

**SAN LUIS OBISPO
LOCAL AGENCY FORMATION COMMISSION
JANUARY 17, 2008**

Call to Order:

The San Luis Obispo Local Agency Formation Commission was called to order at 9:00 a.m. on January 17, 2008 in the Board of Supervisors Chambers at the County Government Center in San Luis Obispo, California by Chairman Katcho Achadjian.

Commissioners Present: David Brooks, Bruce Gibson, Barbara Mann, Duane Picanco, Allen Settle, Vice Chairman Richard Roberts, Chairman Katcho Achadjian and Alternate Commissioners Ed Eby, Tom Murray, and James R. Patterson

Commissioners Absent: Alternate Commissioner Gary Nemeth

Staff:

Paul L. Hood, Executive Officer, David Church, Deputy Executive Officer, Raymond A. Biering, LAFCO Legal Counsel, Donna J. Bloyd, Commission Clerk.

Pledge of Allegiance - led by Chairman Achadjian

Selection of 2007 Commission Chair and Vice Chair:

Vice Chairman Richard Roberts was selected to sit as Chairman in 2008. Commissioner David Brooks was selected to sit as Vice Chairman in 2008.

Approval of Minutes: Motion was made and seconded to approve the draft minutes of December 6, 2007.

Non-Agenda Public Comments:

Eric Greening, Atascadero, CA reminded all present that the owners of the Eagle Ranch will be hosting a meeting at the Atascadero Pavilion to discuss development of a portion of the ranch this evening.

Richard Sadowski, 490 Java Street, city not listed, gave a written report to Commissioner Gibson regarding a collection system for Morro Bay and Cayucos. Mr. Sadowski also spoke about protecting the State Marine Preserve in Morro Bay.

Amanda Rice, 2220 Ardath, Cambria, CA 93428 asked the Commission when the Sphere of Influence/Municipal Services Review for Cambria would be scheduled.

Consent Agenda:

Item A-1 Submittal of Amendments to the Commission's Financial Disclosure Policy

There was no discussion of this issue by Commissioners and no public comment.

Item A-2 Submittal of Second Quarter Budget Report

There was no discussion of this issue by Commissioners and no public comment.

Motion was made by Commissioner Achadjian to approve the Consent Agenda. Commissioner Mann seconded the motion.

The motion carried with a unanimous voice vote.

LAFCO Legal Counsel, Raymond A. Biering, read and explained LAFCO's Guidelines for Public Comment to the assembly.

Chairman Roberts read the order of presentation and time limits for Item B-1 to the assembly.

Regular Matters:

Item B-1 LAFCO File 2-R-05: Consideration of Annexation No. 14 to the City of Pismo Beach (Los Robles del Mar) and the Supplemental Environmental Impact Report.

LAFCO Executive Officer, Paul Hood, introduced this item. David Church, LAFCO Deputy Executive Officer provided a PowerPoint presentation.

Mr. Hood stated that the purpose of today's public hearing is to consider the Los Robles del Mar annexation proposal and the Supplemental Environmental Impact Report. The key issues for LAFCO are the impacts of the City of Pismo Beach using the on-site wells as a municipal water supply, including impacts to the surrounding water wells and impact to the deep aquifer.

Mr. Hood stated that the Commission had directed LAFCO staff to prepare a Supplemental Environmental Impact Report ("SEIR") to study the impacts of using on-site wells as a municipal water supply.

At the March 16, 2006 Study Session, the following options were presented to the Commission:

- A. Prepare an SEIR that directly addresses the impacts of pumping the on-site wells on surrounding wells;
- B. Pismo Beach using State water to serve the project as previously approved, removing the need for an SEIR;
- C. The Commission denies the annexation, thus no additional CEQA review would be required.

Mr. Hood reviewed the history of the project stating that:

A Specific Plan and Tract Map were approved by the City of Pismo Beach in 2004;

Two previous EIRS for the project were certified by the City of Pismo Beach in 1999 and 2004;

The City of Pismo Beach has submitted a Resolution of Application to LAFCO along with a Rezoning Ordinance, Negotiated Tax Agreement, Plan for Services, and other documents.

Mr. Hood reviewed LAFCO's role regarding this project. LAFCO is responsible for:

- Approving the boundary change (the annexation);
- Complying with CEQA;

and is:

- Precluded from making land-use decisions;
- Required to evaluate service capabilities including water supply;
- Required to establish Spheres of Influence which describe possible 20-year growth boundaries for a jurisdiction.

