



VENTURA LOCAL AGENCY FORMATION COMMISSION

AGENDA

Wednesday June 12, 2013

9:00 A.M.

Hall of Administration, Board of Supervisors Hearing Room
800 S. Victoria Avenue, Ventura CA

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Commission Presentations and Announcements

PUBLIC COMMENTS

5. This is an opportunity for members of the public to speak on items not on the agenda.

(The Ventura Local Agency Formation Commission encourages all interested parties to speak on any issue on this agenda in which they have an interest; or on any matter subject to LAFCo jurisdiction. It is the desire of LAFCo that its business be conducted in an orderly and efficient manner. All speakers are requested to fill out a Speakers Card and submit it to the Clerk before the item is taken up for consideration. All speakers are requested to present their information to LAFCo as succinctly as possible. Members of the public making presentations, including oral and audio/visual presentations, may not exceed five minutes unless otherwise increased or decreased by the Chair, with the concurrence of the Commission, based on the complexity of the item and/or the number of persons wishing to speak. Speakers are encouraged to refrain from restating previous testimony.)

CONSENT ITEMS

6. Minutes of the Ventura LAFCo May 15, 2013 Meeting
7. FY 2012-13 Budget to Actual Report -April 2013

RECOMMENDED ACTION: Approval of Item 6 and
Receive and File Item 7

COMMISSIONERS AND STAFF

COUNTY: Kathy Long Linda Parks, Vice Chair <i>Alternate:</i> Steve Bennett Executive Officer: Kim Uhlich	CITY: Carl Morehouse Janice Parvin <i>Alternate:</i> Carol Smith Dep. Exec. Officer Kai Luoma	DISTRICT: Bruce Dandy Gail Pringle, Chair <i>Alternate:</i> Elaine Freeman Office Mgr/Clerk Debbie Schubert	PUBLIC: Linda Ford-McCaffrey <i>Alternate:</i> Lou Cunningham Legal Counsel Michael Walker
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ACTION ITEMS

8. Waiver of Commissioner's Handbook Policies for Territory Subject to Pending Change of Organization Proposal LAFCo 12-09 Lake Sherwood Community Services District – Annexation #. 2

Waive Commissioner's Handbook policies to allow for the Lake Sherwood Community Services District to request authorization of out of agency service agreements for the provision of water service to any lot currently located within the sphere of influence of the Lake Sherwood Community Services District and described in the pending proposal referred to as LAFCo 12-09 Lake Sherwood Community Services District – Annexation No. 2.

RECOMMENDED ACTION:

Direct staff to schedule LAFCo 12-09S Lake Sherwood Community Services District Sphere of Influence Amendment – Annexation # 2 and LAFCo 12-09 Lake Sherwood Community Services District Annexation – Annexation # 2 (Parcels A - G) for consideration at the July 17, 2013 LAFCo meeting

EXECUTIVE OFFICER'S REPORT

Next LAFCo meeting July 17, 2013

COMMISSIONER COMMENTS

ADJOURNMENT

WEB ACCESS:

**LAFCo Agendas, Staff Reports
and Adopted Minutes can be found at:**

www.ventura.lafco.ca.gov

Written Materials - Written materials relating to items on this Agenda that are distributed to the Ventura Local Agency Formation Commission within 72 hours before they are scheduled to be considered will be made available for public inspection at the LAFCo office, 800 S. Victoria Avenue, Administration Building, 4th Floor, Ventura, CA 93009-1850, during normal business hours. Such written materials will also be made available on the Ventura LAFCo website at www.ventura.lafco.ca.gov, subject to staff's ability to post the documents before the meeting.

Public Presentations - Except for applicants, public presentations may not exceed five (5) minutes unless otherwise increased or decreased by the Chair, with the concurrence of the Commission. Any comments in excess of this limit should be submitted in writing at least ten days in advance of the meeting date to allow for distribution to, and full consideration by, the Commission. Members of the public who wish to make audio-visual presentations must provide and set up their own hardware and software. Set up of equipment must be complete before the meeting is called to order. All audio-visual presentations must comply with the applicable time limit for oral presentations and thus should be planned with flexibility to adjust to any changes to the time limit established by the Chair. For more information about these policies, please contact the LAFCo office.

Quorum and Voting – The bylaws for the Ventura LAFCo Commissioner's Handbook provide as follows:

1.1.6.1 Quorum: Four (4) members shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time.

1.1.6.2 Voting: Unless otherwise provided by law or these By-Laws, four affirmative votes are required to approve any proposal or other action. A tie vote, or any failure to act by at least four affirmative votes, shall constitute a denial.

Americans with Disabilities Act - In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the LAFCo office (805) 654-2576. Notification 48 hours prior to the meeting will enable LAFCo to make reasonable arrangements to ensure accessibility to this meeting.

Disclosure of Campaign Contributions - LAFCo Commissioners are disqualified and are not able to participate in any proceeding involving an "entitlement for use" if, within the 12 months preceding the LAFCo decision, the Commissioner received more than \$250 in campaign contributions from the applicant, an agent of the applicant, or any financially interested person who actively supports or opposes the LAFCo decision on the matter. Applicants or agents of applicants who have made campaign contributions totaling more than \$250 to any LAFCo Commissioner in the past 12 months are required to disclose that fact for the official record of the proceeding.

Disclosures must include the amount of the contribution and the recipient Commissioner and may be made either in writing to the Clerk of the Commission prior to the hearing or by an oral declaration at the time of the hearing.

The foregoing requirements are set forth in the Political Reform Act of 1974, specifically Government Code, section 84308.



VENTURA LOCAL AGENCY FORMATION COMMISSION

MEETING MINUTES

Wednesday May 15, 2013

Agenda Item 6

Hall of Administration, Board of Supervisors Hearing Room
800 S. Victoria Avenue, Ventura

1. Call to Order

Vice Chair Parks called the meeting to order at 9:00 AM.

2. Pledge of Allegiance

Vice Chair Parks led the pledge of allegiance.

3. Roll Call

The clerk called the roll. The following Commissioners were present:

Commissioner Dandy	Commissioner Parks
Commissioner Ford-McCaffrey	Commissioner Parvin
Commissioner Long	Alternate Commissioner Cunningham
Commissioner Morehouse	

4. Commission Presentations and Announcements

There were no announcements.

PUBLIC COMMENTS

5. This is an opportunity for members of the public to speak on items not on the agenda.

There were no public comments.

CONSENT ITEMS

6. Minutes of the Ventura LAFCo April 17, 2013 Meeting

MOTION: Approve the recommended action: Parvin

SECOND: Dandy

AYES: Dandy, Ford-McCaffrey, Long, Morehouse, Parks, Parvin

NOES: None

ABSTAINED: None

MOTION PASSES 6/0/0

COMMISSIONERS AND STAFF

<u>COUNTY</u>	<u>CITY</u>	<u>DISTRICT</u>	<u>PUBLIC</u>
Kathy Long	Carl Morehouse	Bruce Dandy	Linda Ford-McCaffrey
Linda Parks, Vice Chair	Janice Parvin	Gail Pringle, Chair	
<i>Alternate:</i>	<i>Alternate:</i>	<i>Alternate:</i>	<i>Alternate:</i>
Steve Bennett	Carol Smith	Elaine Freeman	Lou Cunningham
Executive Officer:	Dep. Exec. Officer	Office Mgr/Clerk	Legal Counsel
Kim Uhlich	Kai Luoma, AICP	Debbie Schubert	Michael Walker

Commissioner Morehouse announced his intention to recuse himself from agenda item 7 to avoid any appearance of a conflict because his wife is the Planning Director for the City of Santa Paula. He then left the meeting room.

PUBLIC HEARING ITEMS

7. LAFCo 13-04 City of Santa Paula Reorganization – East Area 2 (Parcels A-C)

Commissioner Morehouse left the meeting room. Chair Parks opened the public hearing. Kai Luoma presented the staff report. The following person gave public testimony: Ralph Fernandez, Mayor, City of Santa Paula.

MOTION: Approve the recommended action: Long

SECOND: Parvin

AYES: Dandy, Ford-McCaffrey, Long, Parks, Parvin

NOS: None

ABSTAINED: None

MOTION PASSES 5/0/0

Commissioner Morehouse returned to the dais.

8. LAFCo Recommended Final Budget and Work Plan for Fiscal Year 2013-2014

Kim Uhlich presented the staff report.

MOTION: Approve the recommended action: Ford-McCaffrey

SECOND: Morehouse

AYES: Dandy, Ford-McCaffrey, Long, Morehouse, Parks, Parvin

NOS: None

ABSTAINED: None

MOTION PASSES 6/0/0

ACTION ITEMS

9. Temporary Waiver of Section 5.1.2 of Commissioner's Handbook Policies for Territory Subject to Pending Change of Organization Proposal LAFCo 12-09 Lake Sherwood Community Services District – Annexation #2

Kim Uhlich presented the staff report. The following person gave public comments: Dick Hibma, Lake Sherwood Community Association and Lake Sherwood Community Services District Advisory Committee.

MOTION: Approve the waiver of Commissioner's Handbook Section 5.1.2 with no expiration date for those properties currently within the sphere of influence for the Lake Sherwood Community Services District and described in the annexation proposal titled "LAFCo 12-09 Lake Sherwood Community Services District - Annexation #2: Parks

SECOND: Parvin

WITHDRAWN: Parks (with the consent of Parvin)

MOTION: Return to the next Commission meeting, with a resolution waiving Commissioner's Handbook Sections 5.1.2, with no expiration date, and 5.1.8 for those properties currently within the sphere of influence for the Lake Sherwood Community Services District and described in the annexation proposal titled "LAFCo 12-09 Lake Sherwood Community Services District - Annexation #2: Parks

SECOND: Parvin

AYES: Dandy, Ford-McCaffrey, Long, Morehouse, Parks, Parvin

NOES: None

ABSTAINED: None

MOTION PASSES 6/0/0

10. 2013-2017 Sphere of Influence Review Work Plan

Kim Uhlich presented the staff report.

