

PROCEEDINGS OF THE  
LOCAL AGENCY FORMATION COMMISSION  
SANTA CRUZ COUNTY

Wednesday, September 2, 2009  
9:30 a.m.

701 Ocean Street,  
Room 525,  
Santa Cruz, California

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The September 2, 2009 Santa Cruz Local Agency Formation Commission meeting is called to order by declaration of Chairperson, Roger Anderson.

ROLL CALL

Present and Voting: Commissioners J. Anderson, Lind, Rapoza, Leopold, Begun,  
and Chairperson R. Anderson  
Absent: Campos  
Alternates Present: Bell, Estrada, Lane  
Alternates Absent: Coonerty  
Staff: Patrick M. McCormick, Executive Officer  
Christopher Cheleden, LAFCO Counsel  
Debra Means, Secretary-Clerk

ORAL COMMUNICATIONS

None

EXTRATERRITORIAL SANITARY SEWER SERVICE BY ROLLING WOODS COUNTY SERVICE  
AREA TO 115 MONTCLAIR DRIVE, SANTA CRUZ – LAFCO No. 931

Mr. McCormick says 115 Montclair Drive is up Graham Hill Road, past Wood Cove and the Showgrounds, then a right turn on Treetop Drive and a left on Montclair. In the immediate area of Treetop, there is an existing sanitary sewer system operated by one of the County Service Areas (CSA).

Last month, there was a similar application in this neighborhood to provide extraterritorial sewer service to Brook Knoll Elementary School. Its septic system was also failing so they wanted to hook up to the Rolling Woods CSA. There are two sewer collection systems in the Graham Hill Road area and each are operated by separate CSAs.

Rolling Woods is the smaller and older sewer CSA. Up until now, it has been self-sufficient. They have a small treatment plant with their own disposal fields. The larger and more recent sewerage was built for the Woods Cove subdivision and it has their own collection system. They have a gravity main that goes down Graham Hill Road, goes through a boring underneath the San Lorenzo River, and connects into the Santa Cruz City system over by the bus maintenance facility on River Street. The City of Santa Cruz transmits the sewage through their

collection system to their treatment plant, treats it, and disposes it.

The people in Rolling Woods have had problems with their treatment plant and they have been looking at a major replacement. They looked at their alternatives and decided it was cheaper and more reliable over the long term to hook into the sewer main that goes from Woods Cove to the City of Santa Cruz. They have authorized an assessment and it is being used to construct a transmission main down Sims Road to connect with the sewer system operated by the Graham Hill CSA.

The property owner of 115 Montclair has an existing house and the septic system is failing so he applied for extraterritorial service to receive sewer service from Rolling Woods CSA 10. With the availability of sewer in the area, the recent application last month, and the likelihood of additional applications in the future, the staff report mentions LAFCO policy. He is asking the Commission for some guidance whether future applications should be for extraterritorial service or applications for a straight annexation. LAFCO policy states that annexation is the preferred avenue to provide service if it is otherwise available. There is no reason why it would not be available to either of these CSAs.

What has not happened yet is that the County has environmental analysis issues and cost issues. They have not figured out who else may be able to connect. Technically, the County needs to do some environmental review about whether there are any secondary impacts by hooking up additional parcels in both of these CSAs. The County also has to figure out what the cost would be. The assessment just for the sewer main addition is approximately \$29,000 and that is spread over 30 years. The costs for each CSA is likely to be different and the County has not done either the environmental analysis to decide which parcels are eligible, or the technical analysis to decide what the fair cost would be for the new people connecting and for the people who pay for the existing improvements.

He has provided the Commissioners a policy analysis in the agenda packet anticipating that there will be other property owners like Mr. Hipwell that will be coming to LAFCO with a similar application. If someone has a failing septic system, it is better to handle the application quickly. The policy solution he recommends is to approve Mr. Hipwell's application with the condition that, before the connection is made, the property owner and the CSA come to an annexation agreement and the annexation would occur sometime within the next two years. The two parties can decide whether individual annexations will be processed by individual property owners, or whether the CSA will take the lead and process one bigger annexation. The CSA would be responsible for collecting the fees to cover their annexation costs. There are pros and cons to both options.

He does not think the Commission needs to specify which option. If CSA 10, CSA 57, and the County choose to connect additional people, it would be handled the standard way of LAFCO procedure, either by extraterritorial temporarily, or going straight for annexation. It is up to the property owners and the CSAs to figure out which of those options they prefer. LAFCO just authorizes the CSA to serve 115 Montclair. It is not a requirement. The County's staff will figure out what steps they are taking to get this issue to the Board of Supervisors.

Commissioner Jim Anderson says that he read that the main installed for Woods Cove was sized to accept everyone up to the upper end of Rolling Woods. He asks if they would extend from Treetop to the other end of Rolling Woods in the future.

Mr. McCormick answers that it was sized to handle what is called the greater Pasatiempo area which includes all of Pasatiempo Golf Course, all of Pasatiempo's housing, and the whole Graham Hill corridor from the City of

Santa Cruz up through Rolling Woods. At that time, the environmental review was prepared specific to the Woods Cove subdivision. The County was not in a position to start connecting other people immediately.

Commissioner Jim Anderson adds that there is a lateral that goes to Mr. Hipwell's property. There are two parcels between him and the other area that could possibly hook up if their septic failed. He assumes the others would have more costs because they would have to extend laterals.