Mr. Hood reviewed the documents that were sent to involved parties in this matter, which included:

- Background of the proposal;
- Summary of the SEIR;
- Summary of the Conditions of Approval;
- Summary of the Water Resources Assessment;
- Discussion of the Alternatives;
- Evaluation of LAFCO factors.

Presentation by Douglas Wood, Douglas Wood & Associates, Inc.
California Environmental Quality Act (CEQA)

Mr. Wood explained the Supplemental Environmental Impact Report (SEIR) and the items studied:

- The pumping of the LRDM wells as a municipal source of water for the City of Pismo Beach;
- Impacts to surrounding wells
- Impacts on the groundwater aquifer
- Impacts to biological resources
- Land Use/Growth-Inducing Impacts

Mitigation Measures reduce impacts to a less-than-significant level via:

- Monitoring program;
- Restricting pumping to prevent overdraft;
- Water conservation measures;
- Limits pumping of wells to serve LRDM project.

Project alternatives include:

- No project alternative
- Limited pumping alternative;
- Alternative water sources.

Mr. Wood discussed hydrogeology and water resources defining three classes as follows:

- Class I: Pumping from the deep aquifer in an amount which exceeds safe yield creating an overdraft condition;
- Class II: Long-term monitoring and limited pumping of the deep aquifer in order to avoid an overdraft condition;
- Class III: Capability of LRDM wells, subsurface flows to Meadow Creek drainages, interference with wells on the deep aquifer, interference upon wells in shallow aquifer and potential water impacts.

Mr. Wood discussed biological resources, Class III: Potential impacts upon wetland and riparian and special status plants and wildlife species.

Discussion of land use and planning by Mr. Wood:

- Class I: Elimination of constraint upon future development in areas served by the additional water supplies;
- Class II: Limited pumping of the deep aquifer to the amount necessary to serve the LRDM project;
- Class III: Direct land use impacts upon the LRDM site and adjacent areas.

Summary by Mr. Wood:

- Class I Impact: Significant, unavoidable, adverse
- Class II Impact: Significant but mitigatable impact
- Class III Impact: Adverse, not significant

Explanation of the EIR process by Mr. Wood:

Notice of Preparation circulated to solicit concerns (September 2006);
Draft SEIR is prepared and circulated with a 60-day response period (July 13, 2007-September 12, 2007);
205 comment letters received from the general public and various agencies;
Responses prepared for each comment letter;
Final SEIR prepared

Issues raised and discussion thereof by Mr. Wood included:

Long-term availability of groundwater;
Estimates of future use of area wells;
Enforceability of proposed monitoring program;
Adequacy of proposed mitigation measures;
Long-term aquifer management-City of Arroyo Grande;
Construction of secondary units in the County;
Separation of shallow and deep aquifers;
Potential saltwater intrusion;
Impacts of drought conditions;
Impacts of climate change/global warming.

Presentation by Paul Sorensen, PG, CHg, Principal Hydrogeologist, FuGro West, California Professional Geologist, California Certified Hydrogeologist

Water Resources Assessment Goals

Mr. Sorensen discussed the goals of the Water Resources Assessment:

Evaluate the potential for communication between the shallow and deep aquifers;
Study the potential for well interference/impacts to surrounding wells;

Identify water quality impacts;
Analyze water supply capacity and availability.

Mr. Sorensen explained his methodology as follows:

Geologic and Hydrogeologic reports and maps, both published and unpublished were reviewed;

The geological interpretation of the basin was refined by the collection and digitalization of available borehole logs, field reconnaissance and review of available literature;

Aquifer testing data in previous reports were reviewed and reanalyzed where monitoring data was available;

The availability of the LRDM project wells (LRDM #1, #2, and #3) to extract a volume of water equivalent to the project demand was assessed;

The impact of pumping the deep aquifer on wells screened in a shallow aquifer in the basin (well interference) was assessed;

Additional pump testing of LRDM Well #2, in February 2007, was specifically conducted for this purpose. The results and previous aquifer testing were analyzed;

Local precipitation data was used to calculate recharge to the deep aquifer by percolation;

Recharge to the aquifer via stream bed was assessed;

An aerial photograph review was performed to identify domestic parcels located on, or in the vicinity of the outcrop of the deep aquifer;

