



FINAL MINUTES

LAFCO REGULAR MEETING

Wednesday, September 09, 2009, 9:00 a.m.

Planning Commission Hearing Room, Hall of Administration
10 Civic Center Plaza
Santa Ana, CA

1. CALL TO ORDER

Chair Wilson called the regular meeting of the Local Agency Formation Commission (LAFCO) to order at 9:02 a.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Bill Campbell led the pledge of allegiance.

3. ROLL CALL

The following Commissioners and alternates were present:

- **Chair Susan Wilson**
- **Vice Chair Peter Herzog**
- **Commissioner Cheryl Brothers**
- **Commissioner Bill Campbell**
- **Commissioner John Moorlach**
- **Commissioner Arlene Schafer**
- **Alternate Commissioner Pat Bates**
- **Alternate Commissioner Patsy Marshall**
- **Alternate Commissioner Derek J. McGregor**
- **Alternate Commissioner Charley Wilson**

The following Commissioners were absent at roll call:

- **Commissioner John Withers** (Arrived at 9:14 am)

The following LAFCO staff members were present:

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

- Financial Consultant Joe Serrano

4. APPROVAL OF MINUTES

August 12, 2009 – Strategic Planning Session Minutes

Chair Wilson called for any changes and approval of the August 12, 2009 strategic planning session minutes. There were none.

Commissioner Bates noted that she did not attend the August Strategic Planning Session.

MOTION: Approve August 12, 2009 strategic planning session minutes without revision. (Bill Campbell)
SECOND: Cheryl Brothers
FOR: Cheryl Brothers, Bill Campbell, Peter Herzog, John Moorlach, Arlene Schafer, and Susan Wilson
AGAINST: None
ABSTAIN: None
MOTION PASSED

5. PUBLIC COMMENT

Chair Wilson requested public comments on any non-agenda item.

Trudy Hall, Director, Mesa Consolidated Water District, introduced newly appointed Mesa Consolidated Water District Division 2 Director Jim Fisler.

6. CONSENT CALENDAR

None

7. CONTINUED PUBLIC HEARING

7a. – Sphere of Influence Update for the City of Rancho Santa Margarita (SOI 09-09)

Assistant Executive Officer Bob Aldrich noted that the Sphere of Influence review for the City of Rancho Santa Margarita was continued from the June 10, 2009 meeting. The extension of time allowed the City of Rancho Santa Margarita and surrounding unincorporated communities additional time to discuss sphere issues and long term governance options. He noted that since the extension, LAFCO staff has participated in a series of meetings between the City and affected communities. To allow these discussions to continue, Assistant Executive Officer Aldrich requested that the City of Rancho Santa Margarita's Sphere of Influence review be continued until March 2010. He added that the City of Rancho Santa Margarita and surrounding communities support staff's recommendation.

Commissioner Bates requested that the Commission support the extension of time for the City of Rancho Santa Margarita Sphere of Influence review. She commented that the meetings have been effective.

Chair Wilson noted that she had heard that the discussions were productive.

Commissioner Moorlach inquired the length of the extension for the sphere review. Assistant Executive Bob Aldrich responded that the sphere review would come before the Commission in six months at the March 2010 meeting.

MOTION: Approve continuance of the City of Rancho Santa Margarita Sphere of Influence review (SOI 09-09) and MSR Determinations (MSR 09-05) until the March 2010 meeting. (Arlene Schafer)

SECOND: Peter Herzog

FOR: Cheryl Brothers, Bill Campbell, Peter Herzog, John Moorlach, Arlene Schafer, and Susan Wilson

AGAINST: None

ABSTAIN: None

MOTION PASSED

8. PUBLIC HEARING

8a. – Proposed Lower Rosan Ranch Reorganization to the City of San Juan Capistrano (RO 08-02)

Financial Consultant Joe Serrano summarized the proposed reorganization to the City of San Juan Capistrano. He noted that the .99-acre property is currently being used as a vehicle storage facility. Mr. Serrano stated that if approved, the property would be zoned for residential and commercial use. He recommended that the Commission approve the reorganization, amend the sphere of influence for the City of Dana Point to exclude this territory and concurrently detaching it from the City. He also recommended that the Commission approve the amendment of the sphere of influence for City of San Juan Capistrano to include the territory and concurrently annexing it to the City of San Juan Capistrano.