MOTION: Approve the recommended action: Morehouse

SECOND: Dandy

AYES: Dandy, Ford-McCaffrey, Long, Morehouse, Parks, Parvin

NOS: None

ABSTAINED: None

MOTION PASSES 6/0/0

ACTION ITEMS (Continued)

11. CALAFCO Achievement Award Nominations

Kim Uhlich presented the staff report. Commissioner Morehouse suggested the Commission nominate the proposal to annex the Montalvo Islands to the City of Ventura for the "Project of the Year" award. Kim Uhlich offered to contact the Chair of the Awards Committee to confirm that it would qualify for nomination since it was also nominated last year. Commissioner Long suggested that the proposal to annex East Area 1 to the City of Santa Paula also be nominated for "Project of the Year".

MOTION: Submit the City of Santa Paula Reorganization - East Area 1 proposal for "Project of the Year" and submit the City of Ventura Annexation - Montalvo Islands proposal for the "Project of the Year" if it qualifies: Long

SECOND: Morehouse

AYES: Dandy, Ford-McCaffrey, Long, Morehouse, Parks, Parvin

NOS: None

ABSTAINED: None

MOTION PASSES 6/0/0

12. Proposed High Schools in the Cities of Camarillo and Oxnard

Kim presented an update on the Oxnard Union High School District's plans for the proposed Camarillo Academy High School in Camarillo and distributed a memorandum from the Ventura County Agricultural Commissioner staff and an agenda and minutes from a meeting of the Agricultural Policy Advisory Committee regarding agricultural buffers around the proposed high school.

MOTION: Direct staff to request review of the District's agricultural buffer plan for the Academy High school by the Agricultural Policy Advisory Committee (APAC) for review: Long

SECOND: Morehouse

AYES: Dandy, Ford-McCaffrey, Long, Morehouse, Parks, Parvin

NOS: None

ABSTAINED: None

MOTION PASSES 6/0/0

13. Cancel the June 12, 2013 LAFCo Meeting

Commissioner Morehouse announced that he would be unable to attend the June 12 LAFCo meeting.

MOTION: Take no action: Morehouse

SECOND: Dandy

AYES: Dandy, Ford-McCaffrey, Long, Morehouse, Parks, Parvin

NOS: None

ABSTAINED: None

MOTION PASSES 6/0/0

EXECUTIVE OFFICER'S REPORT

Next LAFCo meeting is June 12, 2013

COMMISSIONER COMMENTS

Alternate Commissioner Cunningham gave a report on the May 3, 2013 CALAFCO Board meeting held in Marysville noting the Board's discussion on Government Code 56133 and the Annual Conference scheduled for August 28-30 at the Resort at Squaw Creek in Lake Tahoe. He then announced that we would like to run for another term on the CALAFCO Board as his current term expires this year.

ADJOURNMENT

Chair Parks adjourned the meeting at 11:12 A.M.

These Minutes were approved on June 12, 2013.

Motion:

Second:

Ayes:

Nos:

Abstains:

Date: _____ **Chair, Ventura Local Agency Formation Commission**



VENTURA LOCAL AGENCY FORMATION COMMISSION

STAFF REPORT

Meeting Date: June 12, 2013

(Consent)

Agenda Item 7

TO: LAFCo Commissioners
FROM: Kim Uhlich, Executive Officer *KU*
SUBJECT: FY 2012-13 Budget to Actual Report – April 2013

RECOMMENDATION:

Receive and file Budget to Actual Report for April 2013.

DISCUSSION:

Pursuant to the Commissioner’s Handbook policies, the Executive Officer is to provide monthly budget reports to the Commission as soon as they are available. The attached report, which was prepared with the assistance of the County Auditor-Controller staff, reflects revenue and expenditures through April of FY 2012-13.

Attachment: 1) Budget to Actual Report: April 2013

COMMISSIONERS AND STAFF

COUNTY:
Kathy Long
Linda Parks, Vice Chair
Alternate:
Steve Bennett

CITY:
Carl Morehouse
Janice Parvin
Alternate:
Carol Smith

DISTRICT:
Bruce Dandy
Gail Pringle, Chair
Alternate:
Elaine Freeman

PUBLIC:
Linda Ford-McCaffrey
Alternate:
Lou Cunningham

Executive Officer:
Kim Uhlich

Dep. Exec. Officer
Kai Luoma, AICP

Office Mgr/Clerk
Debbie Schubert

Legal Counsel
Michael Walker



**BUDGET TO ACTUAL FY 2012-13
YEAR TO DATE ENDING April 30, 2013 (83.3% of year)
Fund 7920, Organization 8950**

Summary	Budget	Adj. Budget	To Date
Estimated Sources	659,706	659,706	661,824
Appropriations	659,706	659,706	470,195

Account Number	Title	BUDGET			ACTUAL YTD			Variance Favorable (Unfavorable)	
		Budget	Proposed Adjustments	Adjusted Budget	Actual	Encumbered	Total Revenue/Obligation		
FUND BALANCE									
	Beginning Balance	385,219		385,219	385,218.80		385,218.80	0.00	
5331	Committed	100,000		100,000	100,000.00		100,000.00	0.00	
5395	Unassigned	200,028		200,028	200,027.80		200,027.80	0.00	
5395	Unassigned - Appropriated	85,191		85,191	85,191.00		85,191.00	0.00	
REVENUE									
8911	Interest Earnings	4,000		4,000	1,468.01		1,468.01	2,531.99	37%
9372	Other Governmental Agencies	550,515		550,515	550,515.00		550,515.00	0.00	100%
9772	Other Revenue - Miscellaneous	20,000		20,000	24,650.23		24,650.23	(4,650.23)	123%
	Total Revenue	574,515	0	574,515	576,633.24		576,633.24	(2,118.24)	100%
	TOTAL SOURCES	659,706	0	659,706	661,824.24	0.00	661,824.24	(2,118.24)	100%
EXPENDITURES									
1101	Regular Salaries	323,550		323,550	251,253.42		251,253.42	72,296.58	78%
1106	Supplemental Payments	12,400		12,400	9,590.39		9,590.39	2,809.61	77%
1107	Term/Buydown	22,500		22,500	14,165.30		14,165.30	8,334.70	63%
1121	Retirement Contribution	72,000		72,000	54,752.60		54,752.60	17,247.40	76%
1122	OASDI Contribution	18,300		18,300	14,115.59		14,115.59	4,184.41	77%
1123	FICA - Medicare	5,000		5,000	3,976.38		3,976.38	1,023.62	80%
1124	Safe Harbor	0		0	(33.02)		(33.02)	33.02	0%
1141	Group Insurance	21,400		21,400	16,697.50		16,697.50	4,702.50	78%
1142	Life Ins/Dept. Heads & Mgmt.	150		150	105.51		105.51	44.49	70%
1143	State Unempl	700		700	381.21		381.21	318.79	54%
1144	Management Disability Ins.	820		820	615.58		615.58	204.42	75%
1165	Worker Compensation Ins	2,850		2,850	2,206.57		2,206.57	643.43	77%
1171	401K Plan	12,000		12,000	8,201.75		8,201.75	3,798.25	68%
	Salaries and Benefits	491,670	0	491,670	376,028.78	0.00	376,028.78	115,641.22	76%
2033	Voice/Data ISF	3,500		3,500	2,018.98		2,018.98	1,481.02	58%
2071	General Insurance Alloca - ISF	2,250		2,250	1,843.00		1,843.00	407.00	82%
2125	Facil/Matls Sq. Ft. Alloc. - ISF	15,500		15,500	12,360.00		12,360.00	3,140.00	80%
2128	Other Maint	500		500	0.00		0.00	500.00	0%
2141	Memberships & Dues	6,500		6,500	6,416.00		6,416.00	84.00	99%
2154	Education Allowance	1,350		1,350	1,320.00		1,320.00	30.00	98%
2158	Indirect Cost Recovery	3,000		3,000	2,967.00		2,967.00	33.00	99%
2172	Books & Publications	500		500	407.87		407.87	92.13	82%
2174	Mail Center - ISF	3,000		3,000	1,816.81		1,816.81	1,183.19	61%
2176	Purchasing Charges - ISF	500		500	91.10		91.10	408.90	18%
2177	Graphics Charges - ISF	4,000		4,000	231.10		231.10	3,768.90	6%
2178	Copy Machine Charges - ISF	1,000		1,000	375.57		375.57	624.43	38%
2179	Miscellaneous Office Expense	6,000		6,000	4,903.68		4,903.68	1,096.32	82%
2181	Stores ISF	50		50	34.08		34.08	15.92	68%
2191	Board Members Fees	5,000		5,000	2,250.00		2,250.00	2,750.00	45%
2192	Information Technology - ISF	3,000		3,000	1,480.75		1,480.75	1,519.25	49%
2195	Specialized Services/Software	1,500		1,500	737.50		737.50	762.50	49%
2197	Public Works - Charges	5,000		5,000	995.26		995.26	4,004.74	20%
2199	Other Prof & Spec Service	9,000		9,000	7,055.00	902.00	7,957.00	1,043.00	88%
2203	Accounting and Auditing Services	5,500		5,500	0.00		0.00	5,500.00	0%
2205	GSA Special Services ISF	100		100	207.60		207.60	(107.60)	208%
2214	County GIS Expenses	25,000		25,000	9,422.80		9,422.80	15,577.20	38%
2261	Public & Legal Notices	5,000		5,000	1,544.92		1,544.92	3,455.08	31%
2283	Records Storage Charges	350		350	237.41		237.41	112.59	68%
2293	Computer Equipment <5000	4,000		4,000	3,710.15		3,710.15	289.85	93%
2304	County Legal Counsel	22,500		22,500	16,697.25		16,697.25	5,802.75	74%
2522	Private Vehicle Mileage	7,000		7,000	5,352.77		5,352.77	1,647.23	76%
2523	Conf. & Seminars Expense	13,000		13,000	8,157.27		8,157.27	4,842.73	63%
2526	Conf. & Seminars Expense ISF	500		500	161.00		161.00	339.00	32%
2528	County Motor Pool	1,000		1,000	468.96		468.96	531.04	0%
	Services and Supplies	155,100	0	155,100	93,263.83	902.00	94,165.83	60,934.17	61%
6101	Contingency	12,936		12,936	0.00		0.00	12,936.00	0%
	TOTAL EXPENDITURES	659,706	0	659,706	469,292.61	902.00	470,194.61	189,511.39	71%