Groundwater storage capacity of the deep aquifer was calculated;

A water balance for the deep aquifer was calculated;

Groundwater quality data was collected and assessed;

The shallow and deep aquifers are hydraulically separated;

Most private, domestic wells pump groundwater from the shallow aquifer;

Pumping from the deep aquifer is used by the LRDM project wells, the City of Arroyo Grande, and a few private pumpers;

Recharge to the deep aquifer is estimated at 270 afy:

Current pumping + project demand = ± 260 afy

Current pumping + project demand + anticipated future demand = ± 360-400 afy

The findings underscore the relatively tenuous condition of the deep aquifer;

Thin margin between surplus and overdraft, should all involved parties that have a right to the aquifer actually pump their intended volumes.

The cumulative impacts of all planned and proposed pumping would exceed the safe field of the aquifer;

There is insufficient water in the deep aquifer to meet existing and anticipated future water demands.

Paul Hood, LAFCO Executive Officer discussed the alternatives and conditions of approval.

Alternative #1-Conditions:

Prohibits the City of Pismo Beach from using the existing LRDM wells, or any future wells on the property as a municipal water supply;

Applies to the 182-acre site;

Document that the City can serve the annexation with existing or other supplemental water supplies;

Update the Urban Water Management Plan

Implement conservation measures listed to reduce water consumption.

Alternative #2-Conditions:

Establish monitoring program for the deep aquifer;

Paid for by the City-qualified hydrogeologist

Pumping volumes monitored on a monthly basis

Water well levels are monitored twice per year-LAFCO oversees the monitoring

Limit the pumping to 100 afy

Implement the conservation measures listed

Reduce pumping if monitoring indicates that the deep aquifer is, or will soon be, in an overdraft situation;

Allows for increased pumping if long-term monitoring documents a higher safe yield;

Add condition #2 from Alternative #1:

Becomes Condition #6 in Alternative #2

Document that the City can serve the annexation with existing or other supplemental water supplies

Update the Urban Water Management Plan

Conditions of Approval-Implementation:

Both alternatives require that a Covenant and Agreement be used to enforce terms;

The Covenant and Agreement would be recorded against the property (182-acre site) and would "run" with the property;

The property owner, City and LAFCO would be parties to the Agreement;

The Covenant and Agreement would be approved and recorded prior to a Certificate of Completion being filed with the County Clerk-Recorder.

Mr. Hood discussed the Revised Condition of Approval-Alternative 1, Condition 2.

There were questions from and discussion among the Commissioners regarding the foregoing presentations.

Commissioner Settle asked about percolation between the upper and lower aquifers.

Commissioner Mann asked about the EIRS of 1996 and 2004 and about the fact that the City of Pismo Beach had originally stated that it would serve the LRDM project with State water. Commissioner Mann also asked for a further explanation of Alternatives 1 and 2.

Mr. Hood explained the Alternatives.

Commissioner Picanco asked about recharging the deep aquifer.

Mr. Sorensen responded by discussing stream flow, rain and subsurface inflow.

Commissioner Achadjian asked about the City of Arroyo Grande's use of Well #10.

Commissioner Picanco asked about the condition of the aquifers if there were no project.

LAFCO Legal Counsel, Ray Biering stated that whether the project is approved or not, the property owners have a right to use water on their property.

Commissioner Settle spoke about Nacimiento and Lopez water.

At 10:30 a.m., Chairman Roberts called a ten minute break in the meeting.

At 10:45 Chairman Roberts called the meeting back into order.

Presentation by Kevin Rice, Manager, City of Pismo Beach

Mr. Rice spoke on five main points:

“Why We Are Here”

Key dates

Highlights from Pismo Beach's comments to LAFCO regarding the SEIR

Clear benefits of this project and annexation to the community

Key findings of the SEIR

Following Mr. Rice's presentation there were questions from various Commissioners regarding the aquifers and possible pumping of wells by the City of Arroyo Grande, and about the Lake Nacimiento Water Project.

Mr. John Rickenbach spoke about the EIR completed in 1996.

Presentation by Mike Tidus, Esq. on behalf of developer Larry Persons.

Mr. Tidus discussed the Alternatives in the LAFCO Staff Report stating that Alternative #1 did not achieve the goal, but that Alternative #2 did. Mr. Tidus stated that Alternative #1 did not protect the aquifer.