Chair Wilson asked for Commissioner comments. There were none.

Chair Wilson opened the public hearing.

Grant Taylor, Assistant Community Development Director, City of San Juan Capistrano, speaking on behalf of City Manager Joe Tait, expressed the City's support for the reorganization.

Chair Wilson closed the public hearing.

MOTION: Approve the proposed Lower Rosan Ranch Reorganization to the City of San Juan Capistrano. (RO 08-02) (John Moorlach)
SECOND: Peter Herzog
FOR: Cheryl Brothers, Bill Campbell, Peter Herzog, John Moorlach, Arlene Schafer, and Susan Wilson
AGAINST: None
ABSTAIN: None
MOTION PASSED

8b. – Municipal Water District of Orange County (MWDOC) Governance Study

Executive Officer Joyce Crosthwaite introduced the team of consultants that assisted in the preparation of the MWDOC Governance Study. Executive Officer Crosthwaite informed the Commission the study would be presented by LAFCO financial consultant Joe Serrano, Mary Grace Pawson from Winzler & Kelly, and herself. She stated the purpose of the study was to address unresolved issues that were raised during the MWDOC Municipal Service Review: (1) what are the governance options for MWDOC and its member agencies; (2) what are the fiscal impacts of those options; and (3) what are the legal or political barriers, if any, to the implementation of those options. She noted that the study is not a critique of the agency, does not make any recommendations, or perform a sensitivity analysis. Ms. Crosthwaite turned the presentation over to Financial Consultant Joe Serrano.

Mr. Serrano explained that the study was designed to examine the full range of options from a fiscal, legal, and implementation perspective. He noted that the stakeholders had initially created a list of 11 possible government structure options. Only three were determined to be feasible and they were: (1) maintaining status quo, (2) dissolving MWDOC and creating a County Water Authority (CWA), and (3) detaching the South County water agencies and creating a County Water Authority. During subsequent analysis, the option of dissolving MWDOC and creating a CWA was eliminated. The final options were: (1) Maintaining the status quo and (2) detaching the South County water agencies and creating a County Water Authority with both a six and nine-member CWA option.

Mr. Serrano further explained that there were five stakeholder meetings in which agencies were allowed to voice their opinions as the study was developed. He stated that these meetings also allowed opportunities for the agencies to communicate with the consulting firm directly. Mr. Serrano turned the presentation over to Mary Grace Pawson of the consulting firm Winzler & Kelly.

Commissioner Withers entered the room.

Mary Grace Pawson resumed the presentation by discussing the major conclusions of the report. She stated that there were two viable governance options: one was the baseline MWDOCs status quo; the other was the creation of a County Water Authority representing either six or nine South County agencies and leaving MWDOC to represent the remaining retail water agencies.

She noted that the formation of a CWA with South County agencies would require a reorganization and that the reorganization might impact Orange County's representation on the Metropolitan Water District (MWD) by adding an additional member. She noted that the study determined that the remaining options (maintain MWDOC as is and forming a South County CWA) are all feasible.

Executive Officer Joyce Crosthwaite completed the staff presentation by stating that there would be many speakers with various opinions of the study. She noted that the agencies need to cooperate with each other to determine the best choice for their constituents. She concluded the presentation requesting the Commission receive and file the study.

Chair Wilson asked for Commissioner comments.

Commissioner Campbell requested an explanation of the variance in the wholesale water rates referenced in the study. **Commissioner Campbell** also requested clarification of the reasoning behind MWDOC's utilization of a melded water rate.

Ms. Pawson responded that Inland Empire Utilities Agency only imports untreated agricultural water, which MWD sells at a lower rate. She also noted that other wholesale water providers own their own infrastructure and that maintenance is factored into the water rates. She indicated that MWDOC utilizes a portfolio approach to water supply and other agencies use alternative methodologies. Ms. Pawson concluded that the method in which MWDOC sets rates is a policy decision by the MWDOC Board of Directors.

Commissioner Moorlach inquired into the role that Orange County Water District (OCWD).

Ms. Pawson stated that OCWD manages the ground water basin and works in partnership with MWDOC to model predicted withdrawals from the ground water basin.

