

8/09/2001

MINUTES

June 28, 2001

Present Commissioners: Bob Buster, Acting Chair
Marion V. Ashley
Terry Henderson
Robin Lowe
Jack McFadden
John Tavaglione

Absent: Robert E. Hird

Present Staff: George J. Spiliotis, Executive Officer
Wayne Fowler, Illustrator/Analyst
Elena G. Medina, Staff Assistant
Joe S. Rank, Legal Counsel

1. **CALL TO ORDER AND SALUTE TO THE FLAG.**

The meeting was called to order at 9:03 a.m.

2. **APPROVAL OF MINUTES OF May 24, 2001**

The minutes were approved as presented.

3. **HEARINGS:**

Consent:

- a. LAFCO 2001-34-3-Sphere of Influence Amendments to Western Municipal Water District (removal) & Eastern Municipal Water District (addition) and Reorganization to Include Concurrent Detachment from Western Municipal Water District and Annexation to Eastern Municipal Water District **(Continued from April 26, 2001)**

Moved (Lowe) seconded (Ashley) to approve LAFCO 2001-34-3-Sphere of Influence Amendments to Western Municipal Water District (removal) & Eastern Municipal Water District (addition) and Reorganization to Include Concurrent Detachment from Western Municipal Water District and Annexation to Eastern Municipal Water District
6/0 (Hird absent)

- b. LAFCO 2001-05-1-Annexation 18 to County Service Area 132. **(The applicant is requesting a continuance to August 9, 2001)**

Moved (Henderson) seconded (McFadden) to continue LAFCO 2001-05-1-Annexation 18 to County Service Area 132 to August 9, 2001.
6/0 (Hird absent)

- c. LAFCO 2001-06-4-Reorganization to Include Annexation 80 to the City of Indio and Concurrent Detachment from the Riverside County Waste Resources Management District.

Mr. Spiliotis presented the proposal.

Mr. Spiliotis said that the City of Indio had just recently indicated that water facilities were available to the annexation area.

Mr. Spiliotis stated that there was a dispute between the Coachella Valley Water District and the City of Indio as to who was going to provide water services.

He also commented that the only issue of concern was water services not sewer services.

Chair Buster opened the public hearing.

IN FAVOR:

Wells Marvin, 78080 Calle Estado, Suite 201, La Quinta, CA 92253. Mr. Marvin stated that the proposal was a logical extension of the project. He said that the City of Indio and CVWD had been working on the water issue for quite some time to no avail. He asked the Commission to approve the proposal and exclude item 4c. from staff's recommendation. He said that it will be unfair to hold his proposal hostage pending the resolution of the water issue.

Emily Hemphill, 777 E. Tahquitz #328, Palm Springs, CA 92262. She stated that she was the attorney for the Applicant. Ms. Hemphill reiterated her client's request to exclude item 4c. from staff's recommendation.

Commissioner McFadden asked Ms. Hemphill what facilities did the City currently have? Ms. Hemphill referred him to the City for the response.

Commissioner McFadden commented that contrary to what Ms. Hemphill had stated, there had been some communication between the City and CVWD. He said that CVWD was awaiting response to a proposed agreement from the City.

Ms. Hemphill stated that from her client's perspective they had been trying to get the issue resolved and to date they were not aware of any significant progress.

Commissioner Ashley stated that an agreement could be reached if both parties were willing to sit down and discuss the situation seriously. He commented on a previous case where this was accomplished.

Margo Williams, Mainiero, Smith and Associates, Inc. 777 E. Tahquitz Canyon #301, Palm Springs, CA 92262. Ms. Williams stated that she was available to answer any questions.

Sam Alhadeff, Attorney for the City of Indio. Mr. Alhadeff stated that they would like to work out the water issue. He said that the annexation should go forward and asked the Commission to exclude item 4c. from the staff report.

Gary Werner, Community Development Director, 80243 Golden Horseshoe, City of Indio, CA 92201. Mr. Werner stated that the project was significant to the growth of the City of Indio and the City was agreeable with staff's recommendations with the exception of item 4c.

Commissioner Buster stated that perhaps the Commission was a more appropriate body to try and resolve this issue prior to going to court.

Mr. Werner said that the City of Indio had an ordinance that required the City to serve water to the residents within the City boundaries.

Chair Buster asked Mr. Werner if he objected to meeting with CVWD to discuss this issue. Mr. Werner stated that this process had already been going on to no avail.

Commissioner Henderson asked Mr. Werner what type of services were now available in the annexation area that were not there when the proposal was submitted.

