

LAFCO

Santa Barbara Local Agency Formation Commission

105 East Anapamu Street ♦ Santa Barbara CA 93101

805/568-3391 ♦ FAX 805/647-7647

www.sblafco.org ♦ lafco@sblafco.org

March 3, 2011 (Agenda)

Local Agency Formation Commission

105 East Anapamu Street, Room 403

Santa Barbara CA 93101

Edgewood Reorganization: Letter from the Montecito Water District

Dear Members of the Commission:

RECOMMENDATION

It is recommended the Commission receive the enclosed letter from Samuel Frye, President of the Montecito Water District as part of the material for the March 3 hearing on the proposed Edgewood Reorganization.

DISCUSSION

The enclosed letter was received too late to be included in the packet for the March 3 meeting and is being distributed now.

The staff reviewed the letter and provides the following three responses to statements contained within the letter:

First Statement:

“With no support from the annexing agency or from the detaching agency, MWD cannot understand why this item is even before the Commission.” (Page 2)

Staff Response:

Once it has been submitted the LAFCO staff cannot simply “discard” a proposal. We issued a Certificate of Filing for the Edgewood Reorganization on August 16, 2010 and its disposition is up to the Commission itself. This is why the matter is on the agenda.

Second Statement

“Both recommendations 1 and 2 indicate that LAFCO staff supports the reorganization by allowing this proposal to be resubmitted or continued to a later date depending on the outcome of litigation. With no support from the Districts, how is it that this is able to come back to the Commission at a later date?” (Page 2)

Staff Response

There is no basis for the statement the LAFCO staff “supports” the reorganization. We have not prepared a staff report and recommendation that the proposed reorganization should be approved.

In fact our recommendations are to either deny the proposal or continue it until a pending lawsuit involving part of the reorganization area is decided.

The proposal before the Commission was initiated by a petition signed by landowners within the proposed reorganization. In accordance with State law, the landowners retain the legal right to initiate a similar proposal via a petition in the future.

Third Statement

“There is no reference in the staff memorandum to the disruption in water delivery and adverse effects to water quality if a break-up of a well-engineered MWD water distribution system were to occur under the service boundary reorganization.” (Page 2)

Staff Response

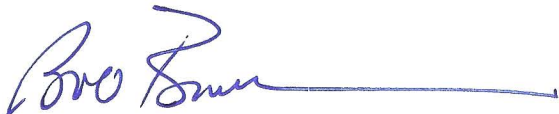
Since neither the Montecito nor Carpinteria Water Districts support the proposed reorganization, and since we recommend the proposal be denied or continued pending resolution of litigation, we did not think this was the appropriate time to prepare a detailed and lengthy staff analysis of the proposal, although we will do this if directed by the Commission.

While not our recommended action, the staff report includes “Option 3 - Direct staff to prepare a report and recommendation on the proposed reorganization as submitted and set the matter for hearing at a future Commission meeting.”

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Please contact the LAFCO office if you have any questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Bob Braitman", followed by a horizontal line extending to the right.

BOB BRAITMAN
Executive Officer

cc: Charles Hamilton, Carpinteria Valley Water District

Attachment: Montecito Water District letter to Commissioner Janet Wolf (February 24, 2011)



February 24, 2011

Commissioner Janet Wolf, Chair
Santa Barbara LAFCO
105 East Anapamu Street
Santa Barbara CA 93101

Re: LAFCO 10-2 Proposed Edgewood Reorganization

Dear Madam Chair and Commissioners,

Following a review of the Commission's staff report for the proposed Edgewood Reorganization, prepared by LAFCO Executive Officer Bob Braitman, the Montecito Water District (MWD) has certain concerns which we would like to bring to the attention of the Commission. Mr. Braitman had provided MWD with an opportunity to review his draft staff report for "accuracy" on Saturday, February 19, 2011. MWD responded to Mr. Braitman with its concerns by e-mail on the following Tuesday morning (see attached) which was the first day of the workweek following Presidents' Day, a District holiday.

