



FINAL MINUTES

LAFCO REGULAR MEETING AGENDA

Wednesday, October 14, 2015
8:00 a.m.

Orange County Transportation Authority
First Floor – Boardroom
600 South Main Street, Orange, CA 92868

1. CALL TO ORDER

Chair McGregor called the regular meeting of the Orange County Local Agency Formation Commission (OC LAFCO) to order at 8:05 a.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Allan Bernstein led the Pledge of Allegiance.

3. ROLL CALL

The following Commissioners and Alternates were present:

- Chair Derek J. McGregor
- Commissioner Lisa Bartlett
- Commissioner Allan Bernstein
- Commissioner Cheryl Brothers
- Commissioner Charley Wilson
- Alternate Commissioner Wendy Bucknum
- Alternate Commissioner James Fisler
- Alternate Commissioner Kathryn Freshley

The following Commissioner was delayed:

- Commissioner Todd Spitzer (arrived at 8:12 a.m.)

The following Commissioners were absent:

- Commissioner Andrew Do

- **Commissioner John Withers**

The following LAFCO staff members were present:

- Executive Officer Carolyn Emery
- Project Manager Benjamin Legbandt
- Commission Clerk Cheryl Carter-Benjamin

The following LAFCO staff member was delayed:

- Legal Counsel Scott Smith (arrived at 8:11 a.m.)

4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS

The Commission received the revised budget correspondence for agenda item 9a and other correspondence of support for the applications submitted by East Orange County Water District and the Irvine Ranch Water District to assume sewer service within OCSD Service Area 7.

5. APPROVAL OF MINUTES

September 9, 2015 – Regular Commission Meeting Minutes

The minutes were approved with no revisions.

MOTION: Approve the September 9, 2015 Regular Commission Meeting Minutes. (Allan Bernstein)

SECOND: Charley Wilson

FOR: Derek J. McGregor, Lisa Bartlett, Alan Bernstein,
James Fisler, Charley Wilson

AGAINST: None

ABSTAIN: Cheryl Brothers

MOTION PASSED

6. PUBLIC COMMENT

Chair McGregor requested public comments on any non-agenda items.

Don Bauer, resident of North Tustin spoke to his support of IRWD providing sewer service to Service Area 7 based on their resources, savings, and commitment to meeting future challenges.

Chair McGregor closed public comments.

7. CONSENT CALENDAR

Chair McGregor called for the approval of the consent calendar.

7a. - California Association of Local Agency Formation Commissions (CALAFCO) Board of Directors Update

Commissioner Bartlett asked if the reasons for the increase in CALAFCO dues will benefit OC LAFCO. The Executive Officer replied that the services CALAFCO currently provides are valuable to the Commission and staff.

MOTION: Receive and file the CALAFCO Board of Directors Update.
(Allan Bernstein)

SECOND: Lisa Bartlett

FOR: Derek J. McGregor, Lisa Bartlett, Allan Bernstein,
Cheryl Brothers, James Fisler, Charley Wilson

AGAINST: None

ABSTAIN: None

MOTION PASSED

8. PUBLIC HEARING

None

9. COMMISSION DISCUSSION AND ACTION

Commissioner Todd Spitzer arrived at 8:12 a.m.

9a. - Mid-Year Budget Adjustment

Executive Officer Carolyn Emery presented the staff report to the Commission that summarized the changes to the annual 2015-2016 LAFCO work plan and the proposed mid-year budget adjustment to fill the Assistant Executive Officer (AEO) position.

Commissioner Bartlett asked Ms. Emery to describe the long-term strategy to fund the AEO position while maintaining the required reserve balances and addressing any impacts to the apportionments paid by our funding agencies. Ms. Emery replied that LAFCO has kept the apportionments paid by the County, cities, and special districts and agency expenditures static since 2008. To maintain the approved reserve levels and funding of LAFCO budget, a projected five to seven percent increase in apportionments from the funding agencies for FY 16-17 and an increase of three to five percent for FY 17-18 are being discussed by staff and LAFCO accountant. Commissioner Bartlett asked if staff expected any push back from agencies. Ms. Emery responded that in the past few comments regarding budget

concerns have come from special districts but all agencies would have the opportunity to comment during consideration of the budget by the Commission.

Commissioner Freshley asked how staff time is tracked for individual projects, associated costs for the unincorporated islands program, and if consultants could be used for special projects such as the Islands Program and the new requirement to identify disadvantaged communities. Ms. Emery replied that staff internally tracks all projects. Ms. Emery added that consultants are hired for a specific expertise, such as preparation of fiscal analyses and certain MSRs. However, with projects such as the Islands Program, it is important that LAFCO staff facilitate these often complex discussions which provides continuity and building of relationships with cities and the County that are key in moving these projects forward. Ms. Emery added that timing varies with each of the unincorporated islands and LAFCO staff leadership is key in conducting community workshops and other meetings involving city staff and elected leaders. She closed her response with emphasizing how the Commission's policy to waive fees for small islands continues to be an incentive for cities to annex them.