Mr. Werner stated that water services were currently being extended to the property.

Terry Hagen, Public Works Director, City of Indio. Mr. Hagen responded Commissioner Henderson's question. He said that there was an 18-inch water line being extended to the property. He said that it started at Monroe and 42nd Street and continued north to 40th Street and west almost to Jefferson Street. He said that this was what had been completed. He said that the area that had not completed was going north from 40th to 38th Street because they were doing a realignment of Jefferson Street. He said that once the realignment negotiations were determined, the water line will be completed. He said that the other portion that had not been completed was approximately 100-foot distance over the canal along 40th Street. He said that the contract was near completion hopefully within a week.

Commissioner Henderson asked if they had accepted a bid on the construction. Mr. Hagen stated that this was part of the contract. He said that 75% of the water line had been installed. He said that they were just waiting for the permit to go across the canal. He also discussed the water rates between CVWD and the City of Indio. He said that he was in agreement with the applicant and requested the Commission to eliminate item 4c from staff's recommendation.

OPPONENTS:

He said that CVWD had a pressure zone from Del Webb which was Washington Street. He said that their intentions were to go over the Coachella Canal. He said that the pressure zone was designed to serve an area like this.

Tom Levy, CVWD, P. O. Box 1058, Coachella, CA 92236. Mr. Levy discussed the existing water facilities in the annexation area. Mr. Levy stated that CVWD served about 80,000 customers in the Coachella Valley. He stated that they should not have a duplication of services. He said that they already had elevated reservoirs and pipelines that were already constructed close to Andreas Ranch. He said that they also serve water to properties within the City of Indio. He said that the City of Indio did not have an exclusive right to serve water. He said that it was appropriate for LAFCO to decide who will provide water service in the area. He said that they supported staff's recommendation. He said that he was in full support of staff's recommendation and stated that it would be helpful for Item 4c. to remain as it was currently stated in staff's recommendation.

Gerry Shoaf, Counsel for CVWD, 1950 Market Street, Riverside, CA 92501. Mr. Shoaf stated that they had made progress in the negotiation process and said that they were close to coming into an agreement in spite of what had been said. He said that CVWD was the appropriate entity to serve the area and asked the Commission to leave the condition in staff's recommendation. He said that he was available to answer any questions.

Commissioner Henderson asked why an issue of this magnitude had to have a 38-acre parcel to be the catalyst to force the two entities to reach an agreement.

Mr. Shoaf responded that it was a matter of economics. He said that the City needed the revenue that will generate the water service. He said that they had made a proposal that made them whole in that regard.

Commissioner Buster asked why was not a more definitive agreement reached prior to the proposal coming to LAFCO when the facilities were being built to serve that area.

Mr. Shoaf stated that at the time the facilities were being installed, the District relied on the City's position that the District was going to serve the area. He commented that a written agreement should have been signed at that time.

Emily Hemphill, Attorney for the Applicant. Ms. Hemphill elaborated on what her client had been going through with both entities. She said that all her client wanted to do was build the project. She asked the Commission to not sacrifice her client's project.

Chair Buster closed the public hearing.

Commissioner Lowe stated that she was speaking from a voice of experience having gone through a similar situation in her city. She stated that she was in concurrence with Commissioner Ashley and volunteered to sit down with Commissioner Ashley and all parties involved to discuss a possible agreement. She felt that it was not fair to hold the applicant hostage. She said that it was LAFCO's responsibility to bring the parties together to save the taxpayers' money and try to resolve the issues of mutual concern. She believes that this matter could be resolved by this avenue.

Commissioner Tavaglione supported Commissioner Lowe's recommendation and stated that he was positive that an agreement will be reached within the next 30 days.

Joe Rank, LAFCO Counsel stated that if there was going to be another meeting conducted for the purpose of mediation between the regular scheduled meetings of LAFCO, then it was part of the Brown Act requirement which meant that it needed to be noticed.

Moved (Lowe) seconded (McFadden) to continue LAFCO 2001-06-4-Reorganization to Include Annexation 80 to the City of Indio and Concurrent Detachment from the Riverside County Waste Resources Management District to August 9, 2001 to allow time to all parties involved to sit down and try to come up with an agreement. Also included in the motion was the requirement that the meeting be properly noticed.

6/0 (Hird absent)

Mr. Spiliotis asked if the public hearing was closed or if it was being continued. Chair Buster said that it was closed, but it could be reopened if they had to at the next meeting. Mr. Rank advised Chair Buster that if the public hearing was continued then the proposal did not have to be noticed again. At the advice of Mr. Rank noting that all parties were still in attendance, the public hearing was continued to August 9th.

