



FINAL MINUTES

LAFCO REGULAR MEETING

Wednesday, June 9, 2010, 9:00 a.m.

Planning Commission Hearing Room, Hall of Administration

10 Civic Center Plaza

Santa Ana, CA

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

Commissioner McGregor led the pledge of allegiance.

3. ROLL CALL

The following Commissioners and Alternates were present:

- **Chair Peter Herzog**
- **Commissioner Cheryl Brothers**
- **Commissioner Arlene Schafer**
- **Commissioner Susan Wilson**
- **Commissioner John Withers**
- **Alternate Commissioner Derek J. McGregor**

The following Commissioners were absent at roll call:

- **Vice Chair John Moorlach**
- **Commissioner Bill Campbell** (arrived at 9:07)
- **Alternate Commissioner Pat Bates**
- **Alternate Commissioner Patsy Marshall** (arrived at 9:13 am)
- **Alternate Commissioner Charley Wilson**

The following LAFCO staff members were present:

- **Legal Counsel Clark Alsop**
- **Executive Officer Joyce Crosthwaite**
- **Assistant Executive Officer Carolyn Emery**
- **Analyst Benjamin Legbandt**

- Analyst Joe Serrano
- Commission Clerk Esther Garcia-Negrete

4. APPROVAL OF MINUTES

May 12, 2010 – Regular Commission Meeting Minutes

Chair Herzog called for any changes of the May 12, 2010 regular Commission meeting minutes. There were none.

MOTION: Approve May 12, 2010 Regular Commission Meeting minutes without revision. (John Withers)
SECOND: Cheryl Brothers
FOR: Bill Campbell, Peter Herzog, Cheryl Brothers, Susan Wilson, and John Withers.
AGAINST: None
ABSTAIN: Arlene Schafer
MOTION PASSED

5. PUBLIC COMMENT

Chair Herzog requested public comments on any non-agenda item. No public comments were made.

6. CONSENT CALENDAR

6a. – Quarterly Legislative Report

6b. – Quarterly Project Calendar

Chair Herzog called for approval of the consent calendar.

MOTION: Receive and file the June 9, 2010 Quarterly Legislative Report and Project Calendar. (Arlene Schafer)
SECOND: Susan Wilson
FOR: Bill Campbell, Cheryl Brothers, Peter Herzog, Arlene Schafer, Susan Wilson, and John Withers.
AGAINST: None
ABSTAIN: None
MOTION PASSED

7. CONTINUED PUBLIC HEARING

7a. –Proposed Latent Powers Activation For Three Arch Bay Community Services District (LP 09-07)

Policy Analyst Benjamin Legbandt noted that the request was withdrawn and that he was available to answer Commissioner questions.

Chair Herzog noted that the Three Arch Bay Community Services District sent the Commission a letter requesting to withdraw their application.

7b. –Sphere of Influence Update for the City of Rancho Santa Margarita (SOI 09-09) and reconfirmation of MSR determinations (MSR 09-05)

Executive Officer Joyce Crosthwaite reminded the Commission of correspondence included in their Commission folders from Supervisor Bates and the City of Rancho Santa Margarita. She noted a correction to the government code section reference contained in the draft resolution. Executive Officer Crosthwaite acknowledged everyone involved for their contribution to the working group. Ms. Crosthwaite noted that it is the Commission's mandated responsibility to set and maintain sphere of influence boundaries. Executive Officer Crosthwaite clarified that the staff's recommendation is to amend the City of Rancho Santa Margarita's sphere boundary only. She explained that the Commission, the City, residents of the affected area, and the County all have the authority to veto an annexation.

Chair Herzog called for questions from the Commission.

Commissioner Campbell inquired regarding the City of Rancho Santa Margarita's concern that a potential sphere amendment might require an amendment to their general plan resulting in additional expenses to the city. Executive Officer Crosthwaite stated that a sphere amendment would not require an amendment to the city's general plan.

