

STAFF REPORT
 Meeting Date: May 19, 2004

Agenda Item 7

TO: LAFCO Commissioners
FROM: Everett Millais, Executive Officer
SUBJECT: Consent to Waivers of Conflict of Interest – LAFCO Counsel/County Counsel

A. Resolution Consenting to Waiver of Conflict of Interest – The possible formation of a new Ventura County Service Area / Contract with the City of Oxnard for Sewer Services in the El Rio area

B. Resolution Consenting to Waiver of Conflict of Interest – The possible annexation of the Lake Sherwood area to Ventura County Service Area No. 14.

RECOMMENDATION:

- A. Approve a resolution waiving any conflict of interest for the Ventura County Counsel to advise both the Ventura County Board of Supervisors and the Ventura LAFCO in matters relating to the possible formation of a Ventura County Service Area to provide sewer service for the El Rio area and any related out-of-agency service agreement between the City of Oxnard and the County of Ventura.
- B. Approve a resolution waiving any conflict of interest for the Ventura County Counsel to advise both the Ventura County Board of Supervisors and the Ventura LAFCO in matters relating to the possible annexation of areas in and near the Lake Sherwood Community Services District into Ventura County Service Area No. 14.

DISCUSSION:

The Ventura County Counsel has been designated as the Legal Counsel for the Ventura LAFCO pursuant to a Memorandum of Agreement (MOA) between the Ventura LAFCO

COMMISSIONERS AND STAFF

COUNTY: Kathy Long Linda Parks <i>Alternate:</i> Steve Bennett	CITY: Evaristo Barajas, Chair Don Waunch <i>Alternate:</i> John Zaragoza	SPECIAL DISTRICT: Jack Curtis, Vice Chair Dick Richardson <i>Alternate:</i> Ted Grandsen	PUBLIC: Louis Cunningham <i>Alternate:</i> Kenneth M. Hess
EXECUTIVE OFFICER: Everett Millais	LAFCO ANALYST: Hollie Brunsky	OFFICE MANAGER/CLERK: Debbie Schubert	LEGAL COUNSEL: Noel Klebaum

and the County of Ventura. At the time the MOA was approved it was recognized that there could be occasions where a conflict of interest could arise when the County Counsel provides advice to the County and related County agencies on matters that also require action by LAFCO. Accordingly, the MOA states, "In the event of a potential or actual conflict of interest, the County Counsel shall use his best efforts to resolve the conflict, or to arrange for alternate counsel for LAFCO."

There are at least two pending matters where there is a potential conflict of interest for the County Counsel to also be able to advise the Commission and its staff. In order for the County Counsel to be able to advise and represent LAFCO in these matters, the California Rules of Professional Conduct require that the potential conflict be disclosed to the Commission and that an informed written consent be obtained from all parties. Both the County Counsel and I agree that in both of these instances it will be beneficial for LAFCO to consent to waive any conflict of interest rather than hiring or otherwise involving outside legal counsel.

The first matter relates to the possible formation of a County Service Area that would provide for sewer services in the El Rio area and possible related LAFCO actions relating to an out-of-agency service agreement for sanitary sewer services between the County and the City of Oxnard. Applications for the formation of this new County Service Area or for any related out-of-agency service agreement have not been received by LAFCO, but are expected to be submitted within the next year. County staff is already working on these matters and has had initial discussions with LAFCO staff about processes and procedures.

The second matter involves the possible annexation of the Lake Sherwood area and an adjoining area on Potrero Road into Ventura County Service Area 14 for street lighting purposes. The County Counsel is responsible for advising and representing County staff and the Board of Supervisors about the annexation of territory to County Service Areas, including proceedings with LAFCO. Depending on actions by the Board of Supervisors, an application initiating proceedings for the annexation of the Lake Sherwood area and an adjoining area along Potrero Road into County Service Area 14 could be filed with LAFCO as early as this summer.

In order for the County Counsel to be able to also advise and represent LAFCO and LAFCO staff, and because of the overlap of issues involving the County and LAFCO and the commonality of objectives, it is recommended that the Commission adopt the attached resolutions waiving conflict of interest for both of the above-noted matters. Each resolution also requests the Ventura County Board of Supervisors to adopt similar conflict of interest waivers. Both the Ventura County Board of Supervisors and LAFCO must consent to waiving any conflict of interest; otherwise the County Counsel will not be able to advise or represent LAFCO in these matters.

