FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION

AGENDA

JANUARY 24, 2001

Board of Supervisors' Chambers
Hall of Records, Room 301

1:30 p.m.

Commission Members:
Juan Arambula, Chairman
Victor Lopez, Chairman Pro Tem
Larry Fortune
Deran Koligian
Trinidad Rodriguez

Alternate Members:
Cynthia Downing
Bob Waterston
Tom Stearns

Staff: Jeff Tweedie, Executive Officer
Candie Fleming, Secretary/Clerk
Brian Melikian, LAFCo Counsel

Office Location: 2100 Tulare Street, Suite 502
Fresno, CA 93721
(559) 495-0604

1. Call to Order and Roll Call
2. Approval of the December 20, 2000 meeting minutes

CONSENT AGENDA

3. Extension of One Year to Complete Proceedings

A. "Behymer-Chestnut No. 1 Reorganization" (City of Fresno)
B. "McKinley-Barcus No. 2A Reorganization" (City of Fresno)
C. "Anchor-Adams No. 1 Reorganization" (City of Orange Cove)

Recommended Action – Approve extension of one year

If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or even prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff as to the requirements of the Political Reform Act (Government Code Section 84308).
4. "Nees-Fowler Southwest Reorganization" (RO-00-13) - Annex 27.77 acres located at the southwest corner of Nees and Fowler Avenues to the City of Clovis and detach from the Fresno County Fire Protection District and the Kings River Conservation District.

Recommended Action - Approve with Condition

5. Malaga Incorporation Proceedings

A. Special Counsel for Malaga Incorporation Proceedings – Select replacement for Madera County Counsel.

Recommended Action – Authorize Chairman to execute agreement with Jeff Kuhn with the firm Lozano Smith, Attorneys At Law

B. CLOSED SESSION FOR CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one case). The "Existing Facts and Circumstances" giving rise to this Request for Closed Session consist of the following:

Existing litigation known as County of Fresno v. Malaga County Water District, the County's request for LAFCo to suspend all future Malaga incorporation proceedings, the District's response, and the County's express or implied threat to join LAFCo as a defendant in the suit.

C. Request by Fresno County to suspend all future Malaga Incorporation proceedings.

Recommended Action – Provide Staff Direction.

6. CLOSED SESSION FOR CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one case). The "Existing Facts and Circumstances" giving rise to this Request for Closed Session consist of the following:

The City of Fresno's express threat to initiate legal action against LAFCo as a result of LAFCo's approval, at its December 20, 2000 meeting, of the City of Clovis Sphere of Influence Update and environmental document related thereto.

7. Workshop on AB 2838

Recommended Action – Approve strategy to implement new requirements of the Cortese-Knox-Hertzberg Act
OTHER ITEMS

8. Annual Report

**Recommended Action:** Receive report, provide staff direction if appropriate.

COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held February 28, 2000, beginning at 1:30 p.m.
Chairman Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Juan Arambula, Larry Fortune, Deran Koligian, Tom Stearns, and Trinidad Rodriguez

Members Absent: Commissioner Victor Lopez

Staff Present: Jeff Tweedie, Executive Officer
Brian Melikian, LAFCo Counsel
Jeff Kuhn, Special LAFCo Counsel
Mike Noland, Special LAFCo Counsel
Candie Fleming, Secretary

MINUTES

The minutes for the December 20, 2000 meeting were approved.

CONSENT AGENDA

"Behymer-Chestnut No. 1 Reorganization" (RO97-11)
"McKinley-Barcus No. 2A Reorganization" (RO-95-4)
"Anchor-Adams No. 1 Reorganization" (RO-96-8)

There were no further reports given and the Commission unanimously approved a one-year extension of time for each of the above proposals, as recommended by staff.

PUBLIC HEARING

"Nees-Fowler Southwest Reorganization" (RO-00-13)

Staff gave its report and recommendation, pointing out that as an Inhabited Annexation the proposal will require a Protest Hearing. Staff noted that of the 17 registered voters within the proposed boundaries, 8 reside on the proponent's property and 9 reside on the added properties.

Jeff Witte, Assistant City Manager for the City of Clovis concurred with the staff recommendation and urged the Commission to approve it as recommended. He indicated that the owner of one of the added parcels has agreed to annexation, subject to specified stipulations.