Mr. Tidus discussed the history of the Los Robles del Mar project and stated that Mr. Persons preferred Alternative #2. He also stated that there was no limit to the amount of water that the City of Arroyo Grande could pump from the aquifers.

There was discussion and questions from Commissioners following Mr. Tidus' presentation.

Commissioner Gibson directed a question to LAFCO staff regarding the project.

Mr. Hood responded that LAFCO's concern is "where is the water". He reminded the Commissioners that their responsibility in this matter is about water for the project.

Presentation by Coastal Christian School.

Lance Tullis, Principal of Coastal Christian School presented a DVD of the school.

Commissioner Achadjian asked Mr. Tullis asked what was stopping the school from being built.

Mr. Tullis responded that sewage disposal and an entrance and exit to the school needed to be addressed and, the school could not afford to annex to the City of Pismo Beach independently.

Presentation by Gabriel Ross, Esq. on behalf of Oak Park Community Group.

Mr. Ross stated that there was not enough water in the aquifer to serve any aspect of the project and that there were no back-up steps in case of over-pumping the aquifers.

Mr. Jon Schwind, Oak Park Community Group, stated that the City of Arroyo Grande will pump water from the aquifers in an unknown quantity and that there was an unsustainable source of the water.

Commissioner Brooks asked if the Oak Park Community Group was a part of the Los Robles del Mar project.

Mr. Church responded that the Oak Park Community Group was comprised of neighbors of the project.

Mr. Schwind stated that the Oak Park Community Group was comprised of people who live within the perimeter of the shallow aquifer; they were residents with wells within the shallow aquifer.

Public Comment (before 12:00 noon)

Steve Adams, City Manager, City of Arroyo Grande, 214 East Branch Street, Arroyo Grande, CA 93420, spoke about the annexation and water issues.

James Lopes, County of San Luis Obispo Planning and Development spoke regarding the General Plan of the area.

Tobie Charles, 766 Phillips Road, Arroyo Grande, CA 93420, stated that he was against Alternative #2.

Troy Thorup, 306 Ormonde Road, Arroyo Grande, CA 93420, spoke regarding water for agriculture and asked the Commission to deny the annexation.

Mike Clark, 456 Carpenter Canyon, Arroyo Grande, CA 93420, spoke about monitoring water usage.

Ed Martin, 587 Erhart Road, Arroyo Grande, CA 93420, spoke about water usage in Palm Springs.

Erik Justesen, RRM Design Group, 3765 South Higuera Street, San Luis Obispo, CA 93401, stated his support for Alternative #2.

Herb Hart, no address listed, stated his support for Alternative #2.

Mary Bishop, 140 Moore Lane, Arroyo Grande, CA 93420, asked the Commission to approve the annexation.

David Porter, 755 La Teena Place, Arroyo Grande, CA 93420, stated his support for Alternative #1.

Rita Tucker, 241 North Courtland Street, #35, Arroyo Grande, CA 93420, spoke about senior housing to be provided by the project.

Kathy Bear, 241 North Courtland Street, Arroyo Grande, CA 93420, spoke about senior housing to be provided by the project.

At 12:17 p.m. Chairman Roberts adjourned the meeting for lunch stating that the meeting would reconvene at 1:00 p.m.

Raymond A. Biering, Esq., LAFCO Legal Counsel reminded the Commissioners not to discuss today's issues during the lunch break.

1:01 p.m. the meeting was called to order following a brief lunch break. The order of business resumed with a continuation of the Public Comment period.

Pam Kuiken, no address listed, Vice Principal of Coastal Christian School, stated that she did not understand "taking" water.

Ron Lindstadt, no address listed, stated his support for Alternative #2 with a LAFCO-appointed hydrogeologist.

Jeannette Watson, 106 Moore Lane, Arroyo Grande, CA 93420, spoke about the oil company's use of water and two other project sites within the Pismo Beach area – Price Canyon and Vetter Lane, and monitoring the use of water by the City of Arroyo Grande.

Martin Ormonde, PO Box 1286, no city listed, spoke about his well going dry.

Nancy Elmore, 1660 Memory Lane, Arroyo Grande, CA 93420, spoke about water movement between the two aquifers.

Dean Berto, 13182 Olympia Way, Santa Ana, CA 92705, spoke about concerns raised by the SEIR CD sent to interested parties by LAFCO.

