



FINAL MINUTES

LAFCO REGULAR MEETING
Thursday, May 22, 2008, 9:00 a.m.
City of Santa Ana, City Council Chambers
22 Civic Center Plaza
Santa Ana, CA

1. CALL TO ORDER

Chair Withers called the regular meeting of the Local Agency Formation Commission (LAFCO) to order at 9:05 a.m.

2. PLEDGE OF ALLEGIANCE

Commissioner John Moorlach led the pledge of allegiance.

3. ROLL CALL

The following Commissionersers and alternates were present:

- **Chair Withers**
- **Vice Chair Susan Wilson**
- **Commissioner Robert Bouer**
- **Commissioner Bill Campbell**
- **Commissioner Peter Herzog**
- **Commissioner John Moorlach**
- **Commissioner Arlene Schafer**
- **Alternate Commissioner Charley Wilson**

The following Commissioners were absent at roll call:

- **Alternate Commissioner Pat Bates**
- **Alternate Commissioner Patsy Marshall**
- **Alternate Commissioner Rhonda McCune**

The following LAFCO staff members were present:

- **Legal Counsel Scott Smith**
- **Executive Officer Joyce Crosthwaite**
- **Assistant Executive Officer Bob Aldrich**
- **Senior Project Manager Carolyn Emery**
- **Commission Clerk Esther Garcia-Negrete**
- **Policy Analyst Benjamin Legbandt**

- Student Intern Joe Serrano

4. PUBLIC COMMENT

Chair Withers requested public comments on any non-agenda item. There were none.

5. CONSENT CALENDAR

None

6. PUBLIC HEARING

6a. – Proposed Incorporation of Rossmoor (IN 07-02)

Assistant Executive Officer Bob Aldrich reviewed the proposed Rossmoor incorporation application and the key factors the Commission must consider. He stated that the proposal included the incorporation of the Rossmoor community and the concurrent dissolution of the Rossmoor Community Services District (CSD). He indicated that there were no boundary issues regarding the incorporation. Assistant Executive Officer Aldrich discussed the current level of services within the proposed area and highlighted the conclusions of the Comprehensive Fiscal Analysis (CFA) prepared for the proposal. He added that the CFA concluded that the proposed incorporation is fiscally infeasible without implementation of utility user tax. He reviewed options regarding long-term governance for the Rossmoor area and discussed potential annexation of the area to adjacent cities. He added that neither the City of Seal Beach nor Los Alamitos expressed interest in annexing Rossmoor at this time. Assistant Executive Officer Aldrich concluded with a discussion on the ballot language for the proposed incorporation and stated that the measure, if approved by the Commission, would be placed on the November 4, 2008 ballot.

Commissioner Susan Wilson requested elaboration on discussion in the staff report regarding the potential for the County to raise fees or reduce municipal services in Rossmoor. Assistant Executive Officer Aldrich reviewed the services identified by the County which could be reduced or eliminated. He added that County implementation of any program to reduce services or increase fees in Rossmoor were preliminary at this time.

Gary Thompson, Consultant, GST Consulting, summarized the CFA prepared for the proposed incorporation. He stated that the CFA found that the incorporation is fiscally feasible with at 7 percent utility user tax. He also summarized the sensitivity analysis for a utility user tax of 6 percent and added that the study showed that a tax below 7 percent would result in a future budget deficit.

Chair Withers asked for Commissioner comments or questions to staff.

Commissioner Moorlach asked for clarification of which utilities would be taxed if incorporation is successful and how these were selected. Assistant Executive Officer Aldrich

replied that the utilities include water, natural gas, and electricity. He further stated that these utilities were selected in consultation with the project applicant and legal counsel.

Commissioner Moorlach noted his preference for placing two measures on the ballot should the Commission approve the proposed incorporation. He added that this would include a measure for 7 percent utility user tax and another for a 9 percent utility user tax.

Chair Withers thanked Commissioner Moorlach for his comments and acknowledged comments from the public during the community workshop held in March.

Chair Withers opened the public hearing.

Shawn Wilson, President, Rossmoor Community Services District, presented an overview of the CSD's application for incorporation and noted the district's support for a 7 percent utility user tax ballot measure.

Erwin Anisman and Mark Nitikman, Board Members, Rossmoor Community Services District, expressed their support for incorporation of Rossmoor and preference for a 7 percent utility user tax measure.

Rossmoor residents and other interested parties addressed the Commission and expressed various viewpoints on the proposed incorporation.

Henry Taboada, General Manager, Rossmoor Community Services District, expressed his support for incorporation.

Chair Withers closed the public hearing.

Commissioner Moorlach inquired about the transition process and timeframe should the incorporation be successful.

Chair Withers responded that the transition period is memorialized in the terms and conditions of the LAFCO incorporation resolution.