Joyce Lewis, property owner, said she had not been contacted by either the City or the developer to explain the reasons for the annexation, or for any financial arrangements. She asked for a 30-day continuance so she could have time to meet with the developer and City to answer her questions.
Ken Crabtree, representing RJ Hill the developer, said that they were unaware that Mrs. Lewis' property, along with others had been added to the annexation. He was concerned that since the additional properties have been included, the annexation is now an Inhabited Annexation, which could be voted down by a majority of the property owners. He requested the Commission to approve just the portion of the proposal relating to his property. He also pointed out that one of the registered voters living on the proposed subdivision property has since passed away, reducing the registered voter count on his property to 7.

Staff briefly explained that the Conducting Authority Proceedings could be waived if all of the property owners within the annexation area had consented to the proposal, as the proponent had intended. However, since it is currently configured as an Inhabited annexation because of the added properties, the proposal will require a Protest Hearing, which could add 90 to 120 days of processing time. The Commission will be the conducting authority for the protest hearing.

The Commission asked the City to meet with Mrs. Lewis and answer her questions.

Mr. Witte, said that he was unaware that any of the property owners had concerns. He said the City would meet with Mrs. Lewis and offer the same annexation agreement that has been accepted by her neighbor.

The Commission asked why the proposal boundaries are different than the developer had submitted. Staff stated that the boundaries have not been changed from those proposed by the City, but staff supported the City's additions because they make for a more regular and logical boundary. The Commission then asked Mr. Witte why the City had changed the boundaries, since the additions could jeopardize the annexation.

Mr. Witte responded that the proposed annexation would square off the boundaries and avoid creating a break in their addressing system, which could create service delivery problems, including the 911 system.

The Commission unanimously approved the annexation as recommended by staff and asked the City to meet with the landowners to work out issues prior to the protest hearing.

**Special Counsel for Malaga Incorporation Proceedings**

Following the staff presentation and a brief discussion, the Commission unanimously authorized the Chairman to sign an agreement with Jeff Kuhn with the firm Lozano Smith, Attorneys At Law, to provide special legal counsel for the Malaga Incorporation Proceedings.

**Closed Session for Conference with Legal Counsel**

The Commission went into closed session. Upon its return, Jeff Kuhn Special Legal Counsel, reported that no reportable action had been taken.
Request by Fresno County to Suspend all Future Malaga Incorporation Proceedings

Staff presented its staff report, recommending that the Commission deny the County's request.

Wes Merritt, Chief Deputy County Counsel, spoke in favor of the request and gave his arguments. He requested that should the Commission deny the request, that they do so without prejudice, to allow future consideration of a similar request if the County should prevail in the court proceedings.

The Commission asked why the request is for suspension of processing instead of termination. Mr. Merritt pointed out that should the District prevail in court, the District would not have to pay new application fees to resume processing the application, and studies that already have been conducted could be utilized.

Jeff Kuhn, Special Counsel, stated that if the proposed incorporation should be denied, the proposal could not be resubmitted for one year, whereas, this time limit would not apply if it were denied without prejudice.

Scott Brown, legal advisor to the Malaga County Water District, requested the Commission to deny the County's request because he felt it was inappropriate and premature.

Neil Costanzo, trial counsel for the Malaga County Water District, said he agreed with staff's recommendation; LAFCo should focus on what it is required to do under the Cortese-Knox-Hertzberg Act.

Mr. Costanzo felt the County's request was premature because the Judge's decision is only tentative and the judge could change her opinion. He said if the judge does not change her opinion, the District intends to appeal and seek relief from any court order that would terminate the incorporation proposal processing in the interim.

Mr. Brown said the application had been initiated by Resolution of the District and also by a Landowner Petition, demonstrating broad-based support for the proposal. He asked the Commission to let the District and the citizens proceed with their application.

Mr. Merritt, said the Superior Court decision was final in substance, with only the final wording of the decision remaining to be decided.

The Commission unanimously denied the County's request without prejudice.

Added Agenda Item

The Commission unanimously voted to add an item regarding a tolling agreement with the Cities of Fresno and Clovis, and Fresno County related to their December 20, 2000 action to update the Clovis Sphere of Influence.
Closed Session for Conference with Legal Counsel

The Commission went into closed session with legal counsel. Following the closed session Mike Noland, Special LAFCo Counsel, reported that the Commission had unanimously approved entering into a tolling agreement with the City of Fresno, the City of Clovis, and Fresno County related to the Commission’s December 20, 2000 action to update the Clovis Sphere of Influence.