Of concern are Mr. Braitman's recommendations to the Commission which, in MWD's opinion, do not accurately reflect the current status of the proposed reorganization, the administrative record, nor addresses any of the adverse effects of this proposed boundary change to MWD and its customers. MWD's position on this matter and the adverse consequences of approving the proposed reorganization were clearly detailed in our ten-page October 21, 2010 letter to the Commission. As you may remember, the Edgewood Reorganization was scheduled to be heard by the Commission at its November 3, 2010 meeting, but was pulled from the agenda following receipt of MWD's letter. At that time neither the LAFCO Executive Officer nor the Carpinteria Valley Water District (CVWD) had performed an analysis of the adverse effects and/or impacts caused by the creation of a 155-acre island within the MWD service area.

The staff report dated March 3, 2011 by Mr. Braitman to the Commission, misrepresents and omits pertinent facts that the Commission should be aware of when considering any action on this item. MWD received the staff report as a draft on February 22, 2011 and does not understand Mr. Braitman's position in light of the January 26, 2011 letter from the Carpinteria Valley Association and knowledge that CVWD was going to consider withdrawing its support and acceptance of the Edgewood Reorganization at its February 23 meeting. This recent new information was copied to MWD and Mr. Braitman by Charles Hamilton, CVWD General Manager prior to the release of the LAFCO staff report. The most recent development is that not only does MWD not support this

583 San Ysidro Road
Santa Barbara, CA
93108-2124

Ph 805.969.2271
Fax 805.969.7261

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reorganization, but, on February 23, 2011 the CVWD Board of Directors adopted Resolution 917 rescinding its support and stating:

WHEREAS, CVWD has since determined based on new information that it would be unwise to support such a proposed Reorganization;

NOW, THEREFORE, BE IT RESOLVED, that the Governing Board of the Carpinteria Valley Water District hereby rescinds Resolution No. 911, and no longer supports the proposed Edgewood Reorganization.

With no support from the annexing agency or from the detaching agency, MWD cannot understand why this item is even before the Commission. Furthermore, with no support from either District, the LAFCO staff recommendation to the Commission should be to deny the proposed reorganization with prejudice.

The recommendation from Mr. Braitman to the Commission is as follows:

RECOMMENDATION

It is recommended the Commission either:

1. Deny the proposed reorganization without prejudice, allowing it to be resubmitted at any time with a waiver of processing fees, or
2. Continue the matter pending the outcome of current litigation concerning agricultural water rates for property within the reorganization area.

Both recommendations 1 and 2 indicate that LAFCO staff supports the reorganization by allowing this proposal to be resubmitted or continued at a later date pending the outcome of litigation. With no support from the Districts, how is it that this is able to come back to the Commission at a later date? The recommendation from LAFCO staff appears to be in support of the petitioners. It appears that LAFCO is acting as the proponent for the petitioners in finding lower agricultural water rates for the property owners. The LAFCO staff report further validates the justification for the reorganization from the petitioners' point of view. Either of the recommended actions would disregard governmental due process undertaken by MWD in the adoption of new customer classification definitions and establishing water rates. The pending litigation referred to in recommendation 2 concerns the rate classification of *one* of the properties concerned, and has nothing to do with agricultural rates. Furthermore, LAFCO staff would now appear to be attempting to interpret and determine customer water use classifications, which we believe to be outside the boundaries of LAFCO's sphere in orderly land development. Our understanding is that LAFCO is to sit as an impartial judge, not a proponent.

There is no reference in the staff memorandum to the disruption in water delivery and adverse effects to water quality if a break-up of a well-engineered MWD water distribution system were to occur under the service boundary reorganization. A letter from the California Department of Public Health (CDPH) dated October 21, 2010 recognizes the adverse effects to

water quality and is requesting a report on the possible impacts. A report has not been prepared and until MWD issued its October 21, 2010 letter, explaining the severe consequences of such an action, LAFCO staff and the annexing agency were proceeding to the Commission for approval of the proposed reorganization without any consideration of this important impact.