0.00

Note: Amounts with "()" in the ACTUAL column reflect FY12 accruals in excess of actual expenditures to date



VENTURA LOCAL AGENCY FORMATION COMMISSION

STAFF REPORT

Meeting Date: June 12, 2013

Agenda Item 8

TO: LAFCo Commissioners

FROM: Kim Uhlich, Executive Officer *KU*

SUBJECT: Waiver of Commissioner’s Handbook Policies Relating to Territory Subject to Pending Change of Organization Proposal LAFCo 12-09 Lake Sherwood Community Services District – Annexation #2

RECOMMENDATION:

Direct staff to schedule LAFCo 12-09S Lake Sherwood Community Services District Sphere of Influence Amendment – Annexation No. 2 and LAFCo 12-09 Lake Sherwood Community Services District Annexation – Annexation No. 2 (Parcels A - G) for consideration at the July 17, 2013 LAFCo meeting.

BACKGROUND:

Government Code Section 56133 and Ventura LAFCo Preference for Annexation

Under current law, a city or special district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from LAFCo. LAFCo may authorize such services outside of a service provider’s jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization (Government Code section 56133, subdivisions (a) and (b)). Subdivision (e) of section 56133 sets forth certain exemptions from the limitations on the provision of extraterritorial services by providing, in part, that the section does not apply to any extended service that a city or district was providing on or before January 1, 2001.

Notwithstanding the authority granted under section 56133 of the Government Code to LAFCos to approve contracts or agreements for the provision of new or extended services outside of the jurisdictional boundaries of a city or special district, section 5.1.2

COMMISSIONERS AND STAFF

COUNTY:
Kathy Long
Linda Parks, Vice Chair
Alternate:
Steve Bennett

CITY:
Carl Morehouse
Janice Parvin
Alternate:
Carol Smith

DISTRICT:
Bruce Dandy
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Legal Counsel
Michael Walker

of the Commissioner's Handbook provides that "Annexations to cities and special districts are always preferred to out of agency service agreements" (OASAs).

Lake Sherwood Community Services District Annexation #2

On August 6, 2012 LAFCo received an application from the Lake Sherwood Community Services District (LSCSD) requesting approval of a sphere of influence amendment to include 11 Assessor parcels and portions of the Potrero Road and Lake Sherwood Drive rights of way and requesting approval of a proposal to annex the same territory plus another 208 Assessor parcels which are currently within the existing sphere of influence for the District (referred to as LAFCo 12-09S/12-09 - Lake Sherwood Community Services District Sphere of Influence Amendment and Annexation #2). Attachment 1 is a map of the territory subject to the proposal. Of the 219 parcels within the proposed annexation area, 159 are currently receiving domestic water service from the LSCSD, which purchases its water from the Calleguas Municipal Water District through the Metropolitan Water District of Southern California. The remaining 60 parcels are undeveloped. Attachment 2 shows the location of the undeveloped parcels (depicted in green) as well as the parcels which are currently developed and receiving water service (depicted in red or white).

As evident in Attachment 1, the proposal includes the lots in the historic Lake Sherwood neighborhoods which remain outside of the LSCSD boundary. As reflected in Attachment 2, some of the lots within the LSCSD proposal area first received water service on or prior to January 1, 2001 and others first received water service since that date. Based on the provisions of Government Code section 56133 and due to the fact that LAFCo has no record of receiving or authorizing any requests to approve any agreements for such services after January 1, 2001, the water service connections initiated after January 1, 2001 do not appear to be legally authorized. With regard to the lots that first received water service on or prior to January 1, 2001, the continued provision of water services by the LSCSD to these lots is consistent with state law and will continue to be so even if they remain outside of the LSCSD boundary. Although there is no legal requirement to do so, these parcels were included in the LSCSD annexation as a means to avoid the creation of an illogical boundary. Attachment 3 is a summary of the parcels included in the LSCSD annexation proposal by water service status and consistency with Government Code section 56133.

The intent of the LSCSD annexation proposal, which was developed as a joint effort by LSCSD and LAFCo staff, is to accomplish the following objectives in the most time- and cost-efficient manner possible: 1) resolve the legal inconsistency relating to the current water service connections initiated by the LSCSD after January 1, 2001; 2) avoid ad hoc, single lot annexation proposals as the owners of the undeveloped lots seek to develop their lots in the future; 3) resolve the illogical boundary of the LSCSD by eliminating the islands; and 4) comply with state law and LAFCo policies.

Comments by Affected Landowners

Consideration of the LSCSD annexation by the Commission has been continued since September 2012 in response to objections raised by a small group of residents who currently receive water service and whose lots are subject to the pending change of organization. Their primary objection to the annexation is that they and other landowners in the historic tracts could be forced to pay for other services and/or facilities which the LSCSD may choose to provide in the future and which they do not wish to receive. As owners of lots in the older, historic tracts of the Lake Sherwood Community, these individuals note that they would constitute a minority of the land owners within the LSCSD relative to the owners of lots in the tracts developed since the 1980s. They are thus concerned that any additional services which the LSCSD may choose to provide in the future will be a type that would benefit those land owners in the newer portion of the community exclusively and would be of no interest or benefit to the owners of lots in the historic tracts.

Community services districts are authorized under state law to provide a wide array of services. However, any services which a community services district is authorized to provide but did not provide prior to January 1, 2006 are considered latent powers which cannot be exercised without prior LAFCo approval. The LSCSD is currently authorized to provide potable water service; all other services it is otherwise authorized to provide are latent powers. Examples of other services and facilities which a community services district can provide include:

- Collect, transfer, and dispose of solid waste, and provide solid waste handling services;
- Provide fire protection services, rescue services, hazardous material emergency response services, and ambulance services in the same manner as a fire protection district;
- Acquire, construct, improve, maintain, and operate recreation facilities;
- Acquire, construct, improve, maintain, and operate street lighting and landscaping on public property, public rights of way, and public easements;
- Provide security services, including but not limited to burglar and fire alarm services to protect lives and property;
- Acquire, construct, improve, and maintain streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works;
- Convert existing overhead electric and communications facilities;
- Provide emergency medical services;
- Plan, design, construct, improve, maintain, and operate flood protection facilities;
- Abate weeds and rubbish;
- Construct, maintain, and operate mailboxes on a district's property or right-of-way;
- Provide mail delivery service under contract to the United States Postal Service;
- Construct, own, improve, maintain, and operate broadband facilities and provide broadband services if a private person or entity is unable or unwilling to deploy broadband services.

In addition to the concerns from residents discussed above, staff has received calls from owners of several undeveloped lots within the pending proposal area and other interested parties. Several of these individuals indicated that they are involved in pending transactions concerning the sale/purchase of affected lots and are supportive of annexation as a means to ensure their eligibility to obtain water service from LSCSD. In some cases, these owners have expressed concerns regarding the delayed resolution of the pending annexation proposal and are considering the option of filing individual annexation proposals for their lots.

Meetings with Concerned Residents

Since December 2012, staff from LAFCo and the LSCSD participated in several meetings with Supervisor Parks, a member of the Supervisor's staff, and a small group of Lake Sherwood residents to discuss options for resolving the residents' objections to the LSCSD annexation proposal. One option that was considered was for the LSCSD to impose a permanent and irrevocable limit on its authority to offer future services other than water provision. It was subsequently dismissed as being legally untenable. The group also discussed the option of forming a new waterworks district to include the territory affected by the pending LSCSD proposal in lieu of being annexed to and served by the LSCSD. Because waterworks districts are limited from providing services other than those related to supplying water, the purpose of this option was to alleviate the residents' concerns regarding the potential for the LSCSD to offer other non-water related services. This option was eliminated after LAFCo staff raised the issue of potential conflicts with LAFCo policies and state law. Another consideration was for the LSCSD to circumvent LAFCo oversight by executing an agreement with the (currently nonoperational) Lake Sherwood mutual water company whereby the water company would purchase LSCSD water, convey it through the LSCSD water distribution system and resell it to landowners outside of the LSCSD boundary. This option was also eliminated based on LAFCo staff's objections concerning its legal validity. Although not supported by the group of residents, one option that was supported by LSCSD staff, LAFCo staff and Supervisor Parks was for the LSCSD to amend the pending annexation proposal to include only lots that are currently undeveloped (and thus excluding the developed lots, including those owned by the concerned residents).

During the time the parties were meeting to discuss the residents' concerns regarding the annexation proposal, LAFCo staff received a letter from LSCSD Manager R. R. Pakala asking for concurrence with the assertion that no LAFCo approval is needed for the LSCSD to provide water service to certain tracts located outside of the LSCSD boundary under an exception set forth in subdivision (e) of section 56133 of the Government Code. The basis for the assertion is that the LSCSD, since well prior to January 1 2001, has contemplated providing water service to these tracts at a future time (Attachment 4). Attachment 5 is a letter of response from LAFCo staff to Mr. Pakala conveying a determination by LAFCo Legal Counsel that the exception in subdivision (e) of section

56133 does not apply because LSCSD was not actually providing water service to the referenced tracts on or before January 1, 2001. Based on that determination, the letter concludes that LAFCo approval is required for the future provision of any new or extended water service by the LSCSD outside of its jurisdictional boundary just as it has since January 1, 2001.

