policy that will address these matters that would allow a commissioner to use their personal devices or email accounts and they should forward the communications to a LAFCO email account.

Commissioner Sprague commented about the use of personal devices and email accounts indicating that LAFCO email should be used in terms of LAFCO business.

Commissioner Zapf asked if an email is sent to a personal email account and then forwarded to a work email account does that cover the standards of the public records act policy.

Mr. Colantuono suggested that the language be modified on the Policy for Item No. 2 in the first paragraph from "are required to use" to "should use" and that LAFCO staff should ask the County to set up a generic email address.

It was moved by Sprague and seconded by Zapf to use Option 2 of the recommendations and modify the language of the policy, per Mr. Colantuono's suggestion.

On motion of Commissioner Sprague, seconded by Commissioner Zapf, and carried unanimously by the commissioners present, the Commission approved the draft policy with the amendment suggested by Mr. Colantuono.

Item 9

Legislative Update Report

Harry Ehrlich, LAFCO Legislative Director, provided an update and summary of legislative reports to the Commission. He indicated that LAFCO sent out letters of support for some of the bills. These are the following activities of the Legislative bills:

AB464 (Gallagher)–Local government reorganization

This bill is sponsored by CALAFCO which addresses a situation in current law wherein Government Code 56653 does not address certain conditions of services currently provided when there is a plan for services submitted for an annexation. This bill was based from a court decision on a lawsuit (City of Patterson v. Turlock Irrigation District) in Stanislaus County. LAFCO sent a support letter on April 4, 2017. Approved position: Support and letter sent.

AB979 (Lackey) Cortese–Knox–Hertzberg Act: Special District representation on LAFCO

This bill is sponsored by CSDA and cosponsored by CALAFCO addressing the procedure for special districts to propose to hold an election for representation for a Redevelopment Agency Oversight representation on a commission board. LAFCO is to administer an election process for selecting a representative. San Diego LAFCO has used this method to select representatives to the commission. LAFCO staff will monitor this bill for any additional amendments. LAFCO sent a support letter on April 10, 2017. Approved position: Support and letter sent.

SB37 (Roth) Local government finance: property tax revenue allocations

This bill is identical to SB817 (Roth) that calls for reinstatement of the Vehicle License Fee through a change in ERAF Funds for cities that incorporated between January 1, 2004 and 2012. Due to changes of the law four cities have lost several million in funding the Government has vetoed prior to addressing this bill. It has been reported that the Governor and Senator Roth has reached an agreement. LAFCO staff will continue to monitor this bill. LAFCO sent a support letter on April 11, 2017. Approved position: support and letter sent.

AB892 (Waldron) Municipal Water Districts; water service to Indian tribes

This bill is related to the existing Municipal Water District Law of 1911 that is being amended to allow Indian tribes to obtain services and contract from a municipal water district. This bill was amended to authorize, rather than require, a Municipal Water District to provide water service to an Indian tribe, it would amend authorization provided by AB2480 (Gonzalez) for water to a specific location in San Diego County (Sycuan lands). The Sycuan tribe has objected to the proposed change and the author may consider alternative language and not move the bill forward. CALAFCO has addressed concerns. LAFCO staff will monitor this bill. Recommended position: Watch with Concerns.

Commissioner MacKenzie asked if the bill has been proposed to make it a two-year bill. Mr. Ehrlich said that if the bill does not go to the committee within 30-days it will be considered a dead bill.

Mr. Ehrlich said that the SB448 (Wieckowski) bill would require each local agency on or before September 1, 2018 and every two-years after to submit a financial report to the Controller regarding their agency financial transactions during the fiscal year. He also said that this bill has been amended and that LAFCO has not acted on this bill and that it will be watched.

The Commission received this Legislative Update Report and provides direction to staff on the identified legislative bills as appropriate.

Item 10

Third Quarter FY 2016-17 Budget Update

Michael Ott addressed the Commission regarding the Third Quarter FY 201-17 Budget Update. Mr. Ott indicated that about \$1.2 million has been spent for expenditures and costs are within the approved budget. He said that funds in the amount of \$122,075 were transferred from the Trust Funds account in the third quarter for costs associated with several reorganizations involving fire protection districts and a major island annexation. He also said that a proposal summary (figure 3) was provided to the Commission to provide the status of jurisdictional changes.

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

- (1) Receive and approve the Third Quarter FY 2016-17 LAFCO Budget Update; and
- (2) Review balances and ratify designations shown on Figure 2 for LAFCO accounts 44595, 46725, 46726, and 46727; and
- (3) Review the attached proposal summary of active jurisdictional proposals and direct LAFCO staff to return to the Commission with monthly updates; and
- (4) Request the LAFCO Chairman to appoint a 3-4 person audit committee for FY 2016-17, with an anticipated activation date of late 2017.

Item 11

Third Quarter FY 2016-17 Executive Officer Self-Approved Expense Claims Report

Executive Officer Michael Ott indicated that there were no self-approved reimbursement claims to report during the third quarter of FY 2016-17.

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

The Commission accepted the third quarterly self-approved expense claims report.

Item 12

Public Comment

Chairman Abed asked the public if anyone requested to speak on an item that is not related to the agenda. He indicated that there were no speaker slips received from members of the public for comments.