The Commission authorized the Executive Officer to execute such a tolling agreement limited to a period of 60 days.

Workshop on AB2838

Staff gave its report and recommendations.

Don Pauley, City Manager for the City of Kingsburg, concurred with staff’s recommendations. He said he felt the proponents of the applications should pay all of LAFCo's costs, so the fee schedule should be reviewed. He asked the Commission to also look into contracting with other agencies besides the County of Fresno for services, instead of just the County, and recommended that the sphere of influence updates should be scheduled to coincide with the cities' general plan updates.

The Commission unanimously approved the guiding principles, 5 initial actions and one related action as recommended by staff in Exhibit 3 of the Staff Report. Recommendation No. 3 was modified to direct staff to look into contracting with other agencies for staff and support services in addition to the County.

Staff was also directed to prepare recommendations for prioritizing the items on Exhibit 2 for consideration by the Commission at its next meeting.

Status of Executive Officer Recruitment

Staff reported that 13 applications have been received, and outlined the Executive Officer selection process. The process is similar to that used for the last Executive Officer appointment. A screening panel will review the applications to determine the 3 to 5 most qualified individuals. The Commission will then interview the finalists and make a recommendation to the County Administrative Officer for appointment.

The Commission asked to receive copies of the applications submitted by all applicants, not just the finalists.

The Commission also asked if the Executive Officer appointed under this process would still report to the County Administrative Officer. Staff responded that, as outlined, the position would remain a civil service position until July, when the Commission must become independent from the County. After that, the Commission must either reappoint the current Executive Officer or select a new one.
OTHER ITEMS

Annual Report

This item was continued to the February 28, 2001, meeting.

COMMENTS FROM THE PUBLIC

There were no comments from the public.

The hearing was adjourned at 3:26 p.m. A tape recording of the hearing is available at the Commission office.

Jeff Tweedie
Executive Officer
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<td>ROLL CALL</td>
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<td>4</td>
<td>RO-00-13</td>
<td>APPROVED WITH CONDITION (CITY SHOULD MEET WITH LANDOWNERS TO WORK OUT ISSUES PRIOR TO PROTEST HEARING)</td>
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<td>5A</td>
<td>SELECT SPECIAL COUNSEL</td>
<td>AUTHORIZED CHAIRMAN TO EXECUTE AGREEMENT TO SECURE SERVICES OF JEFF KUHN, ESQ.</td>
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<td>5B</td>
<td>CLOSED SESSION</td>
<td>(ANTICIPATED LITIGATION - MALAGA COUNTY WATER DISTRICT) NO REPORTABLE ACTION</td>
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<td>5C</td>
<td>REQUEST TO SUSPEND INCORPORATION PROCEEDINGS</td>
<td>DENIED REQUEST WITHOUT PREJUDICE</td>
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<td>AGENDA ADDITION</td>
<td>ADD TOLLING AGREEMENT TO AGENDA</td>
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<td>CLOSED SESSION</td>
<td>(ANTICIPATED LITIGATION - CITY OF FRESNO) APPROVED ENTERING INTO TOLLING AGREEMENT WITH THE CITY OF FRESNO, CITY OF CLOVIS, COUNTY OF FRESNO, AND LAFCO FOR A PERIOD OF 60 DAYS FROM DATE OF FILING NOTICE OF DETERMINATION FOR THE COMMISSION'S 12/20/00 ACTION APPROVING CLOVIS SOI UPDATE</td>
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<td>7</td>
<td>AB2838 WORKSHOP</td>
<td>ADOPTED GUIDING PRINCIPLES PER STAFF RECOMMENDATION; APPROVED 5 INITIAL ACTIONS PER STAFF RECOMMENDATION; STAFF WAS ALSO DIRECTED TO SEEK TO NEGOTIATE WITH OTHER PROVIDERS AS WELL AS THE COUNTY FOR PROVISIONS OF SERVICES, SUPPLIES, FACILITIES, AND PERSONNEL; AND AUTHORIZED STAFF TO PREPARE BUDGET ADJUSTMENT REQUEST TO FUND TEMPORARY FULL-TIME STAFF POSITION PER STAFF RECOMMENDATION</td>
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<td>ANNUAL REPORT</td>
<td>CONTINUED TO FEBRUARY 28, 2001 HEARING</td>
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FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION

AGENDA

FEBRUARY 28, 2001

Board of Supervisors' Chambers
Hall of Records, Room 301

1:30 p.m.