Interim Option Recommended by LAFCo Staff

At the May 15, 2013 LAFCo meeting staff recommended that the Commission waive the applicability of Handbook Section 5.1.2 to the lots subject to the Annexation #2 proposal and which are currently within the LSCSD sphere of influence for a period of up to six months from initiation of the service. The recommendation, which was primarily designed to benefit the owners of undeveloped lots, was intended to provide an interim process through which owners could obtain authorization to receive water service from the LSCSD prior to formal annexation. Approval of the recommendation would have allowed the LSCSD to execute an OASA with any interested land owner and to file an application requesting LAFCo approval of the agreement for a six month period from service initiation. Upon LAFCo approval, the subject land owners would have been eligible to receive "will serve" letters from the LSCSD. In the event that work were to resume on the LSCSD annexation proposal and it were to be approved by the Commission, no further action on the part of LAFCo, the LSCSD or any owners of land subject to an OASA authorized under the waiver would have been necessary as long as it occurred prior to the expiration of the six-month time limit.

It should also be noted that the option recommended by staff was intended to serve as an interim measure in advance of anticipated annexation and would not resolve the legal status of the water service connections initiated by the LSCSD after January 1, 2001 to lots outside of its boundary.

May 15, 2013 LAFCo Meeting

At the May 15, 2013 LAFCo meeting, the Commission adopted a motion directing staff to return to the next meeting with a resolution approving a waiver of Handbook Section 5.1.2 with no expiration date for the lots subject to the pending Annexation #2 proposal and which are currently within the LSCSD sphere of influence. The motion further directed that the resolution should include approval of a waiver of Handbook Section 5.1.8, which provides as follows:

Whenever the affected territory may ultimately be annexed to the service agency, a standard condition of approval for an out of agency service agreement shall be the recordation of an agreement by the landowner consenting to annex the territory. Said agreement shall be binding on future owners of the property.

DISCUSSION:

A resolution providing for the waiver of Handbook sections 5.1.2 and 5.1.8 is attached as Attachment 6. As part of the waiver decision it is recommended that the Commission consider the points outlined below.

Excluded Territory

Of the 219 parcels which are subject to the Annexation #2 proposal, 132 are currently developed and first received water service from the LSCSD on or prior to January 1, 2001. Because the law provides a “grandfather” exception for extended water service provided by a district outside of its boundary on or before January 1, 2001, the continued provision of water service is legally authorized. As such, no further action is necessary with regard to OASAs or policy waivers for these parcels.

Later Change of Organization

Although it is within the authority of the Commission to waive Handbook Section 5.1.8, which requires as a standard condition of approval of an OASA the recordation of an agreement by the landowner consenting to annex the territory, the Commission is not granted with the authority to waive the requirements of state law. Subdivision (b) of section 56133 of the Government Code provides that LAFCo may authorize a city or district to provide new or extended services outside of its jurisdictional boundary but within its sphere of influence “*in anticipation of a later change of organization*” (emphasis added). In the case of an OASA, a later change of organization would typically entail the annexation of the affected territory to the service provider. However, if the Commission were to adopt the attached resolution it would eliminate any obligation on the part of the landowner to annex territory upon which an OASA is subsequently approved and recorded. In response, the LSCSD would likely file a request to either withdraw its pending annexation proposal or to amend the proposal to exclude the portion of the territory that is eligible to receive water service through an OASA.

During the Commission’s discussion of the waiver item on May 15th, reference was made to the possibility of forming a county waterworks district to assume responsibility for providing water service in lieu of the LSCSD. Because the formation of a new special district is specifically identified as a change of organization in LAFCo law, the adoption of a resolution by the LSCSD to initiate the formation of a waterworks district for the purpose of providing water to the Lake Sherwood community could be one of possibly several ways to satisfy the statutory requirement that any request to approve an OASA for the provision of water service by the LSCSD be done “*in anticipation of a later change of organization*”.

As an affected local agency, the LSCSD is authorized under state law to initiate proceedings to form a new county waterworks district through the adoption of a resolution

of application. As part of the consideration of a proposal to form a new district, it should be noted that the Commission must determine whether existing agencies can feasibly provide the needed service in a more efficient and accountable manner. If a new single-purpose agency (such as a waterworks district) is deemed necessary, the Commission must also consider reorganization with other single-purpose agencies that provide related services (Government Code section 56886.5). As such, the possibility of annexing the affected territory to an existing waterworks district in lieu of forming a new waterworks district will need to be considered as part of the Commission's deliberations on any future proposal to form a new waterworks district.

Section 3.1.5 of the Handbook provides the following:

LAFCo shall consider, and approve, where appropriate and feasible, the provision of new or consolidated services in the following order of preference:

- (1) Annexation to an existing city.
- (2) Annexation to an existing multiple purpose special district.
- (3) Annexation to an existing single purpose district.
- (4) Consolidation of existing districts.
- (5) Annexation to a subsidiary district or County Service Area of which the Board of Supervisors is the governing body.
- (6) Formation of a new County Service Area.
- (7) Incorporation of a new city.
- (8) Formation of a new multiple purpose district.
- (9) Formation of a new single purpose district.

As evident in the above policy language, the formation of a new single-purpose special district is the least preferred means through which the provision of new or consolidated services is to be considered. Although not necessary as part of the current policy waiver matter, it should be noted that Handbook section 3.1.5 will need to be considered as part of the Commission's deliberations on any future proposal to form a new waterworks district.

Territory Outside of the LSCSD Sphere of Influence

As described in the Background Section of this report, the Annexation #2 proposal includes a request for approval of a concurrent sphere of influence amendment to include 11 parcels which are currently outside of the LSCSD sphere. Five of the 11 parcels are currently developed. Three of the developed lots first received water service from the LSCSD on or prior to January 1, 2001, including a County fire station built in 1949 and two single family homes built in 1936 and 1940, respectively. The other two parcels were developed since 2001 and thus the associated water service connections require, but lack, authorization from LAFCo.

Subdivision (c) of section 56133 of the Government Code provides that LAFCo may, if specified requirements are met, authorize the provision of new or extended services outside of a provider's jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory. Should the Commission approve the attached resolution and the LSCSD were to file a request for approval of an OASA affecting any territory outside of the LSCSD sphere, the LSCSD would also have to provide documentation of a public health and safety threat that would be addressed through the provision of new or extended water service. Unless such documentation could be furnished or the LSCSD sphere of influence is amended, approval of the attached resolution would not allow for LAFCo to approve any OASA for the six vacant parcels and the two parcels to which water service was initiated after January 1, 2001.

Should the Commission wish to take action to amend the sphere, the soonest opportunity to do so would be the LAFCo meeting on July 17, 2013 to provide time for staff to publish the required public notice.

Procedural Considerations

If the Commission wishes to approve the attached resolution, staff would recommend that the LSCSD be encouraged to submit a single written "blanket" service agreement due to the relatively large number of individual service connections that would be affected.

Handbook section 5.1.3.1 requires that applications for OASAs include a service agreement signed by all parties. If the Commission wishes to approve the attached resolution, staff would recommend that the Commission consider waiving section 5.1.3.1 in consideration of the potential logistical difficulties that would be involved in obtaining signatures from each of the affected landowners, particularly from current customers who may be reluctant to sign such an agreement. The attached resolution includes language to address this waiver.

Commissioner's Handbook sections 5.1.9.1, 5.1.9.2 and 5.1.9.3 (Attachment 7) provide that an OASA must be recorded (to be effective) and that, where a building permit is needed to authorize construction of the improvement for which the service is to be provided, the agreement must contain language that limits the time period in which to obtain the building permit to no more than one year after the agreement is recorded (although a time period in excess of one year is allowable where "exceptional circumstances exist" and an additional one year time extension is allowed). The application of these sections to a blanket service agreement, at least for owners of vacant lots who may have different time tables for obtaining approval of entitlements or permits and completing construction may be problematic. If the Commission wishes to approve the attached resolution, staff would recommend that the Commission consider waiving sections 5.1.9.1, 5.1.9.2 and 5.1.9.3. The attached resolution includes language to address these waivers.

Precedents

It is important to note any action involving the permanent waiver of Handbook Section 5.1.2 and/or Section 5.1.8 would establish a policy precedent which would likely result in requests for similar waivers by landowners in other parts of the county who need service from a special district or city but prefer that their properties remain outside of the jurisdictional boundaries of the service provider.

Under state law, LAFCo is strictly limited in terms of its authority to initiate annexation proposals. Handbook Section 5.1.8 therefore represents the only means through which the Ventura LAFCo can influence annexations in the case of territory which benefits from a previously approved service agreement but remains outside of a service provider's jurisdiction. And, contrary to the implication, many of the annexation consent clauses that are ultimately implemented by LAFCo are done so with the support of the service provider. Staff has seen several examples of territory subject to a historic OASA which, due to changed circumstances, would have otherwise created an impediment (e.g., the creation of an island or other illogical service boundary) when the provider later wished to annex and serve the surrounding areas if it were not for the clause securing consent to annexation from the land owner subject to the agreement. A precedent created through the approval of a single waiver of Handbook Section 5.1.8 could potentially weaken the limited leverage that LAFCo has (and, in some cases, cities and districts have by extension) to compel annexation in situations when the Commission determines that annexation is the best course of action despite the objections of the affected land owner.

Assuming that a proposal to form a waterworks district is subsequently filed, approved by the Commission and ultimately recorded, the precedent that would result from the approval of the attached resolution would be tempered significantly because its effect would be only temporary until the waterworks district formation became effective. However, if for any reason the waterworks district is not formed, the approval of the attached resolution would create a perpetual precedent of authorizing the provision of water by the LSCSD to a total of 76 lots outside of its boundary with no corresponding obligation on the part of the landowners to waive their rights to oppose future annexation.