Commissioner Wilson asked Ms. Emery to describe anticipated impacts that the proposed City of San Juan Capistrano transfer of water and sewer and the forced consolidations of water systems would have on staff resources. Ms. Emery replied that the forced consolidations of water systems project requires staff to do an inventory of the Orange County disadvantaged communities affected by the new legislation. She added that although the application for the City of San Juan has not been filed, having staff in place allows the Commission to move forward when the process officially begins and an application is filed.

Chair McGregor asked Ms. Emery about the timeline for the recruitment. Ms. Emery replied if the Commission approves the mid-year adjustment, the recruitment process would begin immediately with the hopes of filling the position in December.

MOTION: Approve the mid-year budget adjustment to fill the Assistant Executive Officer position. (Todd Spitzer)

SECOND: Lisa Bartlett

FOR: Derek J. McGregor, Lisa Bartlett, Allan Bernstein,
Cheryl Brothers, James Fisler, Todd Spitzer, Charley Wilson

AGAINST: None

ABSTAIN: None

MOTION PASSED

9b. - OCERS FY 2016-2017 Retirement Contribution Rates and Prepayment Program

Project Manager Benjamin Legbandt presented the staff report to the Commission to consider adoption of the employer retirement contribution rates for FY 2016-2017, as approved by the Orange County Employees Retirement System (OCERS).

MOTION: Adopt the resolution approving the adoption of OCERS retirement contribution rates for FY 2016-2017. (Todd Spitzer)

SECOND: Allan Bernstein

FOR: Derek J. McGregor, Lisa Bartlett, Allan Bernstein,
Cheryl Brothers, James Fisler, Todd Spitzer, Charley Wilson

AGAINST: None

ABSTAIN: None

MOTION PASSED

9c. - OC LAFCO Policies and Procedures Update

Executive Officer Carolyn Emery presented the staff report to the Commission on the proposed revisions and updates to the OC LAFCO Handbook, Commission bylaws and the agency's accounting and financial, personnel, and administrative policies and procedures.

Commissioner Freshley inquired about the 30 day limit for service of jury duty. Ms. Emery replied that 30 days of paid leave is consistent with current law and deferred to Legal Counsel Scott Smith for further discussion. Mr. Smith continued by stating that LAFCOs policy complies with the Federal and California employment laws. **Commissioner Freshley** stated that she did not support use of vacation while serving on a jury, as this is a civic duty.

Commissioner Spitzer stated that he recognizes that LAFCO is a small agency but supports a policy that promotes civic duty whether it involves a short or long-term jury duty service. **Commissioner Spitzer** further stated that he supports the first two sentences in the paragraph but is not supportive of requiring staff to use vacation time for jury duty service. He motioned for the approval of the policy regarding jury duty leave with removal of the last sentence of the paragraph which states, "For service longer than 30 days, employees may use accrued vacation with the approval of the Executive Officer." **Commissioner Fisler** seconded the motion. **Chair McGregor** called for further discussion by the Commission.

Commissioner Bartlett opposed the motion and stated that parameters on the policy needed to be set and not left open in order to avoid undue hardship for LAFCO staff and potential impacts to a tight agency budget. She added that each situation should be considered individually.

Commissioner Spitzer proposed alternative language which states, "The Executive Officer in consultation with the Commission decides whether or not the employee would use their accrued vacation."

Chair McGregor asked **Commissioner Bartlett** if the recommended language was acceptable. **Commissioner Bartlett** replied that the alternative language may present a timing issue and that staff may not have the ability to bring before the Commission prior to an employee being selected for jury duty.

Commissioner Spitzer clarified the intent, stating that staff would explain on the summons prior to the selection process that a waiver must be obtained from the employer if trial is expected to last longer than 30 days.

Commissioner Bucknum concurred with **Commissioner Spitzer's** solution for handling jury duty leave and asked Legal Counsel to clarify the logistics of the proposed recommendation.

Legal Counsel stated that **Commissioner Spitzer** would need to modify his original motion if the Commission accepts the new recommendation, to revert to the original language and addressing what "business permits" with a qualification, proposing "For services longer than 30 days, employees will receive unpaid leave if approved by the Executive Officer, subject to review by the Commission."

MOTION: Amendment to motion on Jury Duty Leave policy is, "For services longer than 30 days, employees will receive unpaid leave if approved by the Executive Officer, subject to review by the Commission." (Todd Spitzer)

SECOND: James Fisler

FOR: Derek J. McGregor, Lisa Bartlett, Allan Bernstein, Cheryl Brothers, James Fisler, Todd Spitzer, Charley Wilson

AGAINST: None

ABSTAIN: None

MOTION PASSED

The Commission continued further discussion on the update to the OC LAFCO Policies and Procedures handbook.

