

PRESS RELEASE

DATE: March 6, 2007

POC: Max Chaplin, President
Carmel Valley Forum
Phone: 484-0244

The Carmel Valley Forum filed suit today against LAFCO for its denial of the right to vote to citizens of Carmel Valley. Our application to allow the citizens to vote on creating a Town of Carmel Valley was fully complete and in order, under the provisions of California state law. LAFCO staff, its legal counsel, and its independent experts all concurred that that application was in order and should proceed to a vote in Carmel Valley. Instead, and devoid of any rational substantiation, LAFCO voted to require the people of Carmel Valley to start the five year process all over again. The Monterey Herald correctly editorialized that LAFCO's decision was "an example of arrogance", that it was an "illogical and disingenuous decision that insults incorporation backers."

Last October, LAFCO commissioners effectively blocked the application to incorporate a new township by requiring an environmental impact report. In 2005, LAFCO's commissioners had unanimously affirmed the recommendation of the professional firm (PMC) that it engaged and ruled that the proposed incorporation of the Town of Carmel Valley would have no environmental impact. In October the commissioners arbitrarily reversed that decision without citing any fair bases for an EIR. Five days after requiring an EIR, LAFCO further required a new fiscal analysis, a new negotiated pact with the county, and an updated municipal services report, all of which were to be done using radically new boundary alternatives - in other words, to start the process all over again.

The application process started in 2002 with a petition drive, and by dragging its heels, LAFCO missed several

statutory deadlines to process the application. Approval of the proposal is long overdue. This represents another sorry example of decision-making by Monterey County politicians.

The Forum has worked diligently since that October vote to have the Commission reconsider its vote. We have met with the commissioners, in some cases three or four times, but have made no progress in the face of extreme illogic. Support across the board from all of our elected officials made no dent. The voters of Carmel Valley must know that we left no stone unturned, no door quiet, trying to get this issue resolved in a fair, legal and equitable manner before turning to our last resort, that of legal remedy.

"It is a sad day for democracy when an unelected government agency can deny the right of people to vote, based on no evidence or rationality," stated Max Chaplin, president of the Forum. "Indeed, the majority of LAFCO Commissioners did not even have the courage of their convictions to deny the incorporation application outright, and instead sought to do so through subterfuge and dishonesty."

The lawsuit makes three broad arguments. First, it challenges LAFCO's about-face to require an Environmental Impact Report after it had earlier adopted a Negative Declaration based on staff and independent expert opinion. Changing the form of local government from County to Town is purely an administrative act and causes no physical impact to the environment. Second, the lawsuit details numerous process-related violations of law by LAFCO, including ignoring several statutory deadlines (which is why the process dragged on so long). Third, the lawsuit makes a broader constitutional argument about denying people the right to vote.

Representing the Carmel Valley Forum are Michael Stamp, a local attorney known for his expertise on environmental law, and Julie Hayward Biggs of Burke, Williamson & Sorensen, LLP, a specialist in municipal law.

Background

- The first ad hoc meeting for this incorporation drive was held on March 9, 2000
- The formal LAFCO process was begun in 2002 with the circulation of the Carmel Valley Petition, which officially launched the incorporation drive.

- 27 percent of all voters in Carmel Valley signed the Petition. The rate of signing was consistent throughout the valley, and ranged from over 23% at the mouth of the valley to nearly 29% in the village area.
- All the independent studies commissioned by LAFCO on CV incorporation have been positive, including: comprehensive fiscal analysis, environmental initial study, and municipal services review. LAFCO's own staff study concluded that the Town would be viable and should be voted upon by the citizens.
- Three fiscal analyses have all concluded that a Town of Carmel Valley would be on sound fiscal footing. The most recent one, contained in the Executive Officer's Report to LAFCO, October 18, 2006, not only contained the findings of California's leading firm for such analyses, but had also been thoroughly and rigorously examined by Monterey County's top financial officials. Those positive financial findings don't even include new revenues from vehicle license fees that would come to the Town as a result of AB 1602, signed into law last year. The law would provide \$900,000 of additional revenue to the Town in its first year, and \$600,000 per year after five years, continuing indefinitely.
- Monterey County and the CV Forum successfully concluded a "revenue neutrality" (or "alimony") pact that, in essence, splits the town's budget surplus for a 10-year period beginning in the third year. This will provide the County with a soft fiscal landing, while assuring the Town's fiscal health. The pact also commits both parties to work together toward creating a Flood Control Zone at the mouth of the valley that would provide genuine flood protection for the first time.
- All of these studies and documents can be found in the Executive Officer's Report, along with staff's own report, in hard copy or on LAFCO's website.

CEQA/EIR issue

- The Initial Environmental Study, prepared by the independent consulting firm Pacific Municipal Consultants (PMC), concluded in a 44-page study that incorporation is an administrative act that has no physical impact on the environment. It noted that both the Town's general plan would have an EIR done, and that any future proposed development would likewise go through the CEQA process. It strongly advised that an EIR was unnecessary, a

conclusion repeated in oral testimony by PMC to LAFCO in December 2005 and again in October 2006.

- LAFCO unanimously adopted the recommended "negative declaration" in December 2005. No new evidence or expert testimony was received by LAFCO that could justify a changed vote.
- The statutory deadline for appealing or reconsidering the negative declaration decision had long passed. Nonetheless, LAFCO then required an EIR at its October 18, 2006 meeting. The oral comments by the Commissioners justifying the EIR did not include comments about potential environmental impacts.

Contact people: In addition to Max Chaplin, please contact:

- Karin Strasser Kauffman, CV Forum and former Supervisor, ph: 831-659-2733
- Glenn Robinson, President of Carmel Valley Association, ph: 831-656-2710 or 659-1152