Commission Members:
Juan Arambula, Chairman
Victor Lopez, Chairman Pro Tem
Larry Fortune
Deran Koligian
Trinidad Rodriguez

Alternate Members:
Cynthia Downing
Tom Stearns
Bob Waterston

Staff: Jeff Tweedie, Executive Officer
Candie Fleming, Secretary/Clerk
Brian Melikian, LAFCo Counsel

Office Location: 2100 Tulare Street, Suite 502
Fresno, CA 93721
(559) 495-0604

1. Call to Order and Roll Call

2. Approval of the January 24, 2001 meeting minutes

PUBLIC HEARING

3. Request for Reconsideration of Commission's January 24, 2001, action approving "Nees-Fowler Southwest Reorganization" (RO-00-13) – Proposal to Annex 27.77 acres located at the southwest corner of Nees and Fowler Avenues to the City of Clovis and detach from the Fresno County Fire Protection District and the Kings River Conservation District.

Recommended Action – Deny Request

If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or even prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff as to the requirements of the Political Reform Act (Government Code Section 84308).
OTHER ITEMS

4. **Annual Report**

   **Recommended Action** – Receive Report, provide staff direction as needed

5. **Commission Hearing Schedule**

   **Recommended Action** – Adopt Hearing Schedule for April through December, 2001

6. **AB 2838 Workshop**

   **Recommended Action** – Approve priority listing for implementation of AB 2838 and accept generalized budget assumptions and preliminary net cost budget as a basis for preparing the Commission’s 2001-2002 budget, or provide alternative staff direction.

7. **Executive Officer Retirement**

   **Recommended Actions** – Accept resignation and announce retirement of Jeff Tweedie as Executive Officer effective March 1, 2001; present plaque.

COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held March 28, 2001, beginning at 1:30 p.m.
Chairman Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Juan Arambula, Larry Fortune, Deran Koligian, Tom Stearns, and Victor Lopez

Members Absent: Commissioner Trinidad Rodriguez

Staff Present: Jeff Tweedie, Executive Officer
Brian Melikian, LAFCo Counsel
Candie Fleming, Secretary

MINUTES

The minutes for the January 24, 2001 meeting were approved as written.

PUBLIC HEARING

"Nees-Fowler Southwest Reorganization" (RO-00-13)

Staff gave its report and recommendation.

Ken Crabtree, representing R. J. Hill, the proponent, said the reason for the annexation proposal is that the owners of parcels 5, 6, & 9 had approached his firm and offered to sell their land to them for development. A Tentative Tract Map was approved by the City to develop the property into 47 residential lots.

He requested the Commission to approve the proposal in two parts; Part 1 to include his property and parcel 8, and Part 2 to include the balance of the parcels, to keep his proposal from being defeated by a protest vote. He said the Clovis City Council has agreed to support dividing the proposal into two parts, provided his firm would pay the annexation fees for Part 2. He has already deposited the fee for Part 2 with the City. He said he had tried to negotiate with Mrs. Lewis, owner of Parcel 8 to support the annexation, but said she would only agree if he paid for all the expenses associated with annexation, which he felt was unreasonable.

John Holt, representing the City of Clovis, stated that the annexation requested by R. J. Hill had only included their property, but the City had added the additional parcels to make the service delivery more efficient and logical. He said that at the February 12th City Council meeting, Mr. Crabtree had requested the City to support dividing the proposal into two parts to avoid the possibility of the project being defeated at election. They agreed, subject to the requirement that he pay the additional annexation fee for Part 2.
The Commission discussed the appropriateness of dividing the proposal into two parts to avoid an election. The Commission also noted that there are currently no plans for development on Part 2, so there is no need for annexation at this time.

The Commission asked if it would be acceptable to the City if parcel 8 were to be deleted. Mr. Holt responded that that would create problems with utility improvements that were part of the tentative tract requirements.