Commissioner Bartlett recommended adding the title or person for delegations of disbursements under \$500 because of limited staff and the Sole Source Service Contracts needing approval by the Commission over a certain dollar amount. Ms. Emery clarified that all contracts that exceed \$10,000 are required to come before the Commission for approval.

Commissioner Spitzer recommended that a justification in writing for a sole source be brought before the Commission for approval with a limit of \$5,000.

Commissioner Spitzer spoke to the Compensation policy which states members appointed to committees shall receive a \$50 stipend, requesting an explanation for the limitation on monthly stipends for Commissioners serving on multiple committees. Ms. Emery responded that the limitation has been a longstanding Commission policy. She added that the proposed revision to provide stipends for Commissioners serving on the CALAFCO Board of Directors is included based on the increase in time and expenses incurred as a CALAFCO board member. **Commissioner Spitzer** stated the policy should include a stipend for any business done on behalf of LAFCO and should not be limited to CALAFCO. He proposed that Commissioners receive a stipend each day for any business done on behalf of LAFCO and raise the maximum monthly limit, adding that the changes would warrant the deletion of paragraph B of the Compensation policy.

Commissioner Brothers supported staff recommendation and added that a small stipend would cover expenditures that she incurs as a current CALAFCO board member.

Chair McGregor clarified the recommended changes by the Commission to the check writing, sole source, and Commissioner compensation sections.

Commissioner Bartlett clarified that the language in check writing policy should say, "the Executive Officer and the Executive Officer's designee."

MOTION: Approve the remaining proposed revisions and updates with recommended changes to the OC LAFCO handbook. (Lisa Bartlett)

SECOND: Charley Wilson

FOR: Derek J. McGregor, Lisa Bartlett, Allan Bernstein, Cheryl Brothers, James Fisler, Todd Spitzer, Charley Wilson

AGAINST: None

ABSTAIN: None

MOTION PASSED

9d. - South Orange County Governance Visioning Process Update

Project Manager Benjamin Legbandt provided the Commission with an update on the South Orange County Governance Visioning process. He stated that the stakeholder discussions have concluded and staff has begun presentations to the councils, boards, and communities of the stakeholder participants. Feedback from the stakeholders will be included in a comprehensive report that will be presented to the Commission this winter.

Commissioner Bartlett thanked staff for the comprehensive report and outreach efforts and provided additional details regarding continued discussions with Rancho Mission Viejo.

Commissioner Brothers asked Mr. Legbandt to include Mosquito and Vector Control as a regional service provider in the Stakeholder Information Packet.

Commissioner Bucknum spoke to the economic viability of the agencies that surround Rancho Mission Viejo and requested that the Commission engage the business community in future discussions.

- MOTION:** Receive and file the South Orange County Governance Visioning Process update. (Allan Bernstein)
- SECOND:** James Fisler
- FOR:** Derek J. McGregor, Lisa Bartlett, Allan Bernstein, Cheryl Brothers, James Fisler, Todd Spitzer, Charley Wilson
- AGAINST:** None
- ABSTAIN:** None

MOTION PASSED

10. COMMISSIONER COMMENTS

Commissioner Spitzer asked staff to provide an update on the Community Workshop for sewer transfer applications. The Executive Officer replied that the workshop will be held October 28 at the Foothill High School Event Center Classroom from 6:00 p.m. to 8:00 p.m.

Commissioner Bernstein commented on the legislative policy and noted the importance of the Commission being aligned with stakeholders such as the cities on proposed legislation.

Commissioner Brothers also commented on the importance of LAFCO's participation in legislation and added that LAFCO may not always have the same position as other stakeholders.

Commissioner Bartlett thanked staff for their efficiency and great work.

11. EXECUTIVE OFFICER'S REPORT

Executive Officer updated the Commission on the following:

- **New Commissioner iPads.** Ms. Emery informed the Commission that new iPads were available for each Commissioner to pick up after the meeting and that Commissioners could hold on to their old iPads to transfer any documents and could return the old iPads at the next Commission meeting.

12. INFORMATIONAL ITEMS AND ANNOUNCEMENTS

12a. - Community Workshop for Sewer Transfer Applications

12b. - Coalition of California LAFCOs (CCL) Update

12c. - November Regular Meeting Change

Chair McGregor provided a summary on the informational items and asked the Executive Officer for an update on the incomplete EOCWD and IRWD applications.

Ms. Emery noted that until the property tax exchange agreements for Service Area 7 have been approved by the County, the applications cannot be heard by the Commission.

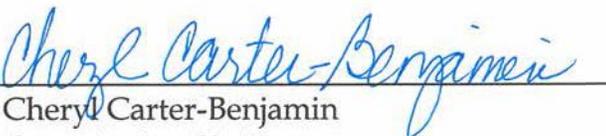
13. CLOSED SESSION

None

14. ADJOURNMENT OF REGULAR COMMISSION MEETING

The meeting adjourned at 9:35 a.m.

Derek J. McGregor, Chair
Orange County Local Agency Formation Commission

By: 
Cheryl Carter-Benjamin
Commission Clerk