

**APPROVED MINUTES
SAN DIEGO LAFCO
October 2, 2023 REGULAR MEETING**

1. 8:15 A.M. – CALL TO ORDER BY CHAIR

**Item 1a
ROLL CALL**

The regular meeting was called to order at 8:23 a.m. by Chair Desmond following a brief technical delay associated with the video-conferencing system. The Acting Commission Clerk performed the roll call with the following attendance recorded.

Regulars Present: Joel Anderson, County of San Diego
 Kristi Becker, City of Solana Beach
 Jim Desmond, County of San Diego (CHAIR)
 Jo MacKenzie, Vista Irrigation District
 Stephen Whitburn, City of San Diego (VICE CHAIR)
 Dane White, City of Escondido
 Barry Willis, Alpine Fire Protection District

Alternates Present: David Drake, Rincon del Diablo Municipal Water District
 Harry Mathis, Public (voting)
 John McCann, City of Chula Vista

Members Absent: Andy Vanderlaan, Public (regular)
 Nora Vargas, County of San Diego (alternate)
 Marni von Wilpert, City of San Diego (alternate)

The Acting Commission Clerk confirmed a quorum with eight voting members present. Also present were the following LAFCO staff members: Executive Officer Keene Simonds; Commission Counsel Holly Whatley; Assistant Executive Officer Priscilla Mumpower; Local Government Analyst II Carolanne Ieromnimon; Local Government Analyst I Michaela Peters; GIS/IT Analyst Dieu Ngu; and Executive Assistant Erica Sellen serving as the Acting Commission Clerk.

Commissioner Whitburn left the meeting at 9:20 a.m.

**Item 1b
PLEDGE OF ALLEGIANCE**

Commissioner Mathis led the Pledge of Allegiance.

2. STATEMENT (JUST CAUSE) AND/OR CONSIDERATION OF A REQUEST TO PARTICIPATE REMOTELY (EMERGENCY CIRCUMSTANCES) BY A COMMISSIONER, IF APPLICABLE

None.

3. AGENDA REVIEW

Chair Desmond asked the Executive Officer if there were any requests to remove or rearrange items on the agenda. Executive Officer Simonds requested the Commission take Items 10b and 10c out of order to proceed immediately after Item 6a and in doing so accommodate Vice Chair Whitburn's need to leave by 9:20 a.m. Without any other requests, and with the concurrence of the Commission, the Chair stated the Commission would proceed in order as requested by the Executive Officer.

4. PUBLIC COMMENT AND RELATED ITEMS

Chair Desmond invited anyone from the public to address the Commission on a matter not directly related to an agenda item.

Chair Desmond invited comments from the following registered speaker:

- Tom Kennedy, Rainbow Municipal Water District

5. CONSENT ITEMS

Item 5a

Approval of Meeting Minutes for August 7, 2023

Item presented to approve draft action minutes prepared for the Commission's August 7, 2023 special meeting. Recommendation to approve.

Item 5b

Commission Ratification | Recorded Payments for July and August 2023

Item presented to ratify recorded payments made and received by the Executive Officer for the months of July and August 2023. Recommendation to ratify.

Item 5c

Proposed "Escondido North LLC-Stanley Avenue Reorganization" (Conway) | Annexation to the City of Escondido with Concurrent Detachment from County Service Area No. 135 and Related Actions (RO23-07-A)

Item presented to consider a reorganization proposal initiated by landowner petition with the principal action to annex one legal parcel involving 2.01 unincorporated acres – developed with an existing single-family residence and accessory dwelling unit along Stanley Avenue – to the City of Escondido. A concurrent detachment from County Service Area No. 135 and its regional communication service function is also part of the reorganization. The affected territory is part of a 14.1 acre planned development site tentatively approved by the City for a 56-unit subdivision ("Conway Subdivision"). The purpose of the proposal accordingly is to accommodate the planned development by placing the entire site within the City.

CONSENT ITEMS CONTINUED...