Statements in the LAFCO staff report contradict the current status of the reorganization by the Districts and appear to downplay or omit the relevant facts and impacts if such a proposal were to occur. An email chain between MWD and CVWD and a letter from MWD to CVWD, both dated July 17, 2009, are quoted in the LAFCO staff memorandum. These have no relevant bearing on the current status of the proposed reorganization.

Even more disturbing is the utter lack of correspondence between the Districts and LAFCO to initiate the process for the proposed reorganization. There is also no disclosure of Mr. Braitman's attendance and participation at the July 20, 2010 MWD Board meeting, where District staff expressed concern over proposed alterations to the water distribution system that would adversely affect water quality, among other identified problems related to the proposed reorganization. Mr. Braitman also did not disclose his attendance and participation at the Montecito Association Land Use Committee meeting of February 1, 2011. MWD was contacted by the Land Use Committee to provide a presentation of the Edgewood Reorganization and its possible impacts to the Montecito Water District and its customers. Following the question and answer section for this item, the Land Use Committee took an action to recommend that a letter be sent from the Montecito Association to LAFCO regarding its opinion on the reorganization. The Montecito Association approved the sending of a letter at its February 8, 2011 meeting. The letter from the Montecito Association dated February 10, 2011 is attached for your information.

Finally, Mr. Braitman failed to address, or withdraw, his position that MWD should pay \$450,000 to CVWD for the replacement of the Lambert Road water main. It is our understanding from our legal counsel that this payment obligation and condition is illegal and not defensible.

Based on the current relevant facts, the actions of the annexing and detaching water agencies, and the apparent unjustified LAFCO staff position, MWD is again requesting that the Commission deny the proposed Edgewood Reorganization with prejudice.

Respectfully,



Samuel Frye
Board President

Cc: MWD Board of Directors
Charles Hamilton
Bob Braitman

Tom Mosby

Subject: FW: LAFCO and Edgewood

Bob,

I have reviewed your draft Edgewood memorandum . You and I both know that it's all in the presentation and an audience can be skewed by the way the material is presented. My belief is that consciously, or unconsciously, you position appears to support of the petitioners.

This apparent bias makes it very difficult for MWD (and me). If the memorandum is sent to the Commission in its present form, I am requesting that MWD be permitted to make its own short power point presentation to the Commission. The focus of the MWD presentation among other things will include the apparent support by you of a special interest.

My belief is that LAFCO's purview does not include interpreting/determining water use classifications. For some unknown reason you also brought in the lawsuit. The lawsuit has nothing to do with the proposed annexation. We will need to address your perceived bias to the Commission. The way your proposed memo is written, makes me question your objectivity.

I see no basis in your recommendation to deny w/o prejudice. The expected adoption of a new resolution by CVWD at its 2/23 meeting, rescinding its previous action regarding the annexation removes any support for the annexation other than yours as executive director and the petitioner. This entire matter should be flatly denied or withdrawn and not heard by the Commission.

Please consider carefully your position as reflected in the memorandum to the Commission. If it stays as proposed, we will have to not only appear, but express our belief's in a strong letter to the Commission.

You and I have worked well together over the years on other MWD annexations, but I strongly disagree with your approach to this matter. Please let me know where you stand and if you believe a phone call is warranted, you can reach me at 969-2271.

Tom



The voice of our community

February 10, 2011

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1469 E. Valley Road
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P.O. Box 5278
Santa Barbara, CA 93150
Tel: (805) 969-2026
Fax: (805) 969-4043

info@montecitoassociation.org
www.montecitoassociation.org

LAFCO
105 E. Anapamu Street
Santa Barbara, CA 93101

Re: Proposed Detachment of Edgewood Estates from the Montecito Water District and Annexation by the Carpinteria Valley Water District

Dear Commission Members:

The Montecito Association has reviewed the Edgewood Estates property owners' request for detachment from the Montecito Water District. We are concerned that the proposed detachment would result in a non-contiguous service area for the Carpinteria Valley Water District. In general, we believe that the creation of service islands and peninsulas is not good planning or public policy. LAFCO is charged with ensuring orderly development through the creation of appropriate service district boundaries and we ask that you uphold this responsibility.

Sincerely,

Victoria Greene, Executive Director