Mr. McCormick says that is correct. The collection system for CSA 10 goes up to serve the parcel directly across the street from 115 Montclair. It would just take a lateral from 115 Montclair to the middle of the street. If the adjacent property owners want hook up to sewer, this Commission and the County needs to plan for future applications, and it is better to figure out a standard way to handle them now. The County's issues will be the properties beyond the existing collection system, within the system, and 200 feet or even 1,000 feet from the system. The County will have to figure out whom they will accept now and do the environmental review. It may need to be done in phases so that the easy connections are handled first. The County may choose not to immediately make the system available to the people who are farther away. They may only want to make it available to existing uses or failed systems.

Ideally, there would be better guidance, but there have been two applications in two months. He suggests thinking about the general approach to take. He thinks the recommendation he made meets the property owners' needs and the County's needs. He wants some guidance when future applications come in so he can tell them how long it will take and what the general costs from the County will be. He is concerned about someone who has a failed septic system. They will have to decide whether they will make major repairs or a major replacement. Major replacements cost along the same magnitude as what it will cost to connect.

Alternate Bell thinks the cost of a new septic system at 115 Montclair would probably far exceed the cost of hooking up to the CSA's sewer system. On page 4 of the agenda packet, it says the County's Planning Department's staff concur that LAFCO No. 931 qualifies for a categorical exemption for further compliance with the California Environmental Quality Act. She wonders if anything has changed from that statement.

Mr. McCormick answers no. On an adhoc basis, there is really only one application for 115 Montclair. It clearly qualifies for no further environmental review because there is an existing house, there is an existing sewer main, and it does not trigger any higher level of environmental review than what staff has already done and confirmed with County Planning. The more connections the County wants to look at, the higher level of environmental review they might have to do. When the County's staff reports to the Board of Supervisors, they will look at their proposed set of regulations for who will connect. Then they can advise the Board what level of environmental review would have to be completed in order to make those additional connections.

Any time there is a sewer main extension, it increases the likelihood of having to do an environmental review such as a small environmental impact report (EIR). If the work can stay within the existing footprint of a sewer system and it is only serving existing uses, there is a lesser chance that a higher level environmental review would have to be done and an EIR could be avoided. County staff will be working on these issues when they make their report to the Board of Supervisors.

It would be nice for LAFCO to have a more recent County environmental review the next time an application comes in. LAFCO will be relying on the County's environmental analysis. He has not done an environmental analysis on anything more than 115 Montclair.

Chairperson Roger Anderson asks if LAFCO ultimately pursued a sphere of influence amendment for CSA 10, what would the likely boundaries of such a sphere be.

Mr. McCormick replies that it would be larger than the existing CSA and larger than its existing sphere of influence. They have a threshold decision. They have a gravity system and the neighborhood is hilly. Some of that subdivision would be easy to serve through gravity and some of it would not. There is gravity service up Montclair and maybe up Oak Knoll streets. The neighborhood goes over a rise and then there is no gravity toward the Rolling Woods system.

Chairperson Roger Anderson is concerned that most of the lots are approximately .5 acres in that area. He thinks that subdivision was probably built 50 years ago. There will be more failing septic systems so he thinks there is some urgency to deal with the problem more dramatically.

Doug Hipwell is the applicant and the homeowner of 115 Montclair. His family moved to 115 Montclair 16 months ago and they stretched their finances to move into the house. The house was built in 1976. He knew it was built with a septic system. He was not that knowledgeable about septic systems when he bought the house. There was a report from Honey Bucket that the septic system was good and that it was pumped. The sellers disclosed that there were no issues with the septic system, but he began to smell a septic odor over the winter. His neighbor began to complain about water coming onto his property. He had his septic tank dug up and pumped and it failed. He has a three year old and a six year old child, and he did not have extra money since his wife has been out of work for six months.

He learned that septic systems typically have a life of twenty to thirty years. His house is 34 years old. There are homeowners with older homes in Rolling Woods whose septic systems are having troubles. One of the property owners down the hill from him said his septic system failed about 2.5 years before his system failed. He repaired his septic system for \$30,000. He had to get a special environmentally-enhanced system because there is sandy soil in that area and there is a high percolation rate. He was devastated by the possible \$30,000 cost to repair his system instead of a possible \$6,000 to \$8,000 septic field.

There are some big trees that will probably have to be removed so they will not fall on his house. There is not much room and it would be very problematic to spend \$30,000 on a similar system. He found out from his neighbors that there is a sewer main eight feet in front of his property, the City is connecting that sewer main to the main City main, and it should be completed in a few weeks. The constraints on why homeowners could not hook up to sewer before has been removed because there will be plenty of capacity. He heard Brook Knoll School got permission to hook up a month ago. All this information led him to believe that the long-term solution is to hook up to sewer.

He has effluence on the ground. He has to get his septic pumped every two weeks and it costs \$500 each time. This is an urgent situation. He could make temporary repairs to buy some time but it does not make much sense. He wants to connect to the main and he is willing to pay whatever is fair and legal, and he wants to handle this as soon as possible.

For the broader community, he knows there is a lot of interest to hook up to sewer since many are experiencing septic problems. He is willing to be the community advocate to educate his neighbors. He does not think the neighbors know that it would cost \$30,000 for a new environmentally-sensitive septic system. He does not think they know that they could pay an assessment for a sewer main. If they knew the math, they would probably want to hook up to sewer if they are experiencing septic problems now.

John Ricker, from Environmental Health, says they have been looking at sewerage the greater Pasatiempo area for awhile. This includes about 800 homes that are currently on septic systems and it would extend all the way over to Highway 17 including the Beulah Park area. Most of that is included in the County's urban services line except for the Beulah Park area. It has City water but it does not have sewer service.

They have done several feasibility studies and a couple different workshops with the community over the years. The level of support was greater than 50%, but not much more than that during the 1990s. This project has been on the back burner. It is a larger project but there has been more of a demand for sewer extensions and repairs in the coastal areas where there has been funding available to help address beach contamination issues.