Staff Report

Consent to Waivers of Conflict of Interest – LAFCO Counsel/County Counsel

May 19, 2004

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**RESOLUTION OF THE VENTURA LOCAL AGENCY
FORMATION COMMISSION CONSENTING TO THE
COUNTY COUNSEL ADVISING AND REPRESENTING
LAFCO AND WAIVING ANY CONFLICT OF INTEREST
CONCERNING THE FORMATION OF A COUNTY
SERVICE AREA TO PROVIDE SEWER SERVICES TO
THE EL RIO AREA AND ANY RELATED OUT-OF-
AGENCY SERVICE AGREEMENT**

WHEREAS, the Ventura Local Agency Formation Commission (LAFCO) pursuant to a Memorandum of Agreement with the County of Ventura has designated the Ventura County Counsel as its legal counsel; and

WHEREAS, the County of Ventura is considering initiating proceedings with LAFCO for the possible formation of a County Service Area to provide sewer services to the El Rio area; and

WHEREAS, the County of Ventura is also considering entering into an out-of-agency service agreement with the City of Oxnard so that the City of Oxnard can provide sanitary sewer services outside its boundaries, but within its sphere of influence, to serve the unincorporated community of El Rio; and

WHEREAS, the County Counsel has been advising and will continue to advise and represent the County of Ventura concerning the formation of a County Service Area to provide sewer services to the El Rio area, and any related out-of-agency service agreement between the County and the City of Oxnard, and such representation could result in an actual or potential conflict of interest with LAFCO; and

WHEREAS, the California Rules of Professional Conduct require that legal counsel disclose any potential or actual conflict of interest and obtain the informed written consent of the Board of Supervisors and the Commission before advising or representing LAFCO regarding LAFCO proceedings relating to the formation of a Ventura County Service Area, and to an out-of-agency service agreement between the County and the City of Oxnard, to provide sewer services to the El Rio area; and

WHEREAS, it will be beneficial to LAFCO to have the Ventura County Counsel advise and represent both LAFCO and the County of Ventura due to the commonality of issues and interests relating to the consideration of the formation of a County Service Area and an out-of-agency services agreement between the County and the City of Oxnard to provide sewer services to the El Rio area;

NOW, THEREFORE, BE IT RESOLVED by the Ventura Local Agency Formation Commission as follows:

1. The Commission hereby waives any conflict of interest and consents to the Ventura County Counsel advising and representing the Ventura LAFCO for all matters relating to the formation of a County Service Area, and relating to any out-of-agency service agreement between the County and the City of Oxnard, to provide sewer services to the El Rio area.
2. The Commission requests that the County of Ventura Board of Supervisors waive any conflict of interest and consent to the Ventura County Counsel advising and representing the Ventura LAFCO for all matters relating to the formation of a County Service Area, and relating to any out-of-agency service agreement between the County and the City of Oxnard, to provide sewer services to the El Rio area.

This resolution was adopted on May 19, 2004.

AYES:

NOES:

ABSTAINS:

Dated: _____

Chair, Ventura Local Agency Formation Commission

Copies: Ventura County Board of Supervisors
 County Counsel

**RESOLUTION OF THE VENTURA LOCAL AGENCY
FORMATION COMMISSION CONSENTING TO THE
COUNTY COUNSEL ADVISING AND REPRESENTING
LAFCO AND WAIVING ANY CONFLICT OF INTEREST
CONCERNING THE ANNEXATION OF THE LAKE
SHERWOOD AREA INTO VENTURA COUNTY SERVICE
AREA NO. 14**

WHEREAS, the Ventura Local Agency Formation Commission (LAFCO) pursuant to a Memorandum of Agreement with the County of Ventura has designated the Ventura County Counsel as its legal counsel; and

WHEREAS, the County of Ventura is considering initiating proceedings with LAFCO for the possible annexation of the Lake Sherwood area and adjoining areas along Potrero Road into Ventura County Service Area No. 14 to provide for street lighting services; and

WHEREAS, the County Counsel has been advising and will continue to advise and represent the County of Ventura regarding proceedings relating to annexations to Ventura County Service Area No. 14 and such representation could result in an actual or potential conflict of interest with LAFCO; and

WHEREAS, the California Rules of Professional Conduct require that legal counsel disclose any potential or actual conflict of interest and obtain the informed written consent of the Board of Supervisors and the Commission before advising or representing LAFCO regarding LAFCO proceedings relating to annexation of the Lake Sherwood area and adjoining areas along Potrero Road into Ventura County Service Area No. 14 to provide for street lighting services; and

WHEREAS, it will be beneficial to LAFCO to have the Ventura County Counsel advise and represent both LAFCO and the County of Ventura due to the commonality of issues and interests relating to the consideration of the annexation of the Lake Sherwood area and adjoining areas along Potrero Road into Ventura County Service Area No. 14 to provide for street lighting services;

NOW, THEREFORE, BE IT RESOLVED by the Ventura Local Agency Formation Commission as follows:

1. The Commission hereby waives any conflict of interest and consents to the Ventura County Counsel advising and representing the Ventura LAFCO for all matters relating to annexation of the Lake Sherwood area and adjoining areas along Potrero Road into Ventura County Service Area No. 14 for street lighting services.
2. The Commission requests that the County of Ventura Board of Supervisors waive any conflict of interest and consent to the Ventura County Counsel advising and representing the Ventura LAFCO for all matters relating to annexation of the Lake Sherwood area and adjoining areas along Potrero Road into Ventura County Service Area No. 14 for street lighting services.

This resolution was adopted on May 19, 2004.

AYES:

NOES:

ABSTAINS:

Dated: _____

Chair, Ventura Local Agency Formation Commission

Copies: Ventura County Board of Supervisors
County Counsel