

**FINAL**  
**LOCAL AGENCY FORMATION COMMISSION**  
**SPECIAL DISTRICTS ADVISORY COMMITTEE**  
**FEBRUARY 20, 2015 MEETING**

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There being a quorum present, the meeting was convened at 9:30 a.m., by Chairwoman Kimberly Thorner. Attending were: **Committee Members** –Judy Hanson (Leucadia WWD), Bill Haynor (Whispering Palms CSD), John Pastore (Rancho Santa Fe CSD), Augie Scalzitti (Padre Dam MWD), Janine Sarti (Palomar Health), Dennis Shepard (North County Cemetery District), Terry Thomas (South Bay ID) and Kimberly Thorner (Olivenhain MWD) and Margarete Morgan (Vista FPD). Absent were: **Committee Members:** Gary Arant (Valley Center MWD), Gary Croucher (Otay WD), Tom Pocklington (Bonita-Sunnyside FPD). Others Attending: Harry Ehrlich, LAFCO Consultant; Michael Ott, LAFCO Executive Officer; Tom Kennedy, General Manager, Rainbow MWD; Bill Pellman, Special Legal Counsel for Rainbow MWD; Brian Brady, General Manager, Fallbrook PUD; and Paula de Sousa, Special Legal Counsel, Fallbrook PUD.

Due to the new attending members, Chairwoman Kim Thorner, asked if all of the attending members would introduce themselves and provide a brief relative background to the Advisory Committee and Special Districts agencies.

**Item 2**

**Approval of Minutes of December 19, 2014**

Chairwoman Thorner, indicated that Rainbow Municipal Water District (MWD) submitted a letter to her via e-mail regarding the review and possible revisions of the minutes by the committee members. It was noted that committee members received the Rainbow MWD request and that there were no requests for revisions to the minutes by any of the members present.

Terry Thomas requested that the Committee acknowledge Tom Pocklington for his many years of service as the Committee Chairperson.

ON MOTION of Terry Thomas, seconded by Bill Haynor, and approved unanimously by the Committee members present. The Committee dispensed with reading the December 19, 2014 minutes and approved said minutes.

**Item 3**

**Consultant's Recommended Agenda Revisions**

Harry Ehrlich indicated there are no revisions to the Agenda Items presented at today's meeting.

**Item 4**  
**Public Comment**

There were no members of the public requesting to speak.

**Item 5**  
**Consider Action to Nominate Three Persons to Fill Vacancies for 2015/2016**

Judy Hanson provided the Nomination Committee's recommendations from the potential candidates to fill three of the four current vacancies. The three candidates provided a brief background to the committee members present.

On MOTION by Margarett Morgan and seconded by Bill Haynor, and carried unanimously to accept and confirm the recommendations from the Nomination Committee and approve the appointments of the following new members to fill three of the four Special Districts Advisory Committee vacancies:

Julianne Nygaard: Boardmember, Tri-City Healthcare District, term: 10/16;

Joel Scalzitti, Boardmember, Helix Water District; term: 10/16;

Greg Thomas, General Manager, Rincon del Diablo MWD; term: 10/15.

**Item 6**  
**Status Report on Fallbrook PUD/Rainbow MWD Reorganization**

Harry Ehrlich provided a brief introduction to the committee members regarding the recommendations made at the last meeting held in December 2014. It was noted that the two District General Managers were present as well as Rainbows' Legal Counsel, who will speak to the committee or answer any questions after Michael Ott's presentation.