Joyce Lewis, owner of Parcel 8, read a letter stating the reasons why she did not want her property to be annexed. She said Mr. Crabtree had contacted her the previous day with an unacceptable offer. She said she was willing to negotiate, but wasn't given a reasonable opportunity to do so. She requested a 30-day continuance to allow for additional negotiations.

Melissa Ewing, owner of one of the parcels in the proposed R. J. Hill development, said she had been aware of the City's plans for urban development in the area since the City adopted the Herndon-Shepherd Specific Plan in 1988.

Melissa Cresswick, owner of a 7.15-acre parcel located in the proposed development area, said she sold her stable business on the site because it would soon be in conflict with urban uses developing in the area. She felt the R. J. Hill proposal was a good opportunity to bring needed housing into the area.

Mr. Crabtree told the Commission that urban development was occurring all around Mrs. Lewis' property and if her property is not annexed her parcel would soon be the only rural property, surrounded by the City.

The Commission pointed out that annexation could increase Mrs. Lewis' property value.

Commissioner Stearns said the City of Clovis had agreed to support the division of the proposal into two parts, but at that time was not aware of the information presented in the staff report. He indicated that he would like a 30-day continuance to allow the City to review the information. Commissioner Lopez also said he would support a 30-day continuance.

Commissioner Arambula said he would prefer to keep the proposal in one piece as originally approved.

A motion was made by Commissioner Koligian to approve the proposal in two parts, with Part 1 to include the proponent's property and the adjacent corner parcel, and part 2 to include the balance of the property. The motion failed on a vote of 2-3.
Following more discussion on the merits of dividing the proposal into two parts, a motion was made by Commissioner Stearns to deny the request for reconsideration. The motion failed on a vote of 2-3.

Discussion continued, and a motion was made by Commissioner Koligian to approve only Part 1, to include the proponent's property and the adjacent corner parcel. The motion passed on a 3-2 vote.

OTHER ITEMS

Annual Report

The Commission accepted the report and complimented staff on their effort.

Commission Hearing Schedule

The Commission adopted the hearing schedule as recommended by staff for the remainder of the year. Commissioners indicated support for future revisions as may become necessary to accommodate individual commissioner's schedules.

AB 2838 Workshop

Staff gave its report. After discussion, the Commission unanimously approved the Priority Listing for Implementation of AB 2838 and accepted the Generalized Budget Assumptions and Preliminary Net Cost Budget, and directed staff to budget the additional full-time staff analyst position as an extra help position, instead of permanent staff.

ADDENDUM TO THE AGENDA

The Chairman reported that a matter requiring the Commission's action came to the attention of the Commission after the Agenda was posted, and that it cannot be delayed because of unacceptable impacts on staff resources. The following item was therefore added to the Agenda by unanimous vote:

CLOSED SESSION – Public Employee Appointment or Employment – Title: LAFCo Executive Officer

No reportable action was taken.

Executive Officer Retirement

The Commission accepted the Executive Officer's resignation and announced Jeff Tweedie's retirement as of March 1, 2001. The Commission presented Mr. Tweedie with a plaque of appreciation.
COMMENTS FROM THE PUBLIC

There were no comments from the public.

The hearing was adjourned at 3:30 p.m. A tape recording of the hearing is available at the Commission office.

Signed: [Signature]

Jeff Tweedie
Executive Officer

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| 1 | ROLL | P P P P P |
| 2 | MINUTES | APPROVED |
| 350 | RO-00-13 RECONSIDERATION | MOTION TO APPROVE IN TWO PARTS; PART ONE TO INCLUDE THE PROPONENT'S PROPERTY AND THE ADJACENT CORNER PARCEL, AND PART TWO TO INCLUDE THE BALANCE OF THE PROPERTY (MOTION FAILED). |
| 704 | ANNUAL REPORT | RECEIVED REPORT |
| 5 | HEARING SCHEDULE | ADOPTED SCHEDULE |
| 6 | AB 2838 | APPROVED THE PRIORITY LISTING FOR IMPLEMENTATION OF AB2838 AND ACCEPTED THE GENERALIZED BUDGET ASSUMPTIONS AND PRELIMINARY NET COST BUDGET; DIRECTED STAFF TO BUDGET FULL-TIME STAFF ANALYST POSITION ON A TEMPORARY BASIS ONLY |
| 7 | RETIREMENT | ACCEPTED EXECUTIVE OFFICER'S RESIGNATION |
| 8 | LAFCO EXECUTIVE OFFICER | NO REPORTABLE ACTION TAKEN |
| | JOURN | Y Y M Y |
1. Call to Order and Roll Call