Commissioner Herzog noted his past and present support for cities but emphasized the importance of financial feasibility for incorporations. He added that there have been comparisons between the proposed Rossmoor incorporation and other incorporations but noted the key differences. He summarized the Commission's responsibilities when evaluating key projects such as incorporations and cautioned the Commission about approving an incorporation that does not have a sound fiscal foundation. He stated he opposed implementation of a utility user tax.

Commissioner Bouer shared the experience of the Laguna Woods incorporation and noted the one key benefit of incorporating is state representation for residents. He added that he supports incorporation whenever possible.

Commissioner Moorlach expressed his support for the incorporation of Rossmoor but asked for further discussion on the utility user tax issue. He inquired that if the incorporation is approved whether the city council election would also be selected on the November ballot. Assistant Executive Officer Aldrich replied that the city council elections would be on the November ballot.

Commissioner Moorlach requested that legal counsel comment on options for the utility user tax measure.

Legal Counsel Smith commented that that there is a word limitation for the ballot measure and provided an opinion on the various ballot options.

Chair Withers inquired about the possibility of returning to the Commission at a later date regarding proposed ballot language. Executive Officer Crosthwaite responded that due to the deadlines involving the election code, it would not possible to continue this issue to a later date if the Commission wanted to place the proposed incorporation on the November 2008 ballot.

Commissioner Campbell requested clarification regarding the issues raised in a letter submitted to the Commission regarding the draft resolution and ballot language. Legal Counsel Smith addressed the issue.

Commissioner Campbell inquired if the new city would be responsible for flood control and if this was accounted for in the CFA. Executive Officer Crosthwaite responded that the city would take over some of the maintenance responsibilities of local flood control facilities and the County would continue to maintain regional flood control facilities.

Gary Thompson, Consultant, GST Consulting, clarified that the resolution contained a slight typographical error and the figures used in the CFA are correct. He added that the cost of the maintenance for local flood control facilities for the proposed new city was accurately reflected in the CFA.

Commissioner Campbell inquired if the proponents for incorporation have conducted any polling regarding the utility user tax issue within their community.

Eric Christiansen, a Rossmoor resident, responded that a survey was sent out to Rossmoor residents by the Los Alamitos School District to assess support for a school bond issue. He indicated that the survey also included questions regarding incorporation and a proposed 7 percent utility tax. Of the 200 homeowners who responded, approximately 37 percent expressed some level of support for the utility tax, and 49 percent expressed some level of opposition to implementation of a utility tax.

Commissioner Campbell relayed his sentiments as a resident of Villa Park and the importance of local governance. He also opined that the 7 percent is an adequate percentage

for the utility user tax and is concerned that the incorporation will fail if two measures are placed on the ballot

Vice Chair Wilson motioned to accept staff recommendations.

Commissioner Schafer thanked the public for their comments and stated her support for the incorporation of Rossmoor.

Executive Officer Crosthwaite restated the motion to accept staff recommendations.

Commissioner Moorlach introduced an amendment to the motion proposing a 7 percent user utility tax.

Vice Chair Wilson, the maker of the motion accepted **Commissioner Moorlach's** amendment.

MOTION:	Approve motion to approve staff recommendations with corrections to the resolution and amendment to the ballot language to approve both the incorporation and a 7 percent utility tax (IN 07-02). (Susan Wilson)
SECOND:	Arlene Schafer
FOR:	Bob Bouer, Bill Campbell, John Moorlach, Arlene Schafer, Vice Chair Susan Wilson, and Chair John Withers
AGAINST:	Peter Herzog
ABSTAIN:	None
MOTION PASSED	

Commissioner Moorlach presented an additional motion to add an additional ballot measure to the incorporation ballot that would add an option for a 9 percent utility user tax.

Commissioner Campbell noted his past support of options for voters but expressed concern that an additional measure might confuse voters and might prevent either utility tax measure from achieving a majority vote.

Vice Chair Wilson noted her concern that an additional measure might be difficult for voters to understand and may be legally challenged.

Chair Withers expressed his support for a 7 percent utility user tax and believed that the new city will have enough funds to adequately balance their budget.

Commissioner Herzog commented that a 9 percent utility user tax is a better option for a long term revenue source for the community.

MOTION: Add an additional ballot measure to the 2008 November ballot, called "Measure C", that would provide an option for a 9 percent utility user tax. (John Moorlach)

SECOND: Peter Herzog

FOR: Bob Bouer, Peter Herzog, John Moorlach Arlene Schafer,

AGAINST: Bill Campbell, Vice Chair Susan Wilson, and Chair John Withers

ABSTAIN: None

MOTION PASSED

7. COMMISSIONER COMMENTS

None

8. INFORMATIONAL ITEMS & ANNOUNCEMENTS

Executive Officer Crosthwaite informed the Commission of the upcoming CALAFCO conference at the Universal Studios Sheraton in Universal City.


9. CLOSED SESSION

None

12. ADJOURNMENT

The meeting adjourned at 11:50 am.

JOHN WITHERS, Chair
Orange County Local Agency Formation Commission

By: 
Esther Garcia-Negrete
Commission Clerk