They have not had staff time to move the larger project forward. He believes the next step will be to form an assessment district to pay for the final designs and the environmental analysis. There are approximately 80 vacant parcels so there is the question of evaluating the growth impacts. There will probably need to be a full EIR done and that will be expensive. They have been thinking about forming an assessment district that would have a two-step process. The first process would pay for the design and the environmental review and the second process would pay for the actual installation. It will require a majority approval of all the homeowners within the larger area. They are not sure if people will vote for the assessment district under Proposition 218.

There have been more inquiries recently about interim hookups. They do allow interim septic systems in that area. They do not require people to go for the full blown septic system now because of the anticipation that they might be able to hookup later. The sewage disposal ordinance requires any property within 200 feet of the sewer to hookup to the sewer instead of putting in a septic system if a sewer connection is available. It makes sense to consider those properties within close proximity to existing sewers for a hookup, particularly since they would like to sewer the whole area.

When they approved the Woods Cove subdivision, the Board's policy said that no additional connections could be made without further environmental review and determination. It makes sense for small existing parcels that are within proximity to the sewer line to qualify for the categorical exemption. They are ad ministerial permits so building permits and sewer hookup permits would be required. They met with the Planning Department about an environmental review and they concur that a categorical exemption would probably be appropriate.

Some of the parcels are located within the designated Sand Hills habitat which is a special biotic area. The requirements for those areas are fairly standard, and they would most likely have to pay into the mitigation bank for any disturbance or trench work of non-paved areas. That could be done without any further environmental review because it is already well-defined.

They plan to write a letter to the Board of Supervisors either this month or next month to explain this situation and to establish the connection fees. There have been no connections to CSA 10 for many years. With the latest assessment district, the whole financial picture has changed. They have authorized a consulting engineer to prepare recommendations about what those connection charges should be. This applies to 115 Montclair and Brook Knoll School, as well as any additional parcels that may want to hookup.

If there were to be a sphere expansion for CSA 10, it may make sense to include another 35 parcels into the sewer system through the existing CSA 10 system. It would require some line expansion. He does not know if it is necessary to look at the sphere for CSA 10. There is still the bigger picture of the greater Pasatiempo sewer area which may involve an expansion of CSA 57. CSA 57 currently serves Woods Cove and it has a main trunk line that goes down Graham Hill Road. It may be the ultimate solution if this area were to be sewerred.

Commissioner Leopold says he has talked to Mr. Ricker about some of the concerns that residents have raised. He asks if this is within the general expansion area.

Mr. Ricker answers that they are within the general expansion area. The policy they are thinking about bringing to the Board of Supervisors would allow any property within 200 feet of a sewer line to connect, whether it is within CSA 10 or whether it is along the line that goes down Graham Hill Road. It would allow those properties that front Graham Hill Road to connect to sewer. He assumes that it would have to be consistent with LAFCO's policies and would require an annexation to CSA 57 for anyone who connected to that line which is separate from the Rolling Woods connection.

Chairperson Roger Anderson asks when the intertie would be completed.

Rachel Lather, the manager for Sanitation engineering, says it is close to completion and will probably be completed in two to three weeks.

Chairperson Roger Anderson asks if there will be plenty of capacity to include Brook Knoll School as well as Hipwell's parcel.

Ms. Lather answers yes. There is plenty of capacity even if they had the treatment plant.

Commissioner Rapoza says his comments are the same as they were when Woods Cove and Brook Knoll were being considered. He thinks that whenever there is an opportunity for a property owner with a failing septic system, especially in a sensitive area, to connect to sewer main, everything should be done to make sure it happens. He asks Mr. McCormick when CSA 10 and CSA 57 are due for their 5-year review.

Mr. McCormick replies that it is due in approximately three years.

Commissioner Leopold agrees with Commissioner Rapoza about the need to hook properties up to sewer when their septic is failing. He adds that Mr. Hipwell's story is unfortunately common where people buy properties and they were not aware of the state of their septic system. The damage to the environment is real.

#### MOTION AND ACTION

Motion: Leopold Second: J. Anderson	To approve staff's recommendation which is to annex the property into CSA 10 and execute an agreement to complete annexing the property to CSA 10 no later than September 2, 2011.
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Mr. McCormick wants to clarify what his recommendation is. He recommends approving extraterritorial sewer service at this meeting for Mr. Hipwell. It is an authorization and is not a requirement for the County to do it. It would not require Mr. Hipwell to come back to LAFCO again. The approval would be conditioned upon Mr. Hipwell and Sanitation CSA 10 coming to an annexation agreement before he hooks up. LAFCO would not be a party to the agreement. LAFCO would not dictate the terms to either party. It would either allow individual property owners to go ahead and process annexations within that two-year time period, or it would let the parties decide that the County would become the lead and would put together a package of annexations that involve more than Mr. Hipwell's property. The County might collect a certain amount of money from each property owner to defer the costs.

Annexing one property at a time is more expensive than annexing more properties at a time. The unit price goes down significantly because the cost to process an annexation is about the same, whether it involves one parcel or more parcels. The advantage to the property owners is that if the County takes the lead, it will save them some money in the long run. The disadvantage to the County is that they do not have extra time to take on another project even if the property owners pay for it.

Rather than trying to determine which option is better or to continue the matter, his recommendation allows the parties to come to either conclusion. There just has to be an agreement in writing between the two parties before the extraterritorial service occurs. Sometime in the next two years, LAFCO would get an application based upon what the parties agree to do.

Chairperson Roger Anderson confirms that Mr. McCormick is not asking the Commission to make the choice between these two options. He is asking the County to make the choice.