Authority to Waive Policies

The Commission's authority to waive policies and standards relating to OASAs is provided for in Section 5.1.1.2:

These policies and standards relating to out of agency service agreements shall be given great weight as a part of the Ventura LAFCo's consideration of proposals. They are general guidelines for the Commission to follow, however, they are not mandatory or binding. The Commission can and will consider each proposal upon its merits within the parameters set forth in state law. Should the Commission elect not to follow a policy, it shall, as a part of any resolution on the matter and as part of the written record, set forth the specific waiver, and the reason for it.

California Environmental Quality Act (CEQA)

The purpose for the waiver of Handbook sections 5.1.2, 5.1.8, 5.1.3.1, 5.1.9.1, 5.1.9.2 and 5.1.9.3 would be to allow for the provision of existing domestic water service initiated after January 1, 2001 to as many as 22 developed parcels and the provision of future water service to as many as 54 undeveloped parcels through an OASA in lieu of annexation. All of the affected lots that are within the LSCSD sphere of influence are zoned Rural Exclusive, 1-acre minimum except for portions of three lots on which the zoning designation is Open Space, 20-acre minimum and one on which the zoning designation is Open Space, 10-acre minimum. The portion of the Commission's action allowing for the potential approval of out of agency service agreements to authorize existing water service to 22 parcels which are currently developed with single family residential uses would not result in any impacts because it would involve negligible or no expansion to existing uses. Therefore, staff has determined that this portion of the action would be categorically exempt pursuant to Section 15301 of the CEQA Guidelines [Operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing structures].

The portion of the Commission's action allowing for the potential approval of an out of agency service agreement to authorize new water service to 54 undeveloped parcels would not result in any impacts because the overlying lots are portions of previously approved residential subdivisions and the approvals necessary for the development of single family uses and appurtenant structures on such lots are considered to be ministerial actions. A portion of one undeveloped lot includes a zoning designation of Open Space, 20-acre minimum with a scenic resource protection overlay zone. Development within this overlay zone may be subject to additional requirements (such as discretionary permits) intended to protect certain scenic areas as determined by the County General Plan and the various Area Plans. However, the portion of the lot on which development would likely be sited is not within the overlay area. Therefore, staff has determined that this portion of the action would be categorically exempt pursuant to Section 15303(d) of the CEQA Guidelines [Water main, sewage, electrical, gas, and other utility extensions to serve new construction of small structures].

At the May 15 meeting, a question was raised as to the current status and future availability of water supplied to the LSCSD from the Metropolitan Water District and the Calleguas Municipal Water District. Attached is a letter from Eric Bergh, Manager of Resources for the Calleguas Municipal Water District addressing water availability for the territory subject to the Annexation #2 proposal (Attachment 8). The letter also identifies eight lots to which water service is being provided but for which no record of payment of Capital Construction Charges is apparently available. As such, the letter requests that the recordation of the Annexation #2 proposal be conditioned upon the payment of the apparently delinquent charges owed to Calleguas. If the Commission wishes to approve the attached resolution, staff would recommend that the Commission consider directing that it be amended to become effective upon the payment of any unpaid capital

construction charges determined by the Calleguas Municipal Water District to be owed for providing water service to any lots subject to the resolution. Based on a follow up communication with Calleguas staff, the total amount that is apparently due for the eight lots is estimated to be approximately \$18,000 - \$36,000, depending on meter size.

Handbook section 2.5.2.1 (Attachment 9) delegates authority to the Executive Officer to act on applications for OASAs under specified circumstances such as emergency proposals for service outside of a sphere of influence for the purpose of responding to an existing or impending threat to the public health or safety and proposals that have been determined to be exempt from the California Environmental Quality Act (CEQA) or for which a negative declaration was prepared and for which no mitigation measures were required. If the Commission were to approve the attached resolution including the waivers of the various Handbook sections referenced therein and no discretionary approvals requiring the preparation of a mitigated negative declaration or environmental impact report are determined to be necessary for development of any of the affected parcels, no further decisions concerning this matter would be required of the Commission.

Alternative Option

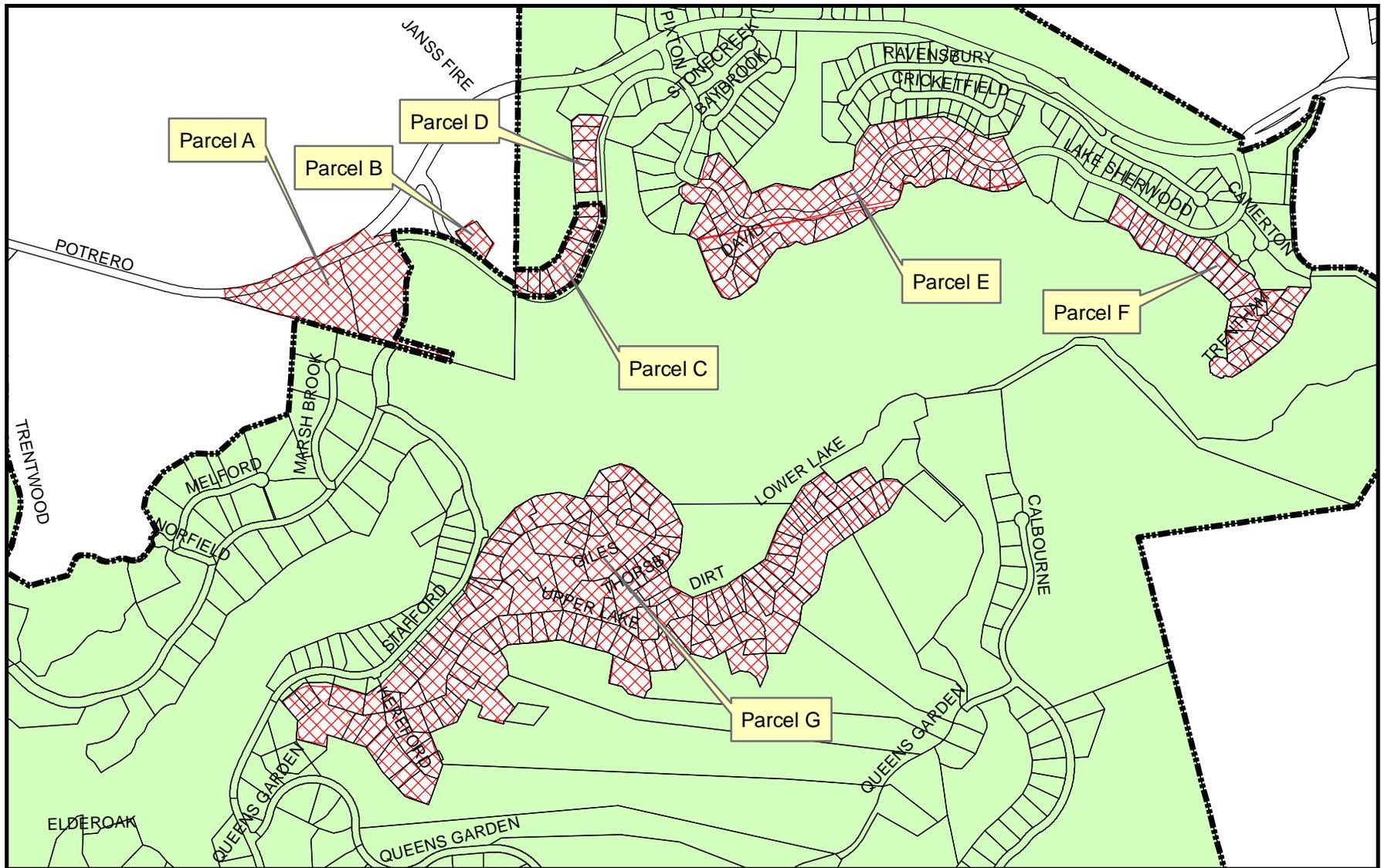
As described in this report, the attached resolution would provide for the waiver of Handbook sections 5.1.2, 5.1.8, 5.1.3.1, 5.1.9.1, 5.1.9.2 and 5.1.9.3 to allow for the potential approval of one or more OASAs authorizing the provision of water service by the LSCSD to certain parcels located outside of the LSCSD boundary with no time restrictions and no requirement for consent to annex in the future. The purpose for doing so is to provide a means through which LAFCo may authorize the provision of water service for owners of lots who are currently completing new construction and to enable the LSCSD to provide “will serve” letters for the purpose of obtaining building permits or executing real estate transactions. Pending approval by the LSCSD governing board, the ultimate plan is for the LSCSD to file an application with LAFCo requesting approval to form a new county waterworks district to include all of the territory currently outside of, but completely surrounded by, the LSCSD. Should the resolution be approved, it is anticipated that the LSCSD will file a request to withdraw the pending Annexation #2 proposal.

An alternative approach would be for the Commission to consider approval of the Annexation #2 proposal at the July 17, 2013 LAFCo meeting with the expectation that the LSCSD would file a subsequent application requesting approval of a proposal to concurrently detach the territory from the LSCSD and form a waterworks district to include the same territory. If the annexation is approved and becomes effective, it would eliminate the need for any policy waivers and thus avoid setting any associated adverse precedents. Most importantly, annexation would resolve the legal status of the existing water service connections initiated by the LSCSD since January 1, 2001, allow for the owners currently completing new construction to receive water service, and allow for the

owners of undeveloped lots to obtain “will serve” letters. Further, if both the annexation and the formation of a waterworks district become effective, the issues raised by the concerned residents would be resolved. And lastly, approval of the Annexation #2 proposal would resolve the legal status of the existing water service connections initiated by the LSCSD since January 1, 2001 to two additional parcels located outside of the LSCSD sphere and would allow for the LSCSD to provide new water service to six additional vacant parcels outside of the sphere. For these reasons, staff believes that this is the better option because it would ultimately address the residents’ concerns while also resolving the unauthorized LSCSD water service connections and avoiding the creation of policy precedents which are potentially adverse to LAFCo’s mission.