Item 5c continued

Chair Desmond invited comments from the following registered speakers with stated positions to the staff recommendation noted in parenthesis:

- Tom Kennedy (opposition)
- Dylan Bird, Escondido North LLC (support)

Item 5d

Results of Protest Hearings |

Proposed “Fallbrook PUD & Rainbow MWD Wholesaler Reorganizations” – Annexations to Eastern Municipal Water District (RO20-05 and RO20- 04)

Item presented to receive the results of protest hearings held for two coordinated reorganization proposals filed by Fallbrook Public Utility District and Rainbow Municipal Water District. The proposals were conditionally approved by the Commission in July 2023 and involve the transfer of wholesale water service responsibilities within the applicants’ jurisdictional boundaries from the San Diego County Water Authority to Eastern Municipal Water District. The noticed protest hearings were held on August 18, 2023 and marked the culmination of a 21-day period in which landowners and/or registered voters could file written objections to the annexations. No written protests were received for either proposal. Recommendation to formally receive.

Item 5e

Progress Report on the Adopted Workplan

Item presented to receive a progress report on accomplishing the 30 projects included in the adopted workplan for 2023-2024. The report is being presented to the Commission to receive and file with the opportunity to identify potential amendments for future consideration.

Item 5f

Approval of Independent Audit Expense for FY2022-2023

Item presented to consider approval of an independent audit expense in the amount of \$9,950 with O’Conner and Company covering 2022-2023. Staff recommends the Commission approve the expense with any related direction in proceeding with the audit.

Item 5g

Report on Active Proposals and Related Activities

Item presented to receive a status report on active proposals currently on file with LAFCO. Information only.

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Commissioner Willis motioned with a second from Commissioner MacKenzie to approve the consent calendar items with staff recommendations (Alternative One) as presented.

CONSENT ITEMS CONTINUED...

Roll call requested:

AYES: Anderson, Becker, Desmond, MacKenzie, Mathis (voting), Whitburn, White, and Willis

NOES: None

ABSENT: Vanderlaan, Vargas, and von Wilpert

ABSTAINING: None

The Acting Commission Clerk confirmed the motion was approved 8-0.

6. PUBLIC HEARING ITEMS |

COMMISSIONER DISCLOSURE OF EX PARTE COMMUNICATIONS

Item 6a

CONTINUED FROM AUGUST 2023

Proposed “Camino de la Fuente-Wick Change of Organization” |

Annexation to San Diego County Sanitation District and Conforming Sphere of Influence Action (CO22-20)

Item presented to consider a change of organization initiated by a landowner to annex approximately 35.32 acres of unincorporated territory to the San Diego County Sanitation District. The affected territory as submitted comprises two legal parcels presently undeveloped with surface improvements tied to an existing use as a waiting lot for commercial trucks passing through a nearby land port of entry. The proposal purpose is to extend public wastewater service to facilitate the future placement and connection of a toilet trailer. Staff recommends conditional approval of the proposal as submitted with a conforming sphere amendment. Staff also recommends waiver of protest proceedings and exemption findings under the California Environmental Quality Act.

Chair Desmond invited any disclosures from Commissioners on material ex parte communications. No disclosures reported.

Local Government Analyst II Carolanne Ieromnimon provided the staff presentation.

Chair Desmond proceeded to open the public hearing and invited comments from the public.

The Acting Commission Clerk confirmed there were no registered speakers or live e-mail comments.

Chair Desmond proceeded to close the public hearing.

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Commissioner Anderson motioned with second from Commissioner MacKenzie to approve the staff recommendation (Alternative One) as listed in the agenda report.

PUBLIC HEARING ITEMS CONTINUED...

Roll call requested:

AYES: Anderson, Becker, Desmond, MacKenzie, Mathis (voting), Whitburn, White, and Willis

NOES: None

ABSENT: Vanderlaan, Vargas, and von Wilpert

ABSTAINING: None

The Acting Commission Clerk confirmed the motion was approved 8-0.

7. BUSINESS ITEMS

Item 7a

Update to Draft Policy on Out-of-Agency Services

Item presented to review an update to a draft policy governing outside service approvals for cities and special districts. The item is part of LAFCO's adopted workplan and responds to growing attention – and in some instances controversies – involving out-of-agency services due in part to increased communications with local agencies through the municipal service review program. The update incorporates earlier feedback from the Commission following, and subsequent to, reviewing an initial draft at its November 2022 meeting. The aim of the update is to formalize and expand existing practices in administering out-of-agency services activities and in doing so provide clear direction to local agencies to help ensure statutory compliance relative to Commission standards. The item is being presented for discussion and feedback – including whether to add a specific local policy statement to make explicit the Commission determines exemption eligibility – ahead of concluding the public review period and returning for action at a future meeting.

Executive Officer Keene Simonds provided the staff presentation.