2. Approval of the February 28, 2001 meeting minutes

CONSENT AGENDA

3. Extension of One Year to Complete Proceedings

"CSA No. 34, Annexation No. 2" and "CSA No. 34, Extension of Powers for Animal Control (A. Ben Ewell)

Recommended Action – Approve one year extension

4. "Annexation 00-02 (Wastewater Treatment Plant)" Reorganization" (RO-01-1) - 80.99 acres located on the northwest corner of Jensen and Del Norte Avenue, west of the current Wastewater Treatment Facility to the City of Kerman and detach from the Kings River Conservation District.

Recommended Action – Approve

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5. "Pull and Save Auto Dismantling" (AD-01-1) Annexation to annex 9.9 acres located on the east side of Chestnut Avenue, north of American Avenue to the Malaga County Water District.

Recommended Action – Approve with conditions

CONDUCTING AUTHORITY (PROTEST) HEARING

6. "Nees-Fowler Southwest Reorganization" (RO-00-13) - Annex approximately 13.6 acres located at the southwest corner of Nees and Fowler Avenues to the City of Clovis and detach from the Fresno County Fire Protection District and the Kings River Conservation District.

Recommended Action – Determine value of written protests and terminate or order the Reorganization as appropriate

OTHER ITEMS

7. Request by Auberry Volunteer Fire Department - Waive application fees for proposed annexation of territory to the Bald Mountain Fire Protection District.

Recommended Action – Determine if imposition of the fee would be detrimental to the public interest and should therefore be waived (4/5 vote required).

8. AB 2838 Workshop and Set Budget Hearing Dates – Discuss Commission’s proposed budget and service provider proposals, and set hearing dates for the Commission’s adoption of proposed and final budgets for fiscal year 2001-2002.

Recommended Action – Provide staff direction, and set budget hearing dates.

9. CLOSED SESSION FOR CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one case). The "Existing Facts and Circumstances" giving rise to this Request for Closed Session consist of the following:

The City of Fresno’s express threat to initiate legal action against LAFCo as a result of LAFCo’s approval, at its December 20, 2000 meeting, of the City of Clovis Sphere of Influence Update and environmental document related thereto.

10. Closed Session – Public Employee Appointment or Employment – Title: LAFCo Executive Officer

COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held April 18, 2001, beginning at 1:30 p.m.
Chairman Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Juan Arambula, Larry Fortune, Deran Koligian, Victor Lopez and Trinidad Rodriguez

Members Absent: None

Staff Present: Jeff Tweedie, Executive Officer
Brian Melikian, LAFCo Counsel
Mike Noland, Special LAFCo Counsel
Candie Fleming, Secretary

MINUTES

The minutes for the March 28, 2001 meeting were approved as written.

CONSENT AGENDA

"CSA No. 34, Annexation No. 2" (AD-99-3) and "CSA No. 34, Extension of Powers" (EP-00-1)

"Annexation 00-02 (Wastewater Treatment Plant) Reorganization" (RO-01-1)

"Pull and Save Auto Dismantling" Annexation (AD-01-1)

Staff reported that the staff report for "Annexation 00-02 (Wastewater Treatment Plant)" Reorganization for the City of Kerman should have included a recommended finding that the property is uninhabited. There were no further reports given. The Commission unanimously approved the "CSA No. 34, Annexation No. 2", and the "CSA No. 34, Extension of Powers", Annexation for an extension of time for one year, as recommended by staff.

The Commission also approved "Annexation 00-02 (Wastewater Treatment Plant)" Reorganization, with Commissioner Rodriguez abstaining, and unanimously approved the "Pull and Save Auto Dismantling" (AD-01-1) annexation to the Malaga County Water District with conditions as recommended by staff.
CONDUCTING AUTHORITY HEARING

"Nees-Fowler Southwest Reorganization" (RO-00-13)

Staff summarized Resolution No. RO-00-13A by which the Commission had approved the proposal, and then reported that a valid protest had been submitted by owners of one parcel in the annexation area. After calling for additional testimony, and none being offered, the Commission unanimously determined that the protest was insufficient to terminate the Reorganization, and ordered the "Nees-Fowler Southwest Reorganization" to be completed, subject to compliance with the conditions of approval as stated in Resolution No. RO-00-13A.