Should the Commission select this option, the soonest that the Annexation #2 proposal could be considered would be the July 17 meeting to allow time for staff to provide the required notice to affected landowners and voters.

- Attachments:
- 1) LSCSD Annexation #2 Vicinity Map
 - 2) LSCSD Annexation #2 Service Area Map
 - 3) Table Showing Number of Parcels Relative to Development and Water Service Status - LSCSD Annexation #2
 - 4) Letter dated March 12, 2013 from R.R. Pakala to Kim Uhlich
 - 5) Letter dated April 30, 2013 from Kim Uhlich to R.R. Pakala
 - 6) Resolution Waiving Commissioner’s Handbook Policies
 - 7) Commissioner’s Handbook Sections 5.1.9.1, 5.1.9.2 and 5.1.9.3
 - 8) Letter dated June 4, 2013 from Eric Bergh to Kim Uhlich
 - 9) Commissioner’s Handbook Section 2.5.2.1



LAFCo 12-09

**Lake Sherwood Community Services District Annexation
Annexation No. 2 (Parcels A - G)**

Legend

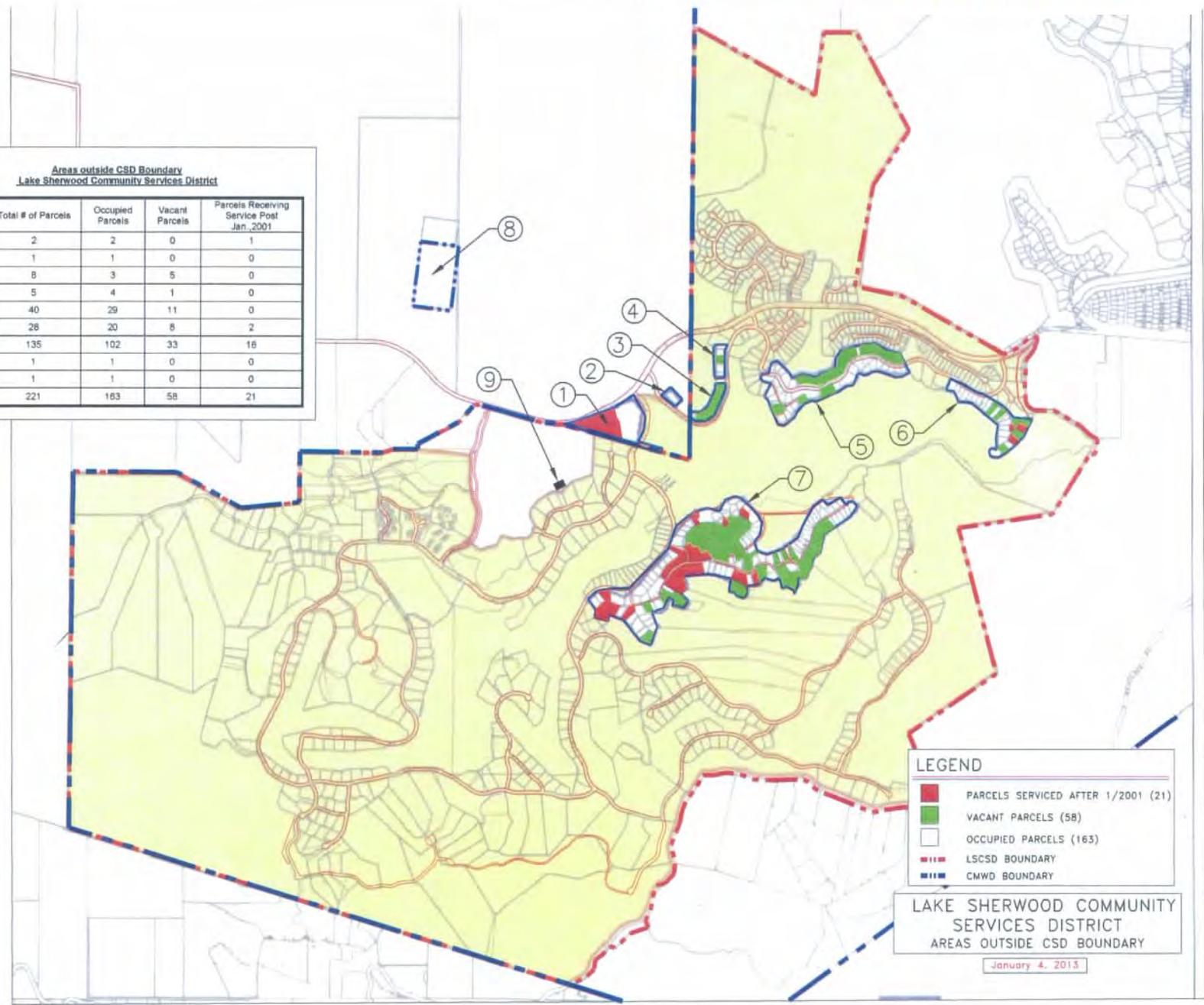
-  Lake Sherwood CSD Sphere of Influence
-  Lake Sherwood CSD
-  Proposed Annexation Area



Attachment 2

Areas outside CSD Boundary
Lake Sherwood Community Services District

Areas	Total # of Parcels	Occupied Parcels	Vacant Parcels	Parcels Receiving Service Post Jan. 2001
①	2	2	0	1
②	1	1	0	0
③	8	3	5	0
④	5	4	1	0
⑤	40	29	11	0
⑥	28	20	8	2
⑦	135	102	33	18
⑧	1	1	0	0
⑨	1	1	0	0
Total	221	163	58	21



LEGEND

- PARCELS SERVICED AFTER 1/2001 (21)
- VACANT PARCELS (58)
- OCCUPIED PARCELS (163)
- - - LSCSD BOUNDARY
- - - CMWD BOUNDARY

LAKE SHERWOOD COMMUNITY SERVICES DISTRICT
AREAS OUTSIDE CSD BOUNDARY
January 4, 2013

Parcels	Water Service Status	Government Code §56133
138	Developed/Connected	Consistent with Law (Connected <u>Prior to</u> January 1, 2001)
21	Developed/Connected	Inconsistent with Law (Connected <u>After</u> January 1, 2001) **19 eligible for LAFCo approved OASA under law but disallowed under Ventura LAFCo policies
60*	Undeveloped/Not Connected	Will Serve Letter required for development **51 eligible for LAFCo approved OASA under law but disallowed under Ventura LAFCo policies

county of ventura

PUBLIC WORKS AGENCY
JEFF PRATT
Agency Director

Representing:

County Service Area No. 29 (North Coast)
County Service Area No. 30 (Nyeland Acres)
County Service Area No. 34 (El Rio)
Lake Sherwood Community Services District
Camarillo Airport
Todd Road Jail

Water & Sanitation Department

R. Reddy Pakala
Director

Eric Keller
Operations,
Planning, &
Development

Cefe Munoz
Design &
Construction

Anne Dana
Administration

March 12, 2013

Kim Uhlich, Executive Officer
Ventura Local Agency Formation Commission
800 S. Victoria Avenue
Ventura, CA 93009

Subject: Government Code Section 56133/Lake Sherwood Community Services District

Dear Ms. Uhlich:

This letter addresses the history and current status regarding the Lake Sherwood Community Services District's (LSCSD) provision of water service to certain housing tracts located outside its jurisdictional boundaries. As explained below, LSCSD's provision of services to these tracts was contemplated and the infrastructure to facilitate the provision of such service was constructed in the early 1990s. As a result, LSCSD requests that the Ventura Local Agency Formation Commission (LAFCo) find that no annexation or LAFCo approval is needed for LSCSD's provision of water service to these tracts.

The LSCSD was formed on March 24, 1989. Formation of the Community Services District (CSD) was controversial. There were three Grand Jury reports (December 19, 1989, May 3, 1990, and June 25, 1990) questioning the formation of this CSD. The main controversy appeared to be whether the Upson and Thistleberry tracts, which existed prior to approval of the new development by the Ventura County Board of Supervisors in 1988, would be included in the LSCSD's jurisdictional boundaries. In the end, the LSCSD was formed, excluding the existing Upson and Thistleberry tract homes and vacant parcels located therein (hereinafter, the "Pre-Existing Tracts"). Prior to forming the LSCSD, Lake Sherwood Mutual Water Company provided water service to the community of Lake Sherwood, including the Pre-Existing Tracts.

To gain support for the new Lake Sherwood development, the developer constructed new water and sewer systems in about 1992 to provide these services to both the new development and all parcels in the Pre-Existing Tracts. The water system included



construction of water lines, pump stations, storage for fire protection, and laterals for all parcels – both developed and undeveloped. The water system, including laterals to each parcel, both developed and undeveloped, were accepted by the LSCSD upon completion in about 1992. All of these parcels were previously within the Lake Sherwood Mutual Water Company service area boundary. Consequently, all homes located in the Pre-Existing Tracts have been receiving water service from LSCSD since 1992 or upon later connection to the system following a parcel's development.

This arrangement was reflected in the LSCSD water rate structure which treated parcels located in the Pre-Existing Tracts as though they were within the LSCSD's jurisdictional boundaries. In January 1990, the Board of Directors of the LSCSD adopted a set of Rules and Regulations for the administration, operation, and maintenance of the water system. To address concerns of property owners in the Pre-Existing Tracts, the LSCSD adopted the following Rule:

"Rule 1 – B – 1 SERVICE AREA MAPS AND LEGAL DESCRIPTION: Maps and legal descriptions of the Lake Sherwood Community Service District shall be maintained in the office of the District. Although LSCSD boundaries do not presently include the service area of the Lake Sherwood Mutual Water Company, the LSCSD shall serve this area as if they were included, and Rule 1, Section E of these Rules and Regulations [which required out-of-boundary customers to pay higher rates than in-boundary customers] do not apply to that portion of the Lake Sherwood Mutual Water Company service area outside the LSCSD boundaries."