Chair Desmond invited comments from the following registered speakers with stated positions to the staff recommendation noted in parenthesis:

- Oliver Smith, LAFCO SDAC Member (opposition)
- Tom Kennedy, Rainbow Municipal Water District (support)

The Acting Commission Clerk confirmed there were two online speakers. Chair Desmond invited comments from the following online speakers:

- Brian Olney, Helix Water District
- Jose Martinez, Otay Water District

Commission discussion followed with feedback to the Executive Officer on suggested changes ahead of staff returning with the item for future formal action.

BUSINESS ITEMS CONTINUED...

Item 7b

Informational Report |

Property Tax Allocations and Exchanges in San Diego County

Item presented to receive an informational report in the form of a brochure on property tax allocations and exchanges in San Diego County. The item has been prepared as an administrative holdover from the prior fiscal year workplan with a focus on the decision-making process with respect to whether property taxes will be reapportioned among local agencies in conjunction with LAFCO approving jurisdictional changes. The item is being presented for information with the opportunity for the Commission to provide feedback before staff finalizes the brochure for formal publication and distribution.

Local Government Analyst I Michaela Peters provided the staff presentation.

Commission discussion followed. No action.

Item 7c

Consideration and Possible Approval of Sixth Amendment to Executive Officer's Employment Contract, Including Salary Adjustment

Item presented to consider a recommendation by the Executive Officer Compensation Committee (Desmond, Whitburn, and Vanderlaan) to approve a fifth amendment to the employment agreement with Executive Officer Keene Simonds.

Legal Counsel Holly Whatley reported provided the staff presentation.

Chair Desmond provided an update from the EO Compensation Committee and the agreement therein that the Executive Officer's performance has been exemplary and merited a salary increase. The Chair advised the specific recommendation of the Committee is to adjust Mr. Simonds' salary to reflect the average salary in the region as shown in attachment two of the staff report – \$224,313.77.

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Commissioner Desmond motioned with second from Commissioner Anderson to approve the Committee recommendation as listed in the agenda report.

Roll call requested:

AYES: Anderson, Becker, Desmond, MacKenzie, Mathis (voting), White, and Willis
NOES: None
ABSENT: Whitburn, Vanderlaan, Vargas, and von Wilpert
ABSTAINING: None

The Acting Commission Clerk confirmed the motion was approved 7-0.

8. EXECUTIVE OFFICER REPORT

Executive Officer Keene Simonds noted bounded copies of the Local Agencies Directory were passed out to the Commission ahead of the meeting. The Executive Officer also noted that this will be Assistant Executive Officer Priscilla Mumpower's last meeting before going on maternity leave.

9. COMMISSIONER ANNOUNCEMENTS | REQUESTS FOR FUTURE ITEMS

Commissioner MacKenzie noted a recent article in the San Diego Union Tribune involving the Grand Jury's recent review of the San Diego Port Authority prompts a question – is the Port subject to LAFCO? After a brief exchange with the Executive Officer, Commissioner MacKenzie requested staff review the topic and advise the Commission accordingly.

10. CLOSED SESSION

Item 10a

Conference with Legal Counsel; Existing Litigation

Government Code Section 54956.9(d)(1)

The Commission finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the Commission in the litigation San Diego County Water Authority v. San Diego County Local Agency Formation Commission et al. (San Diego County Superior Court Case No. 37-2023-000036018-CU-TT-CTL)

Legal Counsel Holly Whatley reported that there was no reportable action.

Item 10b

Public Employee Performance Evaluation

California Government Code Section 54957(b)

Employee: Keene Simonds

Legal Counsel Holly Whatley reported that there was general discussion with no reportable action because Items 10b and 10c will be heard in open session during Item 7c.

Item 10c

Conference with Labor Negotiators

California Government Code section 54957.6

Agency designated representatives: EO Compensation Committee (Chair Desmond; Vice-Chair Whitburn; Commissioner Vanderlaan)

Unrepresented Employee: Executive Officer

Legal Counsel Holly Whatley reported that there was general discussion with no reportable action because Items 10b and 10c will be heard in open session during Item 7c.

11. ADJOURNMENT TO NEXT MEETING

With no further business the Chair adjourned the meeting at 10:36 a.m.

I hereby attest the minutes above accurately reflect the deliberations of the Commission at its October 2, 2023 meeting.

ATTEST,

Erica Sellen
Acting Commission Clerk