Commissioner Moorlach inquired if the option for a super agency was ever explored.

Executive Officer Crosthwaite responded that option was not explored primarily because the County Water Authority act prohibits a CWA from supplying water to a PUC - regulated water agency and therefore would disenfranchise the customers of Golden State Water Company.

Commissioner McGregor requested clarification of the method of determining MWD representation from Orange County.

Ms. Pawson replied that each member agency has one representative based on the assessed value mapped and one additional representative for every five million dollars of assessed value within MWD's service area.

Chair Wilson opened the public hearing

Wayne Clark, Board President, MWDOC relayed the Board's sentiments regarding the process and the conclusions of the Governance Study. He thanked the LAFCO staff and Commission for their work. He noted that as a result of the process there is an increased atmosphere of cooperation and cordiality between MWDOC and the member agencies. He concluded with the introduction of introduced newly appointed Board Member Jeff Thomas.

Vice Chair Herzog asked Mr. Clark if he had any objection to the Governance Study being received and filed. Mr. Clark responded that he had no objection to the Commission receiving and filing the report.

Don Chadd, General Manager, Trabuco Canyon Water District ceded his time to Matt Disston.

Roger Faubel, Director, Santa Margarita Water District ceded his time to Matt Disston.

Ed Mandich, Director, Trabuco Canyon Water District ceded his time to Matt Disston.

Matt Disston, President, Trabuco Canyon Water District, spoke on behalf of six South County water agencies (El Toro Water District, Irvine Ranch Water District, Moulton Niguel Water District, Santa Margarita Water District, South Coast Water District, and Trabuco Canyon Water District). He acknowledged the stakeholders for the work on the MWDOC Governance Study. He noted that the concerns regarding MWDOC's current governance structure are budget growth, MWDOC's reserve levels, the expansion of services, MWDOC's methods of cost recovery, the lack of public scrutiny, and lack of direct accountability to the member agencies. He concluded by stating that the six South County water agencies are committed to engaging in meaningful discussions with MWDOC and encouraged the Commission to receive and file the MWDOC Governance Study.

Commissioner Campbell noted that one benefit of a centralized agency such as MWDOC is that they serve as a planning organization for water usage, supply, and distribution.

Executive Officer Crosthwaite clarified that as of December 2006 the MWDOC Board of Directors made changes to the funding structure to better align the cost of services with the agencies that benefit from the service.

Commissioner Bates stated that one of the main issues between the two groups is the definition of core services. She asked Mr. Disston to give an example of a service that the agencies already provide and which MWDOC has expanded their scope.

Mr. Disston responded that two examples are school outreach programs and legislative advocacy services.

David Entsminger, Water Services Manager, City of Garden Grove, noted that the City of Garden Grove has not issued a formal opinion, but he supports maintaining MWDOC's status quo.

Bob Kellison, Field Services Manager, City of Fountain Valley, expressed the City of Fountain Valley's support to maintain the MWDOC status quo. He also stated that there is concern that representation on the MWD board might be impacted negatively..

Trudy Hall, Director, Mesa Consolidated Water District, noted Mesa Consolidated Water District supports MWDOC in its current form.

Howard Johnson, Utilities Manager, City of Huntington Beach, encouraged the Commission to receive and file the support and MWDOC as the status quo.

Commissioner Campbell requested clarification of the term "status quo".

Mr. Johnson responded that he would not like to see MWDOC fractured.

Jim Leach, Chairman, South Orange County Regional Chamber of Commerce, supported the staff recommendation to receive and file the MWDOC Governance Study. He commented that the status quo should always be reevaluated to look for efficiency.

Jeff Thomas, Director, Municipal Water District of Orange County (MWDOC), introduced himself and stated he looked forward to addressing any concerns that remain.

Gary Thompson, Mayor, City of Rancho Santa Margarita, commented that he is very encouraged by the comments from the MWDOC directors. He concluded that if the South County water agencies decide to file an application, the City of Rancho Santa Margarita is prepared to support the reorganization. He concluded by stating his support to receive and file the MWDOC Governance Study.

Commissioner Campbell asked Mr. Thompson if the City Council is prepared to support an application for reorganization that might result in a potential increase to ratepayers. Mr. Thompson responded that although there currently is no formal resolution, it has previously been discussed and believes the City would support it.