Mr. McCormick says that is correct. Those options are available. He has sample agreements from other counties. Contra Costa LAFCO is probably the closest to handling it this way. This Commission has never done this before. He wants direction from the Commission how they want additional properties in the area to be handled. It can be started with CSA 10 and CSA 57. There is no need to adopt policy and an environmental review is not necessary.

He used existing policies, existing State law, and this LAFCO's policies in the staff report that guided him to come to this recommendation. He did not research many alternatives. The biggest alternative he came up with is status quo. The next property owner who comes to LAFCO with an application will receive the same conversation he had with Mr. Hipwell. If the Commission approves staff's recommendation, Mr. Hipwell is finished with LAFCO and the two parties need to discuss who will take the lead on an annexation that will happen sometime in the next two years. Mr. Hipwell can be connected as soon as that agreement is reached and he and the County agree on what a reasonable connection fee is.

The County has not had any connections for many years. They do not even have an ordinance specifying how the costs are charged and distributed in their own accounts.

Mr. Hipwell still does not fully understand the extraterritorial service versus annexation options. He wants whatever option is the cheapest. He is willing to be part of a larger entity if it makes sense with taxing and the administration.

Commissioner Lind asks Mr. Hipwell if he is willing to take the lead in his neighborhood. Mr. Hipwell may be the one to spearhead this to help educate the neighbors about what the process is. It is far cheaper and better for the County to have multiple homeowners apply at once rather than everyone applying individually.

Mr. Hipwell says he is willing to take the lead and work with Mr. McCormick.

Chairperson Roger Anderson thinks the second option will allow the area to be annexed as soon as the costs can be established. The other option would involve going through an annexation, which he thinks would have to go through this LAFCO. This Commission is not approving an annexation at this time. He is somewhat confused about passing both of these options.

Commissioner Leopold wants to clarify his motion after Mr. McCormick's comments. His motion was to authorize this hookup and have an agreement worked out. His original terminology about annexing was a mistake. He thinks there should be clarity on what the motion is.

Chairperson Roger Anderson wants to make a motion that is more likely to expedite sewer service. He does not want to hold up the service with extraneous issues that may not be important.

Commissioner Leopold says that is his intent with the motion.

Mr. McCormick adds that his recommendation is to approve extraterritorial service to 115 Montclair conditioned upon the County and the property owner of 115 Montclair coming to a written annexation agreement between the two parties before the connection is made. This agreement could happen tomorrow or after the Board of Supervisors sets the terms of service. He has forms from other counties that may be useful to the parties.

Commissioner Leopold asks if this issue would come back to this LAFCO.

Mr. McCormick answers that the extraterritorial service application would not come back to LAFCO. The Neither would the agreement because this LAFCO would not be a party to the agreement. The agreement would either specify that Mr. Hipwell take the lead, be the applicant, pay for the LAFCO application fees, and annex sometime in the next two years. It could involve just his property or include some of his neighbors' properties. Or the CSA would become the lead, and sometime in the next two years, the CSA would file an annexation to CSA 10 with a sphere of influence amendment. He does not think LAFCO is in a position to choose or specify either option. There are benefits to each party doing it either way. His concept was that either option would be acceptable. LAFCO is not specifying which option. All LAFCO is saying is that they want an annexation agreement with Mr. Hipwell and CSA 10 before he is connected. Whatever the agreement becomes is fine with LAFCO and does not have to come back to LAFCO.

A simpler option is to approve extraterritorial service to Mr. Hipwell without the annexation agreement being required. Then on a separate issue, either today or next month, give staff direction on how to handle future applications. LAFCO could give applicants annexation applications and not even offer the extraterritorial option. Or staff could offer extraterritorial service applications and let them know that whatever gets worked out with the CSA is what the process will be. It would just be approving extraterritorial service and not figuring out what the policy will be in the future. He tried to handle both issues in the staff report because applicants are coming to LAFCO from Rolling Woods with failing septic systems.

Septics fail more often in the winter and winter is approaching. With the main being extended from Rolling Woods down to Sims Road, there will be some visibility in the neighborhood and there are some options that did not exist before. He was trying to handle LAFCO policy business as part of Mr. Hipwell's application. The simplest option for LAFCO is just to approve Hipwell's application and staff can deal with the policy issues later. He tried to handle both because he thought it was small enough so both could be handled at the same meeting.

Alternate Bell asks if LAFCO is going to give any deadline time to annexing this property. She asks if the motion is going to address whether Mr. Hipwell can hook up to the sewer system.

Commissioner Rapoza says it is not unusual for LAFCO to set those deadlines and then extend them, especially in a situation such as this one where the County is exploring the extension of sewer mains, the financing, and the area it will cover. All of those factors may not be known. He thinks the agreement with the County and Mr. Hipwell will be somewhat nebulous because it will say when the fees and the area will be set, and that they agree to participate. It is different than an established CSA or special district that already has connection fees and policies in place for main extensions. He thinks LAFCO should go ahead with staff's recommendation of approving extraterritorial service and the two-year agreement, knowing that it may have to be extended if everything cannot be worked out in time.

**MOTION AND ACTION**

Motion: Leopold Second: J. Anderson	To authorize extraterritorial service and execute an agreement to complete annexing the property to CSA 10 no later than September 2, 2011. Motion carries with a unanimous voice vote.
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Mr. McCormick will write to both parties and convey it clearly so it can be taken to the Board of Supervisors.

**2009-10 GRAND JURY FINAL REPORT – LAFCO RESPONSE**

Mr. McCormick reports that this year, the Grand Jury wrote a chapter about “Who is Watching Our Special Districts?” There is a statutory requirement for LAFCO to respond. The general issue is whether the special districts have written bylaws, written mission statements, and whether they are clearly available for the public. The Grand Jury is asking LAFCO to require that bylaws be adopted by all special districts and for LAFCO to be the enforcer.