Chair Herzog opened the public hearing

Tony Beall, Mayor Pro Tem for the City of Rancho Santa Margarita, expressed his opposition to amending the City of Rancho Santa Margarita sphere boundary. He requested the Commission continue the item to allow the City Council ample time to discuss the potential boundary amendment.

Steve Hayman, City Manager for the City of Rancho Santa Margarita, concurred with Mayor Pro Tem Beall. Mr. Hayman stated that the Council has taken a neutral position but would prefer the opportunity to thoroughly consider the issues among themselves. He notified the

Commission that the entire Council will not be in attendance at their regularly scheduled council meetings until July, hence, they request the Commission continue this item.

Commissioner Schafer asked Mr. Hayman if he thought there would be new developments at the July Council meeting. Mr. Hayman stated that he did not know if any new developments might arise from the meeting but, the Council would like the opportunity to discuss the long term results of a sphere amendment.

Chair Herzog closed the public hearing.

Commissioner Campbell stated that he respects the City's request for a continuation but he believes that it is in the best interest of the City that the Commission takes action at the June meeting. He stated that by doing so it allows the City to continue to engage in meaningful discussions regarding their future.

Chair Herzog clarified that the Commission had previously continued this item at the request of the City and Supervisor Bates not LAFCO staff.

MOTION: Adopt revised resolution amending the sphere of influence for the City of Rancho Santa Margarita and reaffirm municipal service review determinations adopted by the Commission in February 2006. (Cheryl Brothers)

SECOND: Bill Campbell

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

AGAINST: None

ABSTAIN: None

MOTION PASSED

8. Public Hearing

8a. – Proposed a) Proposed “Hensel Annexation to the City of La Habra” (CA 09-10) and Proposed “Chestnut Annexation to the City of La Habra” (CA 09-11)

Assistant Executive Officer Carolyn Emery summarized the proposed annexations. She noted that originally the City of La Habra had 13 islands within their sphere but in 2006 the city annexed 6 islands. Ms. Emery noted that the last remaining islands are the most challenging and include infrastructure issues related to private roads and sewer systems. Assistant Executive Officer Emery highlighted the three proposed options contained within the staff report. Ms. Emery noted that Jay Wong with the County and City of La Habra Community

Development Deputy Director, Carlos Jaramillo were present in the audience should the Commission have any questions for them.

Chair Herzog called for questions from the Commission.

Chair Herzog opened the public hearing

Bob Bennet, resident stated that he is supportive of annexation of the Chestnut island to the City of La Habra and requested that the City maintain the private road. Mr. Bennet inquired if annexation to the City of La Habra will increase their property taxes.

Carlos Jaramillo, Deputy Director of Community Development for the City of La Habra, stated the City welcomes the residents of Hensel and Chestnut island subject to applicants paying annexation fees. Mr. Jaramillo stated that the City respectfully requests that the Commission approve the annexation of the single non- contiguous parcels.

Commissioner Schafer asked about the status of the private road.

Mr. Jaramillo responded that Chestnut Street is a private road owned by the residents and for that reason the City will not assume responsibility of the road.

Emil Javorek, resident, stated that he is supportive of annexation of the Chestnut island to the City of La Habra and requested that the City maintain the private road.

Wesley Reed, resident, stated that he has been a resident on Brenda Lane for the past 42 years and would like to request that Brenda Lane be included as part of the proposed "Hensel annexation to the City of La Habra." He noted that access to Brenda Lane is only available through the City of La Habra.

Jesus Vidrio, resident, stated that he recently moved into a home located within the proposed Chestnut annexation area and expressed his desire to keep the road private. He noted that he does not receive water from the City of La Habra but rather paid for stock in a private water company. He added that if the City is unwilling to maintain the roads, he prefers that Chestnut Street not be annexed to the City of La Habra.

Arthur Wood, resident, stated that he was not aware of the annexation process until recently and expressed his wish to be annexed to the City if they will maintain the road.