We understand that this Rule was adopted to accommodate the wishes of the property owners in the Pre-Existing Tracts, in consultation with LAFCo's Executive Office at that time, to have LSCSD replace Lake Sherwood Mutual Water Company as the provider of water service for the entire Lake Sherwood area.

On August 1, 2012, the LSCSD filed an application to annex all 219 parcels located within the Pre-Existing Tracts. As you are aware, some property owners within the Pre-Existing Tracts have expressed concerns regarding the proposed annexation. At this time, LSCSD is working with these property owners to address their concerns, while the LAFCo annexation process is on hold.

Since filing LSCSD's annexation application, we have had several meetings with LAFCo, LSCSD, and the representatives of these Pre-Existing Tracts. Upon further investigation regarding the above-described history regarding the Pre-Existing Tracts, LSCSD has determined that there are 58 vacant (undeveloped) parcels and 21 properties within the Pre-Existing Tracts that were connected to the LSCSD water system after January 1, 2001. All other properties within the Pre-Existing Tracts were physically receiving water service from LSCSD before January 1, 2001.

Kim Uhlich
March 12, 2013
Page 3

As you know, subject to certain exceptions, Government Code Section 56133 requires a city or district to obtain LAFCo approval to provide new or extended services by contract outside of the city's or district's jurisdictional boundaries. This statute served as the main impetus for LSCSD's submittal of its annexation application in 2012, as annexation of the Pre-Existing Tracts was the preferred alternative to seeking LAFCo approval of out-of-service-area agreements authorizing LSCSD to serve the parcels in the tracts.

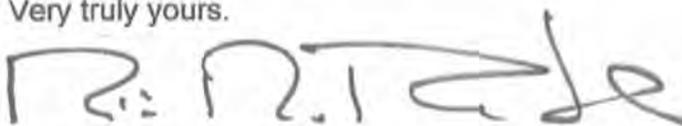
Subdivision (e) of the Government Code section 56133, however, contains a "grandfather" exception providing that LAFCo approval is not needed for "an extended service that a city or district was providing on or before January 1, 2001." As explained above, prior to January 1, 2001, LSCSD physically provided water service to all parcels within the Pre-Existing Tracts, except for the 58 vacant parcels and 21 properties that were connected to LSCSD after January 1, 2001. Because LSCSD has been the actual and/or contemplated provider of water service to all parcels within the Pre-Existing Tracts since 1992, we believe that all parcels within the Pre-Existing Tracts may fall under Government Code section 56133, subdivision (e)'s "grandfather" exception, thereby authorizing LSCSD to provide water service to the parcels without the need for annexation or LAFCo approval of out-of-service-area agreements.

LSCSD respectfully requests that LAFCo consider this additional information and analysis, and concur with LSCSD's position on this matter, in which case LSCSD will withdraw its annexation application and provide all parcels within the Pre-Existing Tracts with water service.

Should you have any questions or would like additional information, please call me at (805) 378-3030.

Thank you.

Very truly yours.



R. R. Pakala, Director
Water and Sanitation Department

RRP:sh

cc: Damon Wing, Senior Administrative Aide
Supervisor Linda Parks' Office



VENTURA LOCAL AGENCY FORMATION COMMISSION

COUNTY GOVERNMENT CENTER • HALL OF ADMINISTRATION
800 S. VICTORIA AVENUE • VENTURA, CA 93009-1850
TEL (805) 654-2576 • FAX (805) 477-7101
HTTP://WWW.VENTURA.LAFCO.CA.GOV

Attachment 5

April 30, 2013

R. Reddy Pakala, Director, Water & Sanitation Dept.
County of Ventura Public Works Agency
800 S. Victoria Avenue
Ventura, CA 93009-1600

Subject: Government Code Section 56133/Lake Sherwood Community Services District

Dear Mr. Pakala:

The following is in response to your letter of March 12, 2013 asking LAFCo to find that no LAFCo approval is needed under §56133 of the Government Code for the Lake Sherwood Community Services District (LSCSD) to provide water service to certain lots located outside of the LSCSD boundary. Thank you for your patience as we reviewed the matter with Michael Walker, Chief Assistant County Counsel and Legal Counsel to the Ventura LAFCo.

Mr. Walker has completed his review and, based on the opinion provided to me, it is my determination that §56133, subdivision (e) of the Government Code does not apply to the housing tracts referenced in your letter because LSCSD was not actually providing water service to the tracts on or before January 1, 2001. As such, §56133 would apply to the future provision of any new or extended water service by the LSCSD outside of its jurisdictional boundary just as it has since January 1, 2001.

In light of the above points, please let me know how you wish to proceed with the application referred to as the "Lake Sherwood Community Services District Sphere of Influence Amendment and Annexation #2" which was received by LAFCo on August 6, 2012. If you have any questions, please contact me.

Sincerely,

Kim Uhlich
Executive Officer

c: Supervisor Linda Parks
Damon Wing
Michael Walker

**RESOLUTION OF THE VENTURA LOCAL AGENCY
FORMATION COMMISSION WAIVING SECTIONS
5.1.2, 5.1.3.1, 5.1.8, 5.1.9.1, 5.1.9.2 and 5.1.9.3 OF
CHAPTER 1 OF DIVISION 5 OF THE
COMMISSIONER'S HANDBOOK**

WHEREAS, section 5.1.1.2 of Chapter 1 of Division 5 of the Ventura Local Agency Formation Commission (LAFCo or Commission) Commissioner's Handbook (Handbook) provides that the Commission's policies and standards relating to out of agency service agreements (OASAs) shall be given great weight as a part of the Commission's consideration of proposals and are general guidelines for the Commission to follow, but they are not mandatory or binding, and further provides that the Commission can and will consider each proposal upon its merits within the parameters set forth in state law and, should the Commission elect not to follow a policy, it shall, as a part of any resolution on the matter and as part of the written record, set forth the specific waiver, and the reason for it; and

WHEREAS, the Commission received an application on August 6, 2012 from the Lake Sherwood Community Services District (District) requesting approval of a sphere of influence amendment to include 11 Assessor parcels and portions of the Potrero Road and Lake Sherwood Drive rights of way (LAFCo 12-09S) and requesting approval of a proposal to annex the same territory plus another 208 Assessor parcels (LAFCo 12-09) which are currently within the existing sphere of influence for the District; and

WHEREAS, on November 14, 2012, the Commission continued the consideration of LAFCo 12-09S and LAFCo 12-09 to an unspecified date; and

WHEREAS, consideration of LAFCo 12-09S and LAFCo 12-09 has been delayed due to a lack of support from some of the affected landowners and it is uncertain at this time when or if the District will authorize further consideration; and

WHEREAS, some of the affected landowners support an effort by the District to request LAFCo authorization for the provision of new or extended water service to certain lots within the affected territory through the approval of OASAs; and

WHEREAS, on May 15, 2013 the Commission directed staff to return to the next Commission meeting with a resolution waiving Handbook sections 5.1.2, with no

expiration date, and 5.1.8 for those properties currently within the sphere of influence for the District and described in the annexation proposal titled “LAFCo 12-09 Lake Sherwood Community Services District - Annexation #2”; and

WHEREAS, on June 12, 2013, the Commission heard, discussed and considered all oral and written testimony for and against the waivers including, but not limited to, the LAFCo Staff Report and recommendation, the environmental determination, spheres of influence and applicable local plans and policies; and

WHEREAS, the Commission has determined that the actions taken herein are in the best interests of the owners of land subject to the pending “LAFCo 12-09 Lake Sherwood Community Services District Annexation #2”; and

WHEREAS, section 5.1.2 of Chapter 1 of Division 5 of the Handbook provides that annexation to cities and special districts is always preferred to OASAs; and

WHEREAS, the Commission has determined that annexation of the territory subject to the pending “LAFCo 12-09 Lake Sherwood Community Services District Annexation #2” is not preferred to an OASA in consideration of concerns expressed by some landowners that they and other landowners in the historic tracts could be forced to pay for other services and/or facilities which the District may choose to provide in the future and which the landowners may not wish to receive; and

WHEREAS, the Commission has determined that annexation to the District may not be necessary based on indications from District representatives that the District may file a future application requesting approval of a proposal to form a county waterworks district to include the territory subject to the pending “LAFCo 12-09 Lake Sherwood Community Services District Annexation #2”; and

WHEREAS, section 5.1.8 of Chapter 1 of Division 5 of the Handbook provides that whenever the affected territory may ultimately be annexed to the service agency, a standard condition of approval for an OASA shall be the recordation of an agreement by the landowner consenting to annex the territory and that said agreement shall be binding on future owners of the property; and

WHEREAS, the Commission supports the provision of new or extended water services by the District via contract or agreement to certain territory outside of its jurisdictional boundary but within its sphere of influence in anticipation of a later change

of organization involving the formation of a county waterworks district rather than annexation of the territory to the District; and

WHEREAS, the Commission has therefore determined that section 5.1.8 of Chapter 1 of Division 5 of the Handbook would be inapplicable to any associated OASA and should thus be waived; and

WHEREAS, section 5.1.3.1 of Chapter 1 of Division 5 of the Handbook provides that applications for OASAs must include a service agreement signed by all parties; and

WHEREAS, the Commission has determined that section 5.1.3.1 of Chapter 1 of Division 5 of the Handbook should be waived in consideration of the potential logistical difficulties that would be involved in obtaining signatures from each of the affected landowners, particularly from current District customers who may be reluctant to sign such an agreement; and

WHEREAS, sections 5.1.9.1, 5.1.9.2 and 5.1.9.3 of Chapter 1 of Division 5 of the Handbook provide that an OASA must be recorded (to be effective) and that, where a building permit is needed to authorize construction of the improvement for which the service is to be provided, the agreement must contain language that limits the time period in which to obtain the building permit to no more than one year after the agreement is recorded; and