He has solicited comments from the 24 independent special districts in this County. About 25% of the districts responded in writing. Several more have called him without providing written follow-up comments. Almost all of the districts responded with a similar theme that they generally know what they are doing. They are autonomous and therefore, there is a direct line to the voters that they feel responsible to and not to LAFCO.

The draft response he prepared thanks the Grand Jury for investigating this issue and indicates that LAFCO will become a repository for bylaws and other governance systems and set up a paper file immediately. When it is time for the next mandated five-year review of services, several of the questions in the questionnaire that he sends to districts would include whether they have bylaws, and if so, are they available on their website, and if not, would they be willing to provide a written copy to LAFCO to keep on file.

The recommendations the Grand Jury made that he is not recommending is for LAFCO to become an enforcer by adopting regulations that would require districts to perform, and to have some penalties for failure to comply. LAFCO's have never taken a supervisory role in any operating step of any of the special districts. LAFCO has extensive control over the district service areas, their boundaries, and what services they provide. LAFCO's mission statement is that of a boundary commission and not one that supervises the operations of any autonomous districts.

He recommends that the Commission should not accept all of the duties the Grand Jury is suggesting. Becoming a repository is relatively simple for staff to provide. It does not take significant resources away from other projects. It would be voluntary for the special districts. It performs a helpful role. Just by asking for these

documents would encourage districts to have them and update them if necessary. Becoming a repository is a general benefit and does not spend a lot of LAFCO resources to try to enforce something from an autonomous district that is beyond LAFCO's mission statement.

Commissioner Jim Anderson asks if becoming a repository brings some assumptions, such as monitoring their meetings to make sure they are abiding by their bylaws.

Mr. McCormick says that if there are any assumptions, he will set them straight. There is no intent. If an agency adopts some bylaws and does not send them to LAFCO, they are just not in the file. When staff does a service review once every five years, they ask for extensive documentation that already exists in each agency. LAFCO wants to see their budget, an audit, and they all have to exist already. The last service review had 100% participation with the special districts. Part of asking for information is making it as easy as possible for the other parties to provide the information.

At the next service review, he will ask if they have bylaws, and if so, are they available on their website, and if not, he'll ask if they will send LAFCO a copy. There will be no regulation and no requirement to provide the information. Every five years he will ask for their budget, their last audit, and their bylaws. Every district participated in the last review because staff was not asking for anything extra. If they do not send their bylaws to LAFCO, that does not mean that they do not have bylaws. He will not spend any extra time trying to get their bylaws.

Commissioner Lind mentions that the letter from Debra Loewen and Ed Frech suggests that LAFCO perform training. She wonders if the list that LAFCO is being asked to provide, such as training and placing information on the LAFCO website, is feasible.

Mr. McCormick replies that if this LAFCO had a larger budget, it would make sense to add that information to the website. The California Special Districts Association (CSDA) has packaged courses that are available at cost to districts. Training is a great idea but this is a tough budget time for everyone. LAFCO is still catching up with its State mandates for the last service review and the last rounds of spheres of influence. There have been some major applications that this LAFCO has had to respond to, as well as two major pending applications that will be time-consuming. There are not enough resources to do anything but meet the mandates of State law. A couple of mandates are behind schedule and a couple sphere of influence updates are overdue. There is not enough money to volunteer to do any additional tasks beyond mandates within the existing budget.

A staff work program is updated every year and it is adjusted according to the budget. The budget this LAFCO has now is not a sustainable level for the current work program. This budget is in a deficit period and cannot continue to operate the same way.

Commissioner Lind asks if there are other agencies that they can be referred to. Maybe a list could be drawn up to provide agencies since some of the districts are asking for input.

Mr. McCormick says that the CSDA has a great training program. They are the trade association for all the special districts, including fire and water districts, and they have the resources. The smaller districts have not utilized that program because they would have to pay to become a member, and then pay to take the training course. The smaller districts cannot afford to take the training. The CSDA courses are applicable to what Ms. Loewen and Mr. Frech's letter suggests. There are courses about how to be a board member.

Commissioner Rapoza says his water district wrote a letter that summarizes his opinion. He has a difficult time with doing any of these requests. He thinks it is a slippery slope to start getting involved in the internal operations of only one segment of LAFCO. He does not think LAFCO should get involved in expressing how they like or dislike how special districts are running their business. He does not think LAFCO should tell cities that their council members should attend certain trainings. To single out one component of LAFCO for special attention is inappropriate. People have ideas about how various government agencies in this County should be run, including the County itself. As voting members within those special districts, the cities, or the County as a whole, it is their obligation to present those to the governing body. If the government agencies are in violation of the Brown Act or the Freedom of Information Act, there are procedures to address those violations, and LAFCO should not be the body to handle those issues.

He thinks staff has made a generous offer. Using LAFCO's website to voluntarily post information offered by any agency that is regulated by LAFCO, not just by special districts, should be enough.

Commissioner Bell agrees with Commissioner Rapoza. If LAFCO receives a complaint or complaints about a special district, and LAFCO follows up by telling them about their deficiencies or that they need to do something, she wonders at what point is LAFCO legally overstepping their boundaries. She thinks LAFCO cannot police different agencies. If LAFCO does choose to police a district due to several complaints, she asks County Counsel if LAFCO is overstepping their bounds.