Commissioner Campbell asked Mr. Jaramillo regarding the portion of Chestnut Street that is in the City of La Habra and the residents' concern regarding overnight parking. Mr. Jaramillo responded that this portion of Chestnut Street is also a private road and City ordinances do not apply to the private roads.

Commissioner S. Wilson asked if the homes in the annexation area are part of a gated community or if there is an existing homeowners association. Mr. Jaramillo replied that they are not a gated community and he is not aware of any homeowner associations for the area.

Commissioner S. Wilson asked how the street came to be a private road. Mr. Jaramillo responded that when property was subdivided under county jurisdiction the lots and the access roads were created. **Commissioner S. Wilson** inquired how many homes are in that subdivision. Mr. Jaramillo responded that in the remaining unincorporated portion there are six lots within the Chestnut island and another four residential lots to the south and two commercial parcels on Whittier Boulevard.

Commissioner Marshall inquired whether the roads are paved and the funding mechanism currently in place for road maintenance. Mr. Jaramillo responded that they are paved roads and that the residents maintain the roads.

Assistant Executive Officer Carolyn Emery confirmed that Brenda Lane is part of the Hensel island annexation. She added that one of the Commission's options is to expand the annexation territory to encompass the entire Hensel island. However, the original request for annexation by the landowner does not include Brenda Lane.

Commissioner Campbell requested clarification from legal counsel regarding the City's veto power should the Commission approve a modified boundary.

Legal Counsel, Clark Alsop responded that a revised property tax agreement would be necessary and that the City could refuse adopting one, therefore, terminating the annexation.

Commissioner Campbell asked Mr. Jaramillo if the City Council has taken a formal position regarding the other proposed options. Mr. Jaramillo responded that the Council has not.

Commissioner Brothers asked why the City was resistant to taking over the private road and whether the road was built up to City building code. Mr. Jaramillo responded that the City is not supportive of increasing its responsibilities of maintenance and development approved as private roadways. He also stated that the road is not constructed up to City building code.

Commissioner McGregor asked Mr. Jaramillo if the City of La Habra has other areas where there are private roads and how is maintenance addressed.

Mr. Jaramillo responded that the City has annexed and approved projects that incorporate private roads and in both instances the property owners are responsible for road maintenance.

Commissioner Brothers inquired if the City has ever considered allowing residents to join existing or future contracts for work in those surrounding areas. Mr. Jaramillo responded that

the City has not explored that as an option in the past but would be open to discussing it with residents.

Chair Herzog affirmed that the position of the City of La Habra on the maintenance of private roads is consistent with most cities. He noted that a challenge for the cities is that by repairing a private road they are possibly gifting public funds. He stated that there appears to be additional conversations that need to transpire between the City and residents.

Chair Herzog motioned to approve the annexations as proposed by the applicant. **Commissioner Schafer** seconded the motion. Motion died.

Commissioner Campbell stated that he is supportive of approving the annexations as proposed by the applicant but that he would prefer to continue the item in order to allow the City and residents an opportunity to discuss expanding the annexation of the Hensel island.

Commissioner Campbell asked if the Commission voted to continue the item if there will be any additional fees incurred.

Executive Officer Crosthwaite responded that there would be no additional fees if the Commission continues the item.

Commissioner S. Wilson inquired if there might be a change to resident's property taxes if the annexations are approved. Executive Officer Crosthwaite responded that property taxes would not change in conformance with Proposition 13.

Executive Officer Crosthwaite added that cities are required to pre-zone annexation areas and that the Government Code requires that the pre-zoning remain the same for two years after the annexation is approved.

Commissioner Campbell asked if the property owner might have any objections to a continuation.

Sara Phan, applicants' representative, stated that the property owners would not object to a continuation.

Commissioner Brothers requested that staff also work with the City regarding the residents on Brenda Lane.

Chair Herzog noted that he is supportive of continuing the item for two months.