Michael Ott, LAFCO's Executive Officer provided an update related to the Fallbrook Public Utilities District (PUD)/ Rainbow Municipal Water District (MWD) Reorganization since the last meeting held on December 19, 2014. Mr. Ott explained that two of three scheduled meetings were held at the LAFCO Office to encourage the two districts to resolve differences and discuss possible alternatives to the proposal. He indicated, after two ad hoc meetings were held, both districts acknowledged they were at an impasse. Mr. Ott explained that the Committee's suggestion was discussed regarding the governance structure to have an expanded board consisting of up to 9 members with either all members elected at-large or, a combination of divisional (territorial) and at-large members. Mr. Ott informed the Committee that Rainbow MWD originally opposed an at-large governance component, and, on February 3, 2015, Rainbow MWD reiterated its opposition to the modified reorganization if Fallbrook PUD would be

governed by any component involving an at-large governance structure. Mr. Ott indicated Fallbrook PUD expressed reservation and opposition to the designation of the successor agency as a MWD because the latent powers for PUD's are more consistent with community needs. Fallbrook PUD also opposed the reactivation of the JPA because the Rainbow MWD has stated that a third general manager would need to be hired to run the organization.

Michael Ott explained LAFCO has not developed a hearing schedule for the Commission at this time, but anticipates that it will be presented within the next six months. Mr. Ott indicated that the next step in the process will be to schedule the proposal for LAFCO consideration. He explained that although both parties have not reached an agreement on these issues, LAFCO can exercise its authority to resolve the issues by approving, disapproving, or modifying the proposed reorganization initiated by Fallbrook PUD. Mr. Ott explained LAFCO's reconsideration and protest proceedings following the Commission's decision regarding the reorganization.

Additional questions and discussion amongst committee members: Judy Hanson, Terry Thomas, Kim Thorner, John Pastore, Janine Sarti; Greg Thomas and LAFCO Executive Officer, Michael Ott regarding clarification of mapping/at-large description; JPA's; polarization; California Voting Rights Act (CVRA); analysis of future community impact and modification of governance.

Public attendees requesting to speak to the committee were: Bill Pellman, Special Legal Counsel for Rainbow MWD; Paula de Sousa, Special Legal Counsel for Fallbrook PUD; Brian Brady, General Manager, Fallbrook PUD; and Tom Kennedy, General Manager, Rainbow MWD.

Bill Pellman, Special Counsel for Rainbow MWD provided information and his comments regarding the ratepayers risks involved with an existing Ordinance No. 95-1 that will apply; CVRA issues regarding an elected governing body; and the Cortese-Knox-Hertzberg Act which applies to this reorganization.

Paula de Sousa, Special Counsel for Fallbrook PUD, responded to the factors raised by Mr. Pellman: 1) Regarding Ordinance No. 95-1, she indicated per case law, initiatives and/or ordinances cannot "bootstrap" what LAFCO can do and that their authority allows the dissolution of entities and therefore, once the district no longer exists, the Ordinance would cease to exist for the successor unless otherwise specified by LAFCO; 2) Under statutory law of the Public Utilities District Act, Fallbrook submitted an application. Ms. de Sousa, indicated that the CVRA and the challenges raised are applicable to cities; school districts and other particular types of special districts.

Brian Brady, General Manager, Fallbrook PUD thanked the Committee for taking the proposal under consideration. Mr. Brady commented on the savings as a result of the JPA and how the proposed reorganization would continue to benefit the customers.

In response to Mr. Pellman's and Ms. de Sousa's legal analysis regarding Ordinance No. 95-1, Executive Officer Michael Ott, informed the Committee that if LAFCO approves a reorganization and it results in the dissolution of Rainbow MWD, the ordinance would not automatically become a requirement to the reorganized district.

Chairwoman Kim Thorner asked the committee members to make any additional comments or if they have questions. Additional comments discussed were: additional recommendations from the Committee, creating a larger district; proposal modifications; constituents that share services; annual quantification; financial feasibility; impacts to other districts; and documents available on the LAFCO website.

There was no action required for this item.

### **Item 7**

#### **Committee Member Announcements and Agency Activity Updates**

Chairwoman Thorner requested a roundtable from the committee members to provide any information regarding announcements or project/activities within their districts.

There being no further business to come before the Special Districts Advisory Committee, it was noted that the next meeting is tentatively planned for March 20, 2015, if a meeting is to be held. The meeting was adjourned at 10:55 a.m.

**Ruth Arellano  
Administrative Assistant**