Counsel Cheleden has reviewed LAFCO's statutes. It is very clear that LAFCO can ask for information to assist LAFCO in pursuing its duties, such as a change in municipal organization. In the worst case scenario, LAFCO does have the power to recommend a dissolution of a public agency, but that is not what the issue here is. There is no enforcement mechanism in LAFCO law for LAFCO to get involved in such issues as Brown Act issues or governance issues. He thinks there is authority for LAFCO to request and maintain this information to assist LAFCO in its statutory purpose. As part of the five-year service review, LAFCO could comment on some of these deficiencies in any of the various districts as they would on other types of deficiencies in the context of the municipal service review. He does not see any support for taking it to the next step in the LAFCO statute and actually doing something punitive or in the enforcement arena.

Commissioner Leopold agrees with most of the remarks about what the role of LAFCO should be regarding the special districts. He understands the frustration of the board members and the citizens. This problem exists with special districts and non-profits where people are elected to seats on boards and they have no actual skills or abilities to perform those functions well. Board members can sometimes get elected just by who they know. That does not necessarily mean that the district will get the best representation or leadership. He agrees that it will be impossible for LAFCO to play that enforcement role. It would be great if everyone participated in the CSDA, but he understands why they may not. If LAFCO is asking for an audit every year or a five-year review, that is a way of making sure there is some oversight over financial matters.

How meetings are run is a more difficult issue. He does not know if it would be the State Attorney General that would get involved with making sure that special districts are meeting their obligation to the Brown Act. There are special districts, non-profits, and organizations that fly below the radar, have a great deal of responsibility, and very little oversight.

He thinks this Grand Jury response is a good one to provide information for people. He shares the frustration that there is not more that can be done.

Counsel Cheleden will work with Mr. McCormick to put some limiting language in the correspondence requesting that the information LAFCO will be gathering is for informational purposes only. This LAFCO is not assuming any obligation to monitor it.

Chairperson Roger Anderson says that one of the key functions of LAFCO is the efficient provision of services. They have utilized that power in the past to consolidate districts. It was not easy to do but it was done. He wonders what efficient provision of services means. To him, it means how well does a district spend the money they have to provide those services. If there are structural difficulties in the governance of a district, LAFCO should be concerned about it.

He agrees with the staff report, but he would like the LAFCO website to mention whether documents are missing from a particular district by saying that no bylaws have been submitted.

Commissioner Rapoza responds that there are a majority of special districts that have websites and they contain every document that the Grand Jury has mentioned. There are minutes, agendas, and board members' contact information. Some district websites even list their board members' personal email and phone numbers. To duplicate that is unnecessary. He thinks the districts that have the information already on their website should not be required to resubmit.

Chairperson Roger Anderson is not asking to do what Commissioner Rapoza mentioned. He cares about getting the information. If a district does not have a website, then there should be a paper repository. The citizens should have a way of knowing what is in the repository.

Lois Henry, director of Lompico Water, understands that the districts are not governed by anyone except the voters in their district. Oftentimes, like Commissioner Leopold mentioned, the board members have no idea what is going on. She has worked with credit unions for 30 years. When she got on the water board, she looked at the financial records and was horrified. They have been in the red for the past five years.

She thinks that San Lorenzo Valley Water District or Scotts Valley Water District should run their district and they would pay them to do run it. They are out of money. They have just raised their water rates but she is not sure that will help.

Big credit unions help small credit unions with policy. They have many professionals that smaller credit unions do not have. She thinks larger water districts with expertise on budget or policies should be willing to help other water districts or other board members if they ask for it. Maybe LAFCO could come up with a list of larger districts that are able to help with the smaller districts.

Debra Loewen is a Lompico resident. She came to the last LAFCO meeting and went to the Supervisors' meeting. She acknowledges the Commission for their consideration and she understands the financial and economic restrictions that LAFCO has.

Last summer Lompico Water had equipment failures. A large portion of Lompico canyon was out of water for five days. They have no reserves. If something like that happened now, they would not be able to fix it. She is concerned about any kind of oversight over their reserves. The Board of Supervisors and LAFCO both say they do not want to take on any oversight. Nevertheless, the problem exists. She thinks it is a public health and safety issue. Her main concern is board training. They have recently adopted a board policy manual. They have procedures and specifications for how the system is supposed to be operated. The problem is that the

procedures are not always followed. The board training is critical so the board members understand their responsibilities to the district and the customers.

Mr. McCormick noticed a typo in the recommended letter. The LAFCO website lists all the special districts that are both dependent and independent in Santa Cruz County, how they can be contacted, and whether they have a web presence. For instance, Alba Recreation and Park District is one of the districts that does not have a website. All of the districts that do not have websites are listed. In the letter to the Grand Jury, he wrote that there were five districts that do not have websites. It turns out that there are six districts that do not have websites. The sixth district that does not have a website is Reclamation District 2049, which drains College Lake to facilitate farming every summer.

If the Commission adopts staff's recommended letter or a different version, he suggests including the Reclamation District in the list of districts that do not have a website.

Commissioner Rapoza clicked the link to every district that has a website. It turns out that Lompico does not have a website as well. If the link to Lompico is clicked, it links to a community page that only lists the water department's address, phone number, and meeting times. If the highlighted words are clicked on that webpage, it goes to a place to buy things. There is no list of the board of directors. Lompico Water should be added to the list of districts that do not have their own website.

#### MOTION AND ACTION

Motion: Begun Second: Leopold	To approve staff's recommendation with the amended letter. Motion carries with a unanimous voice vote.
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#### LEGISLATION

Mr. McCormick reports that the Legislature adjourns on September 11, 2009. Staff has been tracking 14 bills in the current session. The highest profile bill is SB 211 from Senator Simitian. It concerns a separate process where an open space district could be formed in Santa Cruz County. He included a press release in the agenda packet about the bill becoming a two-year bill so it will be considered in 2010. It will be back on the docket in 2010. At the request of Commissioner Begun, he prepared a handout for the Commissioners that shows the formation process for regional park and open space district as it exists in current legislation.