MOTION: Continue the Proposed Proposed “Hensel Annexation to the City of La Habra” (CA 09-10) and Proposed “Chestnut Annexation to the City of La Habra” (CA 09-11) to the August 11, 2010 meeting. (Bill Campbell).

SECOND: Susan Wilson

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

AGAINST: None

ABSTAIN: None

MOTION PASSED

9. COMMISSION DISCUSSION AND ACTION

9a. – Best Practices Report

Policy Analyst Benjamin Legbandt summarized the best practices report. He noted that the staff report provides a roadmap for incorporating the best practices reports into the next round of municipal service reviews.

Commissioner Schafer commended Policy Analyst Benjamin Legbandt for the best practices report. **Commissioner S. Wilson** concurred.

MOTION: Receive and file Best Practices Report and direct staff to distribute this report to all affected agencies for comment. Direct Staff to revise report to include all agencies within Orange County LAFCOs jurisdiction. (Arlene Schafer).

SECOND: Peter Herzog

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

AGAINST: None

ABSTAIN: None

MOTION PASSED

9b. – Quarterly Budget and Investment Report for FY 09-10

Assistant Executive Officer Carolyn Emery noted that the staff report provides a summary of the agencies expenditures and revenues through part of the 4th quarter.

Policy Analyst Joe Serrano discussed the progress of agency’s investment in the Local Agency Investment Fund (LAIF). He noted that the low return rate led the Commission to ask staff to look at other options including investing with the Orange County Fund.

Commissioner McGregor inquired the processing time for a withdrawal from the Orange County Fund.

Policy Analyst Joe Serrano stated that it is a minimal timeframe.

MOTION: Receive and file the June 9, 2010 Budget Update and investment report and approve resolution authorizing investment of LAFCO funds in the Orange County Fund. (Bill Campbell).

SECOND: Susan Wilson

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

AGAINST: None

ABSTAIN: None

MOTION PASSED

9c. – Adoption of New Retirement Rates

Policy Analyst Joe Serrano summarized the new retirement rate adopted by the County in April. He noted that the proposed new retirement rate would only be available to future LAFCO employees. He noted that the incentive for new employees to choose the new retirement rate is a matching contribution by LAFCO. He added that the Commission was being asked to consider the elimination of the reverse pickup paid by LAFCO employees to upgrade for past service credit for County employees.

Executive Officer Crosthwaite noted that when the Commission approved the 2.7% at 55 retirement rate the Commission required LAFCO employees to pay for past service themselves.

Commissioner S. Wilson inquired what direction staff needed from the Commission. Executive Officer Crosthwaite responded that staff needed Commission direction on the reverse pick up rate if any. Policy Analyst Joe Serrano noted that if LAFCO eliminated the reverse pickup for future employees the savings could potentially be 4.7 percent.

Commissioner Campbell stated that there might be a possibility that LAFCO may not be able to opt out of paying the reverse pickup but he would prefer that LAFCO retirement policy mirror that of the County of Orange.

Policy Analyst Joe Serrano stated that during discussions with OCERS representatives they mentioned that if the agency decided to eliminate the reverse pickup the county pool would absorb that cost.

Commissioner Campbell requested to postpone taking action regarding the reverse pickup until the next regular meeting to allow a thorough discussion among the Commission.

MOTION: Continue current .1 or .2 methodology for the 2.7% at 55 retirement option for current employees; Approve a 1.62% @ 65 retirement option for future employees only; and continue discussions regarding reverse pickup. (Peter Herzog).

SECOND: Bill Campbell

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

AGAINST: None

ABSTAIN: None

MOTION PASSED

9d. – Proposed CALAFCO By-Law Changes

Executive Officer Crosthwaite noted that the proposed CALAFCO by-law changes are to adopt regional representation as many other state organizations. She stated that she believes that regional representation will strengthen CALAFCO. She recommended the Commission approve the by-law changes and direct the Chair or Executive Officer to sign the ballot to approve the CALAFCO by-law changes

Chair Herzog expressed his concern regarding section 4.2.2 of the proposed by-laws that would allow an open position to be filled at large. He noted that some LAFCOs do not attend the annual convention.