Ken Vecchiarelli, General Manager, Yorba Linda Water District, stated that his Board supports MWDOC's existing governance structure. He commented that all the agencies share goodwill, strength, and knowledge and will work to resolve the remaining issues.

Grant Taylor, Assistant Community Development Director, City of San Juan Capistrano, spoke on behalf of City Manager Joe Tait and expressed his support to receive and file the Governance Study.

Chair Wilson Closed the public hearing

Commissioner Campbell stated that staff and consultants delivered what the study required. He expressed his desire that, through dialogue, the agencies can work together.

Vice Chair Herzog commented that he was pleased to hear the positive remarks by the speakers and hoped that the agencies could come to an agreement.

Commissioner Withers thanked Director Clark and welcomed Director Jeff Thomas to the MWDOC board.

Commissioner Bates stated that she would like the agencies to inform LAFCO of the progress of the continued dialogue.

MOTIONS: **Receive and file the Municipal Water District of Orange County Governance Study. (Peter Herzog)**
SECOND: **Arlene Schafer**
FOR: **Cheryl Brothers, Bill Campbell, Peter Herzog, John Moorlach, Arlene Schafer, Susan Wilson, and John Withers**
AGAINST: **None**
ABSTAIN: **None**
MOTION PASSED

9. COMMISSION DISCUSSION AND ACTION

9a. – CALAFCO Annual Conference

Executive Officer Crosthwaite requested the Commission inform the Commission Clerk if they will be attending the CALAFCO annual conference at Yosemite no later than September 28th.

9b. – 2009-2010 LAFCO Work Plan

Executive officer Crosthwaite provided a brief staff report of the 2009-2010 Work Plan.

Commissioner Moorlach inquired how many of the 26 islands remaining are in the 2nd supervisorial district.

Senior Project Manager Carolyn Emery provided a brief overview of the island inventory in the 2nd supervisorial district.

Commissioner Moorlach stated that his office has been communicating with the developers of Banning Ranch and the City Councils of Costa Mesa and Newport Beach to see if an

agreement could be reached on an exchange of property. He also inquired about the status of the County Boundary Report.

Executive Officer Crosthwaite responded that the efforts are currently stalled.

Commissioner Brothers asked Senior Project Manager Carolyn Emery if she had met with the City Council members to discuss the County Boundary Report.

Ms. Emery responded that all meetings have been with the city staff members who agreed to report to their respective city councils.

Commissioner Campbell stated that his staff is working with Orange Park Acres regarding potential annexation and wanted to know if staff resources could be accommodated should an application be filed. Executive Officer Crosthwaite responded that they could.

10. COMMISSIONER COMMENTS

Vice Chair Herzog discussed the flyer sent by the Association of Orange County Deputy Sheriffs and expressed his dissatisfaction with the union's efforts to distort the facts. Chair Wilson provided a brief synopsis of the Association of Orange County Deputy Sheriffs' involvement in derailing previous annexation efforts. She also informed the Commission that she attended a Sunset Beach Homeowners Association meeting and provided an overview of the meeting. She noted that it was well attended.

Commissioner Campbell thanked **Chair Wilson** for attending the workshop.

Commissioner Moorlach commented that in some cities with unincorporated county islands multiple trash hauling companies are used and observed it may be more efficient to use one trash hauler. He requested that Executive Officer Crosthwaite contact Mike Giancola, Director of Orange County Waste & Recycling, to look at options.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

None

12. CLOSED SESSION

12a. – Public Employee Performance Evaluation

The Commission met in closed session to discuss the evaluation of the Executive Officer. There was no reportable action.

12b. – Conference with Labor Negotiators

13. NEW BUSINESS

13a. – Discussion to Renew Executive Officers Contract

MOTIONS: Renew Executive Officers contract for one year at the same terms as in the previous year's contract.

SECOND:

FOR: Cheryl Brothers, Bill Campbell, Peter Herzog, John Moorlach, Arlene Schafer, Susan Wilson, and John Withers

AGAINST: None

ABSTAIN: None

14. ADJOURNMENT

The meeting adjourned at 10:50 am.

Susan Wilson, Chair
Orange County Local Agency Formation Commission

By: 

Esther Garcia-Negrete
Commission Clerk