Harold Johnson, 1567 Bee Canyon Road, Arroyo Grande, CA 93420, stated his support for Alternative #2 and providing water for the Coastal Christian School.

Stewart Robinson, 1251 Paseo Ladera, Arroyo Grande, CA 93420, asked if his well was in the deep aquifer. He has three households that share the water they pump from their well.

Marilyn Morris, 1750 Little Court, Arroyo Grande, CA 93420, stated that there was not enough water to serve the project and provide fire service water.

Sherstin Rosenberg, 520 Torrey Pine Place, Arroyo Grande, CA 93420, spoke about climate change and its effect on water sources.

Jeff Auerbach, 897 Oak Park Blvd., #271, Pismo Beach, CA 93449, spoke about the low water surplus, and stated his support for Alternative #1.

Carolyn Moffatt, 1096 Noyes Road, Arroyo Grande, CA 93420, stated her support for Alternative #1 or Alternative #3 (denial).

Holly Covington, 865 Noyes Road, Arroyo Grande, CA 93420, stated that neighbors in the area had wells that were drawing only three gallons per minute of water and that her well was down by 30%.

Thomas Patchell, 1202 Deer Canyon, Arroyo Grande, CA 93420, stated his support for Alternative #1.

Rick Kleinsasser, 775 La Teena Place, Arroyo Grande, CA 93420, stated that Alternative #2 was not viable.

Trudy Jarratt, 555 Windermere Lane, Arroyo Grande, CA 93420 stated her support for Alternative #1.

Tom Fetterman, 155 Vista Circle, Arroyo Grande, CA 93420, stated his support for Alternative #1.

Melissa Goodnight, PO Box 1083, Pismo Beach, CA 93448, stated that the two aquifers do communicate. She also stated that the Coastal Christian School was approved 25 years ago.

Harry Goodnight, PO Box 1083, Pismo Beach, CA 93448, stated that the Oak Park Estates owned the water rights beneath the green space, and stated his support for Alternative #1.

Christine Harvey, 285 East Ormonde Road, Arroyo Grande, CA 93420, stated that the water in her well was extremely acid and that she was fearful of losing the water she does have.

Ed Muraski, 745 Quebrada Lane, Arroyo Grande, CA 93420, stated his support for Alternative #1.

Diane Muraski, 745 Quebrada Lane, Arroyo Grande, CA 93420, asked the Commission what the protocol was when there was no more water available to residents with wells.

Suzi Meewes, no address listed, spoke about senior housing.

Dave Cowie, 888 Dugan Court, Pismo Beach, CA 93449, stated his opposition to the project.

Kimberly Wickstrom, 518 Martita Place, Nipomo, CA 93444, stated her support for Alternative #2.

Bob Fowler, 6180 Pozo Road, Santa Margarita, CA 93453, stated his support for Alternative #2.

David Llamas, no address listed, asked that the Commission approve the project.

Lance Tullis, no address listed, stated that the law is on LAFCO's side if the project is approved.

Michael Hannon, 665 Vetter Lane, Arroyo Grande, CA 93420, stated his opposition to the annexation and spoke about the connection between the two aquifers.

John Stephenson, 555 Katy Canyon Way, Arroyo Grande, CA 93420, stated that there was only five minutes of water available in his 5,000-gallon storage tank according to the County Fire Department.

Chris Anderson, 280 West Ormonde Road, San Luis Obispo, CA 93401, stated his support for Alternative #1.

Elizabeth Kaminaka, 1615 Bee Canyon Road, Arroyo Grande, CA 93420, stated her opposition to the annexation.

Karen Mikuni, 1163 Rosevine Lane, Arroyo Grande, CA 93420, asked that the Commission deny the annexation.

Jeanne Auerbach, 871 Noyes Road, Arroyo Grande, CA 93420, stated her support for Alternative #1 and also asked the Commission to deny the annexation.

Frank Jarratt, 555 Windermere Lane, Arroyo Grande, CA 93420, asked that the Commission deny the annexation.

Peter Risley, 540 Piney, Morro Bay, CA 93442, stated that pumping is a bad idea.

Christine Monony, 1564 Vista Grande Lane, Arroyo Grande, CA 93420, stated her opposition to the annexation.

Audrey Erbes, 797 Erhart Road, Arroyo Grande, CA 93420, stated her opposition to the annexation.