Executive Officer Crosthwaite noted that the CALAFCO board was concerned that if the region does not nominate a board member that indicates a lack of interest and the position should be filled by an at-large member interested in CALAFCO.

Commissioner Withers inquired whether the by-laws include a provision where LAFCO's can vote by proxy. Executive Officer Crosthwaite responded that was not currently an option.

Commissioner Brothers requested clarification regarding when elections would be conducted. Executive Officer Crosthwaite stated that elections would be held at the annual convention. She added that although there might be other areas of the CALAFCO by-laws that should be amended, the current proposal was a step in the right direction.

Commissioner Marshall inquired if the CCL would continue to meet. Executive Officer Crosthwaite stated that the organization will continue to meet.

Commissioner Schafer asked if other LAFCO regions have created regional organizations like CCL. Executive Officer Crosthwaite stated that the staffs of other regions meet regularly but none have formed a similar organization.

Commissioner Brothers noted that one of the reasons for not including “Southern California” in the name of Coalition of California LAFCOs was to encourage other LAFCOs to join.

MOTION: Approve the proposed CALAFCO by-law changes and direct the Executive Officer to complete the ballot. (Susan Wilson).
SECOND: John Withers
FOR: Bill Campbell, Cheryl Brothers, Arlene Schafer, Susan Wilson, and John Withers.
AGAINST: Peter Herzog
ABSTAIN: None
MOTION PASSED

9e. – Change of Meeting Date for July and September 2010 LAFCO Meeting

Executive Officer Joyce Crosthwaite stated that the July meeting schedule is very light and suggested cancelling the meeting but leaving the September meeting as scheduled.

Chair Herzog stated that September 15th is the date for the State League convention. Commissioner Brothers and Marshall stated they will be attending the State League convention.

Commissioner Schafer inquired about the date of the Strategic Planning Session. Executive Officer Crosthwaite responded that the meeting will be on August 11th and begin at 8:00 a.m. at the Ebell Society in Santa Ana.

MOTION: Cancel the July 14, 2010 Regularly Scheduled Meeting. (Peter Herzog).
SECOND: John Withers
FOR: Bill Campbell, Cheryl Brothers, Peter Herzog, Arlene Schafer, Susan Wilson, and John Withers.
AGAINST: None
ABSTAIN: None
MOTION PASSED

Commissioner Marshall left the meeting at 10:59 am.

9f. – Public Member Interview and Selection

The Commission interviewed four candidates for the Regular Public Member position: John Frankel, Phyllis Maywhort, Eric J. Wersching, and Susan Wilson. They discussed each applicant individually and commended them for their outstanding qualifications.

Chair Herzog announced the selection of Susan Wilson as LAFCO's Regular Public Member.

MOTION: Approve Susan Wilson as LAFCO's Regular Public Member.
(Bill Campbell).
SECOND: John Withers
FOR: Bill Campbell, Peter Herzog, Derek McGregor, Arlene
Schafer, and John Withers.
AGAINST: None
ABSTAIN: None
MOTION PASSED

10. COMMISSIONER COMMENTS

None.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

11a. – Coalition of California LAFCOS (CCL) Commissioner Summit

Executive Officer Joyce Crosthwaite reminded the Commission of the CCL Commissioner Summit on June 17th and June 18th at the UCLA Lake Arrowhead Conference Center.

12. CLOSED SESSION

None.

13. ADJOURNMENT OF REGULAR COMMISSION MEETING

The meeting adjourned at 10:26 am.

Peter Herzog, Chair
Orange County Local Agency Formation Commission

By: 

Esther Garcia-Negrete
Office Manager/Commission Clerk