#### CHANGE IN WORKERS' COMPENSATION INSURANCE PROVIDER

Mr. McCormick says that staff has reviewed the Workers' Compensation coverage that it has for its two employees. The Commission has been with State Compensation Insurance Fund for more than 30 years. It has never had a claim. Staff has received a bid from another insurance provider that regularly takes LAFCOs. The estimated savings for one year would be 14% if the Commission changed providers. If the Commission does change providers and when they need to price other insurances, they will be able to get a bid from the new provider which is called the Special Districts Risk Management Authority (SDRMA). They may be able to move some other coverage over to SDRMA.

The paperwork is extensive. Staff found a typo and it is on draft Resolution No. 2009-12. In the heading, the word "Commission" is misspelled. Staff is recommending that the Commission change providers to the SDRMA and to authorize staff to execute numerous documents.

Commissioner Leopold finds it interesting that the Commission is not members of the SDRMA and that this change in insurance providers would direct them to be members. He wonders how much it costs to be members.

Mr. McCormick replies that this Commission would become associate members. As members, it would make the Commission eligible for all of their regular programs, including board member training. The membership would cost \$776 per year. The insurance costs this calendar year would be \$867. If those two numbers are added together, it is still 14% less for just the Workers' Compensation policy. There is immediate savings. Staff has found SDRMA more user-friendly than State Compensation Insurance Fund. One of the other LAFCOs has recently filed a claim and they were satisfied with how SDRMA handled the claim. There is a possibility, when other insurances are priced out, that the Commission may not have to pay additional membership fees. If the insurance prices out cheaper, he will bring it to the Commission.

Chairperson Roger Anderson asks which LAFCOs use SDRMA.

Mr. McCormick answers there are six large to small counties that use SDRMA, including Butte and Los Angeles counties. Two of the counties are similar in size to Santa Cruz. The six LAFCOs that reported to him are all satisfied. The premiums have not jumped around and the service is good. Los Angeles LAFCO priced out a broader range of service providers and still settled with SDRMA. That is why he did not spend too much time shopping for other providers.

Commissioner Jim Anderson asks if the experience factor is one of the elements that drives what the rates will be.

Mr. McCormick answers that staff had to provide a lot of information, including a loss history report from the current insurance provider. He tried to get LAFCO employees reclassified in a lower risk category. Workers' Compensation was not interested in rating staff differently. He is rated as a salesperson who drives on the road where there may be situations out of his control. He gave them a year's worth of his driving history because he thought he should be reclassified as an office worker with occasional driving duties. They would not reclassify him with a lower rate. SDRMA is only saving 14% of two Workers' Compensation premiums. He recommends moving to SDRMA, authorizing the execution of all the paperwork, and once the new insurance is in place, to drop Workers' Compensation.

Chairperson Roger Anderson notices that the paperwork needs his signature and they need to be notarized. He asks if self-insurance means that this Commission is buying it from someone else other than the State.

Chris Chelden thinks it means that it is a risk pool among all the members of the SDRMA.

Chairperson Roger Anderson asks if Los Angeles LAFCO, for example, runs into trouble, would everyone's rates go up.

Chris Cheleden says that is correct.

MOTION AND ACTION

Motion: Begun Second: Rapoza	To approve staff's recommendation. Motion carries with a unanimous voice vote.
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STATUS OF PROPOSALS

Mr. McCormick says there are two applications pending, which are LAFCO No. 928 and No. 929. They both involve the growth plans of UC Santa Cruz. The City of Santa Cruz is continuing to develop the environmental documents which include water analysis. Sometime in the fall, he expects to receive an administrative draft for his in-house comments. Later in the fall, he expects there will be a release of the draft EIR. This is all under the City's control. Once the EIR is certified, the next logical step would be for the Commission to hold its hearing.

When the draft EIR is released, he expects LAFCO's comments to be extensive. He will submit those comments to the Commission for authorization and direction before he sends it to the City. There will be an agenda item to talk to about LAFCO's comments on the draft EIR.

CALAFCO ANNUAL BUSINESS MEETING

Mr. McCormick reports that CALAFCO's annual business meeting will be held on October 29, 2009. They have asked for a delegate of the LAFCO Commissioners attending who will be voting at the business meeting. He suggests making a motion and authorizing one of the attending Commissioners to be the voting person. The Commission should also consider whether to nominate anyone for the open CALAFCO board positions.

There is a major item of business this year that involves the restructuring CALAFCO to have regions.

Alternate Bell asks if Roger Anderson can he be the voting delegate even if he is the Chairperson.

Chairperson Roger Anderson says it would be better to have someone other than himself to be the voting member because he will be presiding over the whole meeting.

Alternate Bell thinks Commissioner Rapoza would be a good delegate.

Commissioner Rapoza explains that the voting delegate gets the packet which contains the election of officers or any other business. Everyone gets together, decides where the checks will go, and the voting delegate turns it in. The voting delegate does not really have any authority other than just to pick up the packet.

Alternate Bell adds that Commissioner Rapoza would be a good voting delegate since he has been on the Commission for awhile.

MOTION AND ACTION

Motion: Begun Second: Lind	To have Commissioner Rapoza be the voting delegate. Motion carries with a unanimous voice vote.
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Chairperson Roger Anderson agrees that Commissioner Rapoza would be a good voting delegate. He is good at bringing everyone into the discussion.

Commissioner Leopold asks who is going to the CALAFCO conference.

Mr. McCormick answers that he is going as well as Alternate Lane and Commissioners Lind, Rapoza, Leopold, Jim Anderson, and Chairperson Roger Anderson.