OTHER ITEMS

Request by Auberry Volunteer Fire Department

Staff reported that the Commission had received a request from the Auberry Volunteer Fire Department to waive the application fee for a proposed annexation to the Bald Mountain Fire Protection District.

The Commission asked staff what requirements had to be met to legally waive a fee and staff reported that Policy 8 of the fee schedule allowed the Commission to waive any processing fee by a four-fifths affirmative vote if the imposition of such a fee would be detrimental to the public interest. Staff also reported that the fee could be deferred until after the district received tax revenue but if terminated, the fee must be paid within 30 days of termination.

Ron Eldridge, Assistant Chief for the Auberry Volunteer Fire Department requested the Commission to approve their request because they only had an annual operating budget of $13,000 to $15,000, and they did not have enough money to initiate the annexation.

The Commission unanimously approved the waiver, however, Commissioner Arambula said he would prefer to have the fee deferred.

AB 2838 Workshop

The Commission gave its report and recommendations to:

- Set April 18\textsuperscript{th} as the date for the Commission to hear and take action on the proposed LAFCo budget for FY 2001-2002.

- Forward the draft proposed budget to the affected agencies for comment prior to consideration.

- Set May 23\textsuperscript{rd} as the date for the Commission's hearing to take action on the
The Commission unanimously approved staff's recommendations.

COMMENTS FROM THE PUBLIC

There were no comments from the public.

Closed Session for Conference with Legal Counsel - Anticipated Litigation

Mike Noland, Special Counsel, reported that the Commission approved an extension of the Tolling Agreement with the City of Fresno for 90 days beginning April 1st.

Closed Session - Public Employee Appointment or Employment

There was no reportable action taken.

The hearing was adjourned at 2:29 p.m. A tape recording of the hearing is available at the Commission office.

Jeff Tweedie
Executive Officer
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1. Call to Order and Roll Call

2. Approval of the March 28, 2001 meeting minutes

PUBLIC HEARING

3. "Formation of Camp 13 Drainage District" (FD-00-2) -- Form drainage district to establish the mechanism to dispose of surface and subsurface drainage water on approximately 4,923 acres located west of Storey Road, between the Main and Outside Canals.

   Recommended Action – Continue to May 23, 2001 hearing

If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or even prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff as to the requirements of the Political Reform Act (Government Code section 84308).
OTHER ITEMS

4. Malaga Incorporation Proposal – Oral report on status

   Recommended Action – Provide staff direction

5. AB 2838 Workshop – Consider service provider proposals and adopt Proposed Budget

   Recommended Actions – Consider Service Provider Proposals and Adopt Proposed Budget for Fiscal Year 2001-2002

6. Presentation of Certificate of Appreciation to Alternate Commissioner Stearns

COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held May 23, 2001, beginning at 1:30 p.m.
Chairman Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Juan Arambula, Larry Fortune, Deran Koligian, and Victor Lopez

Members Absent: Commissioner Trinidad Rodriguez

Staff Present: Jeff Tweedie, Executive Officer
Brian Melikian, LAFCo Counsel
Jeff Kuhn, LAFCo Special Counsel
Candie Fleming, Secretary

MINUTES

The minutes for the March 28, 2001 meeting were approved as written.

Presentation of Certificate of Appreciation to Alternate Commissioner Stearns

Tom Stearns was present to accept a certificate of appreciation for serving the last four years as City Alternate Commissioner.

PUBLIC HEARING

"Formation of Camp 13 Drainage District"

Per staff recommendation, this item was continued to the May 23, 2001 LAFCo hearing.

OTHER ITEMS

Malaga Incorporation Proposal

Staff reported that the Administrative Draft of the Comprehensive Fiscal Analysis (CFA) is currently under review by staff, the County, and the Malaga County Water District. After the report is completed, it will be distributed for public review, then will be scheduled for approval by the Commission. After the CFA is approved, preparation of the EIR and negotiations between the tax sharing entities will begin. The Commission will consider the incorporation proposal at a public hearing after all the required studies are completed.