Michele Staples, Esq. attorney for the developer, 2030 Main Street, Irvine, CA 92614, stated that the adequacy of the water supply has been addresses and that water supplies are available to the City of Pismo Beach.

Erik Howell, 203 Placentia Avenue, Pismo Beach, CA 93449, stated his opposition to the annexation.

At 2:45 p.m. Chairman Roberts closed the Public Comment portion of the meeting and announced a ten minute break.

2:55 p.m., Chairman Roberts called the meeting back into order.

Commissioner Settle addressed questions to Ms. Staples, asking that she clarify her statement regarding groundwater.

Ms. Staples referred the question to the City of Pismo Beach General Manager, Kevin Rice.

Mr. Rice stated that The Pismo Beach City Council approved development of the Los Robles del Mar project pre-zoning based upon the assumption that the City agreed to serve water from existing water supplies. The existing supplies would include water from on-site wells. The City had always presumed that when Los Robles del Mar was annexed those wells would become a part of the City.

Commissioner Gibson asked how many acre-feet per year the City can purvey.

Mr. Rice stated the amount was 2,696 acre-feet.

Commissioner Gibson asked if within the 2,696 acre-feet, there was sufficient water to serve the Los Robles del Mar project without touching the wells.

Mr. Rice stated that right at this moment there is an excess of water in the City of Pismo Beach and that the City of Pismo Beach had planned in its Urban Water Management Plan for water for all of the full build-out of the City that does not include Sphere of Influence areas. He stated that the City was at about 85% of approximately full build-out, and that it had planned enough water in the City to get to full build-out whether it occurs in 5, 10, or 15 years.

Commissioner Gibson asked if there is any extra left after full build-out is reached.

Mr. Rice stated that after full build-out there will be none left.

Commissioner Gibson asked if it was correct that there is no water available to the City right now to serve any more than the build-out within the City limits right now.

Mr. Rice stated that when the City reaches full build-out, that is correct and that it depends upon point in time of which one is speaking.

Commissioner Gibson stated that he was talking about serving full build-out.

Mr. Rice stated that it is the policy of the City Council that annexations into the Sphere of Influence bring their own water.

Commissioner Settle stated that the answer is you cannot annex without having that source of water on-site put into your equation.

Mr. Rice responded in the affirmative.

Chairman Roberts asked if there were further questions.

Commissioner Mann stated that she had a question for Mr. Rice about the 140 acre-feet put away for new development.

Mr. Rice stated that the City of Pismo Beach bought State water back in the 90's and started delivery of it, another entity came forward to the City and said it would like another 140 acre-feet, in other words 1,240 afy instead of 1,100 afy it would make the payments on 140 acre-feet that are required annually for State water, and that the City Council agreed to do that. That land has not been annexed and in fact is not in the Sphere of Influence.

Commissioner Brooks asked if then the State water was used it would be wheeled to someone else.

Mr. Rice stated that when the water was drawn it would most likely be wheeled.

Chairman Roberts stated that Alternate Commissioner Patterson had a question and that, since he was not seated, he did not have a right to vote.

Alternate Commissioner Patterson stated that he wanted some clarification regarding water rights specifically overlyer's rights, meaning that the people owning the property have a right to the water below them. He stated that Los Robles del Mar does have a right to extract the water below them. The cities that are pumping water from that aquifer have appropriative rights but that overlyer's rights are superior to appropriative rights. Commissioner Patterson wanted to know if Los Robles del Mar stays State water-neutral using the water under the property to service the development that occurs on the property if it would still be annexed into the City of Pismo Beach with the condition that the City of Pismo Beach doesn't take any of the water from the project. The water underlying the project is simply for the project so there's no water taken out to service the rest of the City, if that's a scenario that might play out?

Mike Tidus, Esq. stated that the City has to be involved as well, but there is enough water and that the developer has overlying rights that are superior to everybody else.

Mr. Tidus stated that the developer could pump water necessary to serve the project. He stated that the City had a 300 acre-feet surplus after they served the project. He thought that the City's policy is that when something is built, there, is water for it. The City is including the LRDM wells as part of a possible source for the future. He stated that Ms. Staples tried to point out that there are other sources the City has for more water if necessary. He further stated that there's plenty of water to serve the project today and that the wells are not needed to serve the project today.

Commissioner Patterson asked Mr. Tidus and the City of Pismo Beach is how they felt about using the well to serve the project and not exporting it into the City beyond the project boundaries.