Michael Colantuono addressed the Commission and informed them that for the Closed Session that no Alternate Commissioners were allowed to be present at the closed hearing session. He indicated that Alternate Commissioner Vasquez is entitled due to the vacancy of a City representative. The LAFCO meeting adjourned at 9:37 a.m. for Closed Session Item 13.

Item 13

**CLOSED SESSION: ADJOURNED TO CLOSED SESSION
AS PERMITTED BY GOVERNMENT CODE SECTION 54950 ET. SEQ
TO CONSIDER MATTERS PERTAINING TO PUBLIC EMPLOYMENT
ASSOCIATED WITH THE EXECUTIVE OFFICER POSITION OF THE
SAN DIEGO LAFCO**

There being a quorum present, the meeting was convened at 9:45 a.m., by Chairman and Mayor Sam Abed. Also present were: Regular Commissioners – Vice Chairwoman Jo Mackenzie; Supervisor Dianne Jacob; Supervisor Bill Horn; Special District Member Ed Sprague; City Councilmember Lori Zapf; Alternate City Commissioner and Mayor Racquel Vasquez (serving as a voting member due to a vacancy in the regular city member position); and Public Member Andy Vanderlaan. LAFCO Staff – Executive Officer Michael Ott; General Legal Counsel Michael Colantuono; and Special Legal County Counsel Rachel Witt. Absent were: Alternate Commissioners – Supervisor Greg Cox, City Councilmember Chris Cate; Public Member Harry Mathis and Special District Member Judy Hanson.

Executive Officer Michael Ott explained that he requested Special Counsel Rachel Witt to attend the meeting for purposes of explaining the state, local, and federal rehire prohibitions related to the current Executive Officer, and how these provisions relate to hiring options for a new Executive Officer.

The Commission discussed office continuity and personnel succession planning matters; interim staff assignments; and the overall appointment and/or recruitment process. The Commission reviewed three recruitment proposals received from Peckham and McKenney, Inc., Ralph Anderson and Associates, and the County of San Diego. After thorough consideration, the Commission discussed the need to conduct a statewide recruitment and authorization for Executive Officer Michael Ott to execute a contract up to \$30,000 with the executive search firm of Peckham and McKenney.

Chairman and Mayor Sam Abed appointed a four-person ad hoc recruitment committee (Task Force) consisting of himself, Vice Chair Jo MacKenzie, Supervisor Dianne Jacob, and Public Member Andy Vanderlaan. The purpose of the Task Force would be to serve as a resource for recruitment purposes. Mr. Vanderlaan stated that he would be honored to serve on the Task Force and noted that he had a time conflict during the first two weeks of May. Commissioner Sprague volunteered to assist the committee during Mr. Vanderlaan's absence.

After discussing a preliminary draft position announcement, Supervisor Jacob suggested that the announcement include private sector experience as possible qualifying experience. Mayor Vasquez stated that the announcement should reference the importance of learning quickly and the ability to understand complex concepts. It was also suggested that a press release be issued regarding Mr. Ott's retirement. Mr. Ott indicated that these comments and suggestions would be taken into consideration before forwarding a draft position announcement to Peckham & McKenney. Mr. Colantuono indicated that on June 5th, LAFCO staff will request that the Commission ratify the associated engagement contract with Peckham & McKenney and

establishment of the ad hoc Recruitment Task Force. The Recruitment Task Force agreed to meet on May 19, 2017 at 10:00 a.m. at the County Administration Center, Room 306(A).

There being no further business to come before the Commission, Vice Chairwoman MacKenzie (Chairman and Mayor Sam Abed left the Closed Session to attend a prior engagement) adjourned the Closed Session and reconvened to regular (open) Session.

After reconvening to an Open Session, Commissioner Sprague placed a motion on the floor that was seconded by Commissioner Jacob that LAFCO conduct a statewide recruitment authorizing Executive Officer Michael Ott to execute a contract up to \$30,000 with the executive search firm of Peckham and McKenney, subject to ratification by the Commission at the next available Open Session of the San Diego LAFCO. Legal Counsel Michael Colantuono reported the above action of the Commission upon reconvening to Regular (open) session.

Item 14

CLOSED SESSION: ADJOURNED TO CLOSED SESSION (IF NECESSARY) TO CONFERENCE WITH LEGAL COUNSEL PURSUANT TO SUBDIVISION (D) OF GOVERNMENT CODE SECTION 54956.9 – REGARDING LITIGATION WITHIN THE RESPONSIBILITY OF THE SAN DIEGO LAFCO

Legal Counsel Michael Colantuono informed the Commission that Item 14 does not require a closed session in the matter of *City of Coronado v. San Diego LAFCO and City of Imperial Beach*.

Mr. Colantuono reported to the Commission that the Navy and Cities of Imperial Beach and Coronado have been in discussions about a tentative settlement that will be summarized at the closed session at the next meeting. He said that the City of Imperial Beach has agreed that they will act as Coronado's agent to collect wastewater but the City of Coronado would be the primary utility holder and receive credit for the water resources.

There being no further business to come before the Commission, the meeting adjourned at 11:00 a.m. to the June 5, 2017 meeting, in Room 302, County Administration Center.

**TAMARON LUCKETT
EXECUTIVE ASSISTANT**

**MICHAEL D. OTT
EXECUTIVE OFFICER
(AGENDA ITEM NO. 13)**