Chairperson Roger Anderson says the deadline for anyone who wants to be on the CALAFCO board is coming soon. He believes there are openings in all categories. There are openings for a public member, county supervisor, city member, and a special district member. There is the possibility of electing someone to those positions. Most of the openings have incumbents which can be a hurdle for new people to get on the board.

Alternate Bell asks when Chairperson Roger Anderson's term is up.

Chairperson Roger Anderson answers that his term is up a year from now. He wants to know if anyone is interested in running for the CALAFCO board. He will help anyone who is interested to get elected. People have done remarkable things to get elected. One county supervisor from San Luis Obispo threw a big cocktail party.

Mr. McCormick adds that there was a nominee, whose last name was Combs, handed out advertising combs and she got elected.

Chairperson Roger Anderson continues that there will be opportunities to discuss the proposal to establish a regional structure for LAFCOs. One discussion will be at the business meeting portion of the conference. There will also be a presentation by Susan Wilson, from Santa Clara County who is the Vice Chair of CALAFCO. She will talk about this regional proposal.

The other opportunity to discuss this issue will be a clicker session or an interactive session at the conference where someone has been hired to distribute electronic transmitters and the group can provide input directly to questions that appear on the screen. He is working with the committee to develop those particular questions. A portion of those questions will be on the regional structure. The CALAFCO board's main concern is to get good information from the members about whether they see advantages to having a regional structure to the board, how well it would be used by different regions of the State, and what would be the cost for this type of interaction.

The history of this regional proposal is primarily from the input of Southern California. They would like to have a guaranteed representation on the board. He thinks this is the real motivation for this proposal. There were some proposals put forth last February through May, followed by a meeting in August with the full board where they approved a modified incremental approach.

Staff has been involved in helping with the maps and compiling information for these possible regions. Mr. McCormick came up with three to six different ways of coloring in the map of California, and helped to decide which regions different LAFCOs would be involved in. Presently, they are looking at the possibility of talking about the advantages and disadvantages of regional representation. Nothing on the agenda will cover the idea of what regions will actually exist, how will the lines be drawn, or how many regions are likely to be drawn. He

suspects that a large number of regions will be needed because if each LAFCO in the State is asked who they would like to talk to, there are relatively small groupings of maybe six LAFCOs that they would be interested in talking to. There will be continued discussions with individual LAFCOs over the next year. The hope is that there will be some final decision about the implications made at the annual meeting in 2010.

He wants the Commission to think about a few questions. What are the advantages and disadvantages of a regional approach? How willing would this LAFCO be to travel some distance to work with other LAFCOs three times per year as the proposal says, and what would be the advantages of that? Would it provide some aid to people new to LAFCO?

The biggest question is whether this is best done regionally or in more of a statewide approach. He sees advantages either way. In a statewide approach, there would be a wider spectrum of the different degrees of effectiveness from the individual LAFCOs. For Santa Cruz LAFCO, he wonders how important it would be to have guaranteed seats on the board from given regions, and how that would help or hinder the organization. These issues need to be discussed. There are smaller, more rural LAFCOs which feel threatened by this proposal. There are questions about how much of a change in the organization should there be at this time. He hopes there are thoughtful discussions about this proposal in October.

Alternate Bell asks if regional areas are created, whether that is another layer of bureaucracy. She wonders if there would have to be a Chair and Vice Chair for each region.

Chairperson Roger Anderson replies that the organization will have to decide how much autonomy the individual regions would have. Now, there would be no autonomy. They would not be able to take legislative action or lobbying independent of the CALAFCO board. Commissioner Rapoza told him there is a probation officers' organization which has six regions, and they each have a Chair and Vice Chair. The southern region has two Vice Chairs.

This is a very good question. Hopefully, there will not be much extra cost to do this with the budgetary problems all of the agencies are having. It is not clear how many people would be willing to spend three meetings per year with a regional group. He hopes that at least the Executive Officers, the Chair or someone else from the Commission would go. He is not sure how far that many people are willing to drive.

Alternate Bell asks if there was some kind of legislation that would affect LAFCO boards somehow, one region decides to support it, and another region might decide not to support it, whether it would be difficult to respond from the CALAFCO board.

Chairperson Roger Anderson agrees that it would be difficult. Now, CALAFCO has a good reputation of having reliable and thoughtful input on State legislation. It is not a very big part of their overall workload. They are limited to 15% of their budget but they are a player. If there was dissension within the CALAFCO community, it would undercut that enormously.

This regional approach is being pushed because there was some division last year regarding SB 375, the greenhouse gas bill, and the regional transportation sustainable communities program. This is partly the fallout from that division. There was a very small group on the board that was against it. It is not surprising that this would happen, knowing California politics.

His job on the CALAFCO board will be to give as fair of a hearing as possible to whoever wants to discuss this

issue at the annual meeting. He hopes this will result in some progress.

Alternate Bell wonders if it would be a good idea to express whether Santa Cruz LAFCO does or does not support this regional idea.

Chairperson Roger Anderson says there will be an opportunity. There will not be a vote except with the interactive session, there will show evidence of six votes. He will try to get the questions to identify the approximate region where people are from. It will not be countywide, but they will at least be able to know whether the respondents are from Southern California, from coastal counties, or wherever.

He encourages everyone going to the Conference to study this issue. He is available to talk to anyone about it.

MOTION AND ACTION

Motion: Begun Second: Leopold	To adjourn. Motion carries with a unanimous voice vote.
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Meeting is adjourned at 11:23 a.m. The next meeting is scheduled for Wednesday, September 2, 2009.

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CHAIRPERSON, ROGER W. ANDERSON

Attest:

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Patrick M. McCormick, Executive Officer