WHEREAS, after consideration of sections 5.1.9.1, 5.1.9.2 and 5.1.9.3 of Chapter 1 of Division 5 of the Handbook, the Commission has determined that their application to a blanket service agreement necessary to allow for the approval of an OASA for up to 76 parcels of territory would be unworkable and inconsistent with the intent of this resolution and has therefore determined that these sections should be waived; and

WHEREAS, this resolution will not affect any territory meeting the definition of prime agricultural land found in LAFCo law (Govt. Code § 56064) or subject to a contract under the California Land Conservation Act of 1965 (also known as the Williamson Act);

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED that the Ventura Local Agency Formation Commission takes the following actions:

- (1) Waives Division 5 – Out of Agency Service Agreements, Chapter 1 – General Policies, sections 5.1.2, 5.1.3.1, 5.1.8, 5.1.9.1, 5.1.9.2, and 5.1.9.3 of the Commissioner’s Handbook with respect to any request from the Lake Sherwood Community Services District for approval of an out of agency service agreement for the provision of water service to any lot described in the pending proposal referred to as LAFCo 12-09 Lake Sherwood Community Services District – Annexation #2. This waiver is further limited to only those lots currently within the District sphere of influence.
- (2) Determines that the territory subject to the waivers is generally set forth in the attached Exhibit A.
- (3) Determines in accordance with staff’s determination that the action is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to sections 15301 and 15303(d) of the CEQA Guidelines.
- (4) Directs staff to file a Notice of Exemption under section 15062 of the CEQA Guidelines.
- (5) Establishes the effective date of this resolution as June 12, 2013.

This resolution was adopted on June 12, 2013.

	AYE	NO	ABSTAIN	ABSENT
Commissioner Dandy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Long	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Ford-McCaffrey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Morehouse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Parks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Parvin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Pringle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alt. Commissioner Bennett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alt. Commissioner Cunningham	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alt. Commissioner Freeman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alt. Commissioner Smith	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Dated: _____
Chair, Ventura Local Agency Formation Commission

Copies: Lake Sherwood Community Services District
Supervisor Linda Parks



DIVISION 5 – OUT OF AGENCY SERVICE AGREEMENTS

CHAPTER 1 – GENERAL POLICIES

Attachment 7

SECTION 5.1.9 TIME LIMIT ON SERVICE INITIATION

5.1.9.1 Recordation Required: LAFCo approval of an application for out of agency service will not become effective until the service agreement is recorded by the Ventura County Recorder. Any approval of a request for out of agency service will be conditioned to require recordation no later than six (6) months following the date of approval.

5.1.9.2 Deadline For Obtaining a Building Permit:

- (a) Unless exceptional circumstances exist, whenever a building permit is required to authorize construction of a property improvement to which the requested service is intended to be provided, LAFCo will not approve an application for out of agency service unless the service agreement contains language which expressly limits the time period for obtaining a building permit to no more than one (1) year following the date of recordation.
- (b) Requests to exceed the one (1) year deadline shall state what facts are claimed to warrant exceptional circumstances and shall be submitted with the application. Whenever the Executive Officer considers a request pursuant to this subsection, a copy of his/her response shall be provided to the Commission.

5.1.9.3 Request For Time Extension:

- (a) One twelve (12) month extension of the one-year deadline set forth in Section 5.1.9.2 may be requested either as part of the initial LAFCo application or within one (1) year of the date of recordation of the approved service agreement provided that all of the following can be demonstrated:
 - i. The service provider has amended the service contract accordingly.
 - ii. The proponents of the project that is to receive the service have diligently pursued all necessary permits to begin construction of the project, but due to factors beyond their control, permits have not yet been obtained.
 - iii. There is a reasonable expectation that the permits necessary to commence construction can be obtained within a reasonable timeframe, as determined by the Executive Officer.
- (b) Requests for time extensions will be considered by the authority that approved the original out of agency service agreement.

SCOTT H. QUADY, PRESIDENT
DIVISION 2

THOMAS L. SLOSSON, TREASURER
DIVISION 1

GAIL L. PRINGLE, DIRECTOR
DIVISION 4



WILLIAM R. SEAVER, VICE PRESIDENT
DIVISION 5

ANDY WATERS, SECRETARY
DIVISION 3

SUSAN B. MULLIGAN
GENERAL MANAGER

web site: www.calleguas.com

2100 OLSEN ROAD • THOUSAND OAKS, CALIFORNIA 91360-6800 805/526-9323 • FAX: 805/522-5730 • FAX: 805/526-3675

June 4, 2013

Attachment 8

Ms. Kim Uhlich
Executive Officer
Ventura Local Agency Formation Commission
800 South Victoria Avenue
Ventura, CA 93009-1850

RE: LAFCO 12-9 - Lake Sherwood Community Services District – Annexation #2

Dear Kim,

This letter is in response to Kai Luoma's request that Calleguas Municipal Water District (Calleguas) comment on water availability to Lake Sherwood Community Services District (LSCSD) with regard to the proposed Lake Sherwood Community Services District – Annexation #2. All of the lots included in the proposal are within the present boundary of Calleguas and those with existing service connections already receive water through the Calleguas system. The question is reduced to whether Calleguas' distribution system can support service to sixty additional homes on the lots presently vacant.

Calleguas updated its Urban Water Management Plan (UWMP) in 2010 and at its foundation are forecasts of water demand from all of Calleguas' member purveyors, including LSCSD. Presumably, service to the sixty vacant lots in Annexation #2 was included in the LSCSD projection. As documented in the UWMP, Calleguas expects to be able to meet normal projected demands throughout its service area through 2035.

With respect to facility capacity, all water Calleguas delivers to LSCSD passes through Calleguas' Lake Sherwood Pump Station and the Lake Sherwood Tank. These facilities were designed to meet demand of the estimated build-out of the Lake Sherwood area. Should the eventual development expand beyond previous expectations, additional facilities may be necessary to provide adequate peak supplies. Any such additions would be the subject of future discussions between Calleguas and LSCSD, as necessary.

Moreover, it appears that since 1989 the parcels included in Annexation #2 have had a peculiar status; that is, they are outside LSCSD service area, yet have received water service from this district without an out-of-area service agreement. In light of this, we reviewed our Capital Construction Charge (CCC) records to determine if all parcels receiving Calleguas/LSCSD water have paid the applicable CCC, as required under Calleguas Ordinance No. 14. Of the 159 lots in question (those for which water service is evidently provided by LSCSD), eight were identified on which construction appears to have occurred between 1996 and 2006, but for which no record of a CCC payment was found (see Attachment 1). As such, Calleguas

June 4, 2013
Ms. Kim Uhlich
Page 2

requests that the approval of Annexation #2 be conditioned upon Calleguas receiving payment of the apparently delinquent CCC charges prior to recordation of the annexation. Alternately, Calleguas will accept from LSCSD, or from the owners of the lots in question, as coordinated by LSCSD, evidence that the appropriate fees were paid.

If you have any further questions, please do not hesitate to call me at 805-579-7128.

Sincerely,

A handwritten signature in cursive script that reads "Eric Bergh".

Eric Bergh
Manager of Resources

Attachment

cc: Susan Mulligan, Calleguas
Cy Johnson, Calleguas
Ventura LAFCO, Kai Luoma

Attachment 1

Calleguas Municipal Water District

Review of Proposed Lake Sherwood Community Service District Annexation

Report on Apparent Delinquent Capital Construction Charges

Discussion

A review of Capital Construction Charge (CCC) records for all of the lots proposed to be annexed to LSCSD revealed that the majority are either vacant, or that appropriate fees were paid to CMWD. However, eight lots appear to have been built out since the initiation of the CCC in April 1980 for which Calleguas is unable to locate records of fee payments.

Potentially Delinquent Parcels		
APN	Year Construction Completed ¹	Street Address
695-0-082-060	Not available on Assessor website	570 Lake Sherwood Drive
695-0-110-345	2001	2108 Trentham Road
695-0-110-355	1999	966 Lake Sherwood Drive
695-0-110-360	2002	2016 Lake Sherwood Drive
695-0-130-290	2006	55 Upper Lake Road
695-0-130-380	2006	2380 Stafford Road
695-0-150-160	2002	242 Upper Lake Road
695-0-150-300	1996	281 Upper Lake Road

¹ Per Ventura County Assessor records



DIVISION 2 – OPERATIONAL POLICIES

CHAPTER 5 – DELEGATION OF AUTHORITIES TO EXECUTIVE OFFICER

SECTION 2.5.1 CONDUCTING AUTHORITY FUNCTIONS AND RESPONSIBILITIES

LAFCo has, by prior resolution, delegated the conducting authority functions and responsibilities to the Executive Officer pursuant to Government Code Section 57000. Such delegation is hereby confirmed including the authority for the Executive Officer to order a change of organization or reorganization that, in the case of inhabited territory, complies with Government Code Section 57075(a)(3), and, in the case of uninhabited territory, complies with Government Code Section 57075(b)(2).

(a) SECTION 2.5.2 OUT OF AGENCY SERVICE AGREEMENTS

2.5.2.1 Delegation of Authority: LAFCo has delegated the authority to review and act on out of agency service agreement applications to the Executive Officer pursuant to Government Code Section 56133(d) for the following out of agency service applications:

- (a) Emergency proposals that authorize a city or district to provide new or extended services outside its sphere of influence in order to respond to an existing or impending threat to the public health or safety of the residents of the affected territory, pursuant to Government Code Section 56133(c).
- (b) Proposals that have been determined to be exempt from the California Environmental Quality Act.
- (c) Proposals that have been determined to be subject to the California Environmental Quality Act, and a Negative Declaration was prepared determining that the proposal would not have a significant effect on the environment and that no mitigation measures are required.