Commissioner Henderson stated that she would like to have accurate information regarding the 10 acres previously discussed prior to the next hearing.

4. POLICY ON PUBLIC HEARING NOTICE.

Mr. Spiliotis presented the report.

Mr. Tavaglione expressed support of extending the 300-foot notice requirement. He asked Mr. Spiliotis to explore this issue and perhaps investigate other agencies' requirements and come back next month with a recommendation.

Commissioner Henderson expressed support of Commissioner Tavaglione's recommendation.

After further discussion by the Commission, the matter was continued to August 9, 2001.

5. POLICY ON CONDUCTING AUTHORITY PROCEEDING; DELEGATION TO EXECUTIVE OFFICER; PROTEST FORMS.

Mr. Spiliotis presented the report. He stated that LAFCO was now the conducting authority for all proposals that were submitted after January 1, 2001. Mr. Spiliotis recommended for purposes of flexibility that the Commission delegate the responsibility of conducting the protest hearing to the Executive Officer. After the hearing, he will bring the resolution to the Commission for approval. He commented that it could be argued that the 21-day notice did not apply to the conducting authority proceedings. However, recommended that they go with a minimum of 21-day notice to the registered voters and landowners within the boundaries of the proposal. He said that at the time a proposal is approved, if the Commission needed to extend the 21 days it could be done by the Commission.

Commissioner Henderson suggested to the Commission that they go with a standard notice for all proposals.

Mr. Spiliotis stated that the protest hearings could also be continued. He stated that in addition to adopting the protest form, he recommended to include the protest form with the notice at the time of mailing.

Commissioner McFadden asked Mr. Spiliotis if he got his landowner list from the register of voters. Mr. Spiliotis responded in the affirmative.

Mr. Spiliotis asked the Commission to exclude at this time recommendations 3 and 4 of the staff report. He also stated that recommendations 1, 2, 5 and 6 will be applicable at this time.

Moved (Tavaglione) seconded (McFadden) to approve Policy on Conducting Authority Proceedings; Delegation of Functions to Executive Officer; Adoption of Official Protest Forms as recommended by staff with the exception of items 3 & 4.

6/0 (Hird absent)

6. ALTERNATE PUBLIC MEMBER SELECTION.

Mr. Spiliotis stated that recruitment had been conducted and 13 applications had been received. After further discussion, Chair Buster appointed Commissioner Lowe and Commissioner Ashley to an Ad Hoc Committee to review the applications and bring back a recommendation to the Commission.

7. REQUEST FOR EXTENSION OF TIME TO COMPLETE PROCEEDINGS, LAFCO 2000-05-1-REORGANIZATION TO INCLUDE CONCURRENT ANNEXATIONS TO EASTERN MUNICIPAL WATER DISTRICT AND THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA.

Moved (Henderson) seconded (Buster) to approve Request for Extension of time to Complete Proceedings, LAFCO 2000-05-1-Reorganization to Include Concurrent Annexations to Eastern Municipal Water District and the Metropolitan Water District of Southern California to no later than July 1, 2002.

8. INFORMATION ITEMS: Proposal Received (56857, 56751)

The Commission acknowledged six proposals received as information items.

9. MISCELLANEOUS STAFF REPORTS.

Mr. Spiliotis reminded the Commission that there will be no meeting in July, but there will be two meetings in August. He said that the August 9th meeting will be in Riverside and the August 30th meeting will be at the Palm Desert Council Chambers.

Mr. Spiliotis commented to the Commission that for future meetings they will not be able to park at the usual places due to construction of the new annex. He said that they will be able to park at the County Parking Structure, Lemon Street lot or the Riverside Center Parking Structure. He said that if they park there to save their receipt and they will be reimbursed.

Mr. Spiliotis stated that on the August 9th Agenda there will be a request for reconsideration regarding the Coachella annexation which was acted by the Commission last month.

Commissioner Henderson asked that the Executive Officer's Salary Review item be put on next month's agenda for discussion.

Mr. Spiliotis advised the Commission that the Board of Supervisors had approved the request to carry over to next year approximately \$50,000 from last year's revenue.

The Commission discussed the COI Application fee and agreed to review the fee on a case by case basis.

10. PUBLIC COMMENTS.

Gary Grant, 27068 Jarvis Street, Perris, CA 92570. Mr. Grant discussed the service reviews and requested that their COI be first going through the process.

11. ADJOURNMENT.

The Commission adjourned at 10.36 a.m.

Respectfully,

George J. Spiliotis
Executive Officer