Mr. Tidus stated that where the developer got water doesn't really affect the project because if a mutual water district were formed, it would come back to LAFCO for approval. It would be necessary for the City to participate.

Mr. Hood stated that LAFCO does not have authority over mutual water companies.

Mr. Tidus stated that he thought the regulation has changed but that he would double check that and that where the water comes from for the developer's purpose is not really that important.

Commissioner Picanco asked if Pismo had an objection to the concept that the water remains within the project.

Mr. Rice stated that he couldn't speak to that because he can't set policy and that it would have to go to the City Council and they would have to consider it and then it would come back to the LAFCO board again.

Commissioner Comments:

Commissioner Brooks stated that he had researched what the LAFCO framework should be before the Commission got carried away with some things. He stated that LAFCO is responsible for addressing a number of factors found in the Cortese-Knox-Hertzberg Act. Most importantly for this meeting LAFCO is responsible for timely availability of water supplies adequate for projected needs

He stated that the water has got to be adequate, it's got to be reliable, and it's got to be sustainable. He further stated that with that as a guide, he was concerned about Alternative 2.

Commissioner Brooks stated that he thought an adjudicated water basin would be the best way to go.

He also stated that with all the questions he had about the alternatives and lacking a definite water use allowance to protect and provide the water so it is adequate, reliable and sustainable, he wondered if no annexation might be a better direction for consideration.

Commissioner Settle stated that his goal is to avoid a future crisis on water resources. He also stated that he was concerned that the responsibility of the Local Agency Formation Commission's primary job is to know where the water is going to come from and its adequacy. He further stated that he thought the key issue adequacy can't be determined so long as there is no agreement between Pismo Beach and Arroyo Grande as to how much they can take out of the groundwater relative to Well No. 10 coming online.

Commissioner Settle stated that he felt that it is not really a function of the Local Agency Formation Commission to become a monitoring entity.

Commissioner Gibson stated that he felt very badly for the folks who are caught up in this: the school, the applicant, the overlying landowners. He stated that LAFCO really has to focus on doing the right thing in terms of a rational extension of an incorporated city and the Cortese-Knox-Hertzberg Act. He stated that he concluded that the City has to show LAFCO a supplemental source of water before LAFCO can approve the annexation. And that the only way that LAFCO could consider that particular water basin would be if that basin were adjudicated.

Commissioner Gibson stated further that he had not seriously considered Alternative #3, the "not to annex option", but upon discussion of it that may well be where LAFCO has to land at this point.

Commissioner Picanco stated that he didn't really care for Alternative #1. He thought perhaps Alternative #2 might work, but that there were things in Alternative #2 with which he did not agree. And that he didn't agree with Alternative #3.

Commissioner Picanco stated that his position is that the 182 acres has some type of entitlement to water. And if the property remains in the County, they can drill and pump as much water as they want, until the unsafe annual yield was reached. Commissioner Picanco further stated that he didn't want to get into something a referee position between Pismo Beach and Arroyo Grande.

Commissioner Picanco stated that Alternative #2, with a safe annual yield of 100 acre-feet sounded fair to him. But then it puts LAFCO into a situation of monitoring and he didn't like government getting involved in monitoring.

He then stated that Alternative Commissioner Patterson's comment about a condition that the water remain on the property itself, and was not used somewhere else, then it was a viable compromise. He stated that he was really more in favor of some kind of a hybrid number 2.

Commissioner Achadjian thanked all the youth present and the members of the public who attended.

Commissioner Achadjian stated that on paper this was a great project with parks, open space, and meeting the needs of senior citizens.

He stated that even though the Coastal Christian School was not in his district, he would be happy to work with its district supervisor to be sure that it got help. He stated that if the school chose to go through the County there were ways to make it happen.

Commissioner Mann stated that today had been very emotional for everyone but that LAFCO had to set emotions aside, that there were rules. Commissioner Mann stated that the Commissioners are here to see that there is enough water to serve a project. LAFCO is not an enforcement agency.

Commissioner Mann stated that she thought the only option is to deny the project, and that she would encourage the school to take up Supervisor Achadjian's suggestion and offer of help to build the school.

Chairman Roberts stated that it was clear that the aquifer is small, that it's unreliable, and it is described by one of the consultants as "tenuous". He thought it should be treated as a treasure. Chairman Roberts is convinced that in the not too distant future the aquifer will be approaching or will go into overdraft. He stated that there are other and unknown uses of the water. Chairman Roberts further stated that already some have been drilled into the deep aquifer to replace their wells that have failed, and that more will follow.

Chairman Roberts stated that he was also uncomfortable with LAFCO becoming involved in an ongoing monitoring program that may result in an enforcement action. LAFCO is not an enforcement agency, it has no enforcement powers. Chairman Roberts stated that if Alternative #1 is selected, he hoped that the City of Pismo Beach will be able to supply the water to the project as there are many community benefits that have been described including the Coastal Christian School.

Chairman Roberts questioned staff about Alternative #3, asking if it was a denial of the annexation.

Mr. Hood stated that was correct.

Chairman Roberts asked what the City of Pismo Beach's option is if the annexation is denied? And how would it compare with Alternative #1?

Mr. Hood stated that he thought that any of the Alternatives selected should be a tentative action and LAFCO staff come before the Commission next month in February with findings to support the action.

Mr. Hood stated that if Alternative #3, which is denial, is approved by the Commission then that would essentially end the annexation process. Mr. Hood stated that the Commission would direct the City of Pismo Beach and the property owner to consult with the City of Arroyo Grande and find a solution to this situation. That will assure that there is an adequate, sustainable supply of water for the project. Generally, if it's denied, there would be a 12-month requirement, but the project could be denied without prejudice. That would allow the project to be to resubmitted at any time that the solution to the water situation is resolved.

Mr. Hood further stated that Alternative #1 is that the Commission is approving the annexation, not denying it but that the annexation would never be filed or completed until the conditions were complied with. So, it is an action to approve, but conditionally.

Chairman Roberts asked Mr. Hood to summarize the Conditions.

Mr. Hood stated that of the Alternatives recommended, the most critical one is that the City of Pismo Beach update its Urban Water Management Plan and the Plan for Services that would identify exactly what the direction is now; to come back with a sustainable, adequate and reliable supply of water. It essentially removes it from the Commission because it would be approved subject to a condition that he would have to bring back to the Commission to be sure that the Commission is satisfied that that condition has taken place. Whereas denial would force all of the affected parties, including the County, to first of all, meet and resolve the issue to his satisfaction, and he would recommend it to the Commission.

Commissioner Settle stated to Chairman Roberts that he would prefer to have a motion to the effect that denial without prejudice with the understanding that LAFCO would encourage the school to pursue either with the County or the City for selected services so that it can proceed.

Commissioner Brooks asked what should be done with the SEIR.

Raymond A. Biering, Esq., LAFCO Legal Counsel stated that technically an environmental determination was not needed for a denial. In this instance one was completed and it was studied it very specifically. He recommended that the Commission take a tentative action and instruct staff to return at the next meeting with findings to support the decision and a proposed action on the environmental determination.

Commissioner Settle agreed and made that a part of the motion.

Mr. Hood stated that LAFCO staff will meet with legal counsel and consultants and determine exactly what is needed regarding the environmental determination and will return to the Commission with findings on the annexation as well.

Motion was made by Commissioner Settle to tentatively deny Annexation No. 14 to the City of Pismo Beach (Los Robles del Mar) without prejudice. The item would be continued to the February 21, 2008 meeting to allow staff to prepare findings for denial.

Commissioner Mann seconded the motion.

AYES: Commissioners Allen Settle, Barbara Mann, Vice Chairman David Brooks, Bruce Gibson, Katcho Achadjian Chairman Richard Roberts

NOES: Commissioner Picanco

ABSTAIN: None

The motion carried 6-1 for denial.

Commissioner Comments:

Chairman Roberts stated that he would be out of town the day of LAFCO's next meeting, on February 21, 2008. Vice Chairman Brooks will preside at that meeting.

Legal Counsel Comments: None

Executive Officer Comments: None

Adjournment: With no further business before the Commission, the meeting adjourned at 3:40 p.m. until the next meeting scheduled for February 21, 2008 at 9:00 a.m. in the Board of Supervisors Chambers at the County Government Center in San Luis Obispo.

THESE MINUTES ARE NOT OFFICIAL NOR ARE THEY A PERMANENT PART OF THE RECORD UNTIL THEY ARE APPROVED BY LAFCO COMMISSIONERS AT THE NEXT REGULAR MEETING.

Respectfully submitted,

Donna J. Bloyd, Commission Clerk.