Staff also reported that on April 16, 2001, Judge York issued her final ruling on the County's lawsuit against the Malaga County Water District, holding that the District had
illegally expended District funds in the incorporation effort. The Judge also issued a permanent injunction enjoining the District, its Board of Directors, and its General Manager from expending District funds related to the incorporation effort at LAFCo. Staff pointed out that the court action does not directly affect LAFCo, since LAFCo was not named in the suit, but the remaining procedural steps cannot be completed adequately without the District's participation. Whether or not the District may participate during any appeal process is not clear at this point.

In a related matter, staff advised the Commission that Wes Merritt, a Chief Deputy County Counsel, had submitted a letter requesting that an item be put on a future agenda to consider suspending action on the incorporation proposal, but had subsequently indicated he would request that it be considered at today's meeting. Staff outlined an appropriate procedure for considering the request.

Commissioner Koligian made a motion, which was duly seconded, to add the County's request to the agenda.

Neal Costanzo, counsel for Malaga County Water District, said that in his opinion adding the County's request to the agenda would be a violation of the Brown Act. He said that in order to add an item to the agenda, it had to be deemed either an emergency or in need of immediate action, neither of which, he felt, is the case. He indicated that the ruling does not affect LAFCo, since it is not a named party in the lawsuit.

Wes Merritt, citing an appellate court case, stated that LAFCo would be at risk of being found in contempt of court if it were to issue any checks to consultants working on the incorporation and asked that the reconsideration be added to the agenda. Jeff Kuhn, LAFCo Special Counsel disagreed, saying that he had reviewed the cited case and didn't believe it was applicable to LAFCo's actions.

Following a discussion, and seeing that there appeared to be insufficient support for adding the item to the agenda, Commissioner Koligian withdrew his motion. Staff noted that the request for reconsideration would be scheduled on the Commission's May 23rd agenda.

AB 2638 Workshop

Staff reported that no proposals had been received from prospective service providers, but staff is negotiating with County representatives to have a proposal ready for consideration at the Commission's May 23, 2001 meeting.

Staff described the Proposed Budget, and discussed minor changes from the previously approved Draft Budget. Staff recommended that the Commission adopt the Proposed Budget as shown on Exhibit 1 of the Staff Report, and forward it to the affected agencies for comment prior to the Commission's scheduled May 23, 2001 hearing to adopt the Final Budget.
The Commission unanimously approved staff's recommendations.

**Closed Session - Public Employee Appointment or Employment**

Chairman Arambula requested that a closed session item be added to the Agenda to discuss personnel matters, noting that the matter to be discussed had arisen since the Agenda was published. The Commission unanimously approved the request, and the closed session was held. Following the closed session, Commissioner Arambula reported that no reportable action had been taken.

**COMMENTS FROM THE PUBLIC**

There were no comments from the public.

The hearing was adjourned at 2:10 p.m. A tape recording of the hearing is available at the Commission office.

[Signature]
Jeff Tweedie
Executive Officer

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**Adjourn**
1. Call to Order and Roll Call

2. Approval of the April 18, 2001 meeting minutes

CONSENT AGENDA

3. "Shaw-Locan Southwest Reorganization" (RO-01-3) - Annex 80 acres located at the southwest corner of Shaw and Locan Avenues to the City of Clovis and detach from the Fresno County Fire Protection District and the Kings River Conservation District.

   Recommended Action: Approve with conditions and waive Protest Proceedings

4. "Sierra Ranch Reorganization No. 2" (RO-01-4) - Annex 71.07 acres located on the east side of Bethel Avenue, between Sierra and Magnolia Avenues to the City of Kingsburg and the Selma-Kingsburg-Fowler County Sanitation District and detach from the Fresno County Fire Protection District, the Kings River Conservation District and the Consolidated Irrigation District.

   Recommended Action: Approve with conditions and waive Protest Proceedings

If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or even prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff as to the requirements of the Political Reform Act (Government Code Section 84308).
PUBLIC HEARING

5. "Formation of Camp 13 Drainage District " (FD-00-2) -- Form drainage district to establish the mechanism to dispose of surface and subsurface drainage water on approximately 4,923 acres located west of Storey Road, between the Main and Outside Canals.

Recommended Action: Approve with conditions

OTHER ITEMS

6. Final Budget for Fiscal Year 2002

Recommended Action: Adopt Final Budget for Fiscal Year 2001-2002 and take related actions

7. Agreement for provision of LAFCo Support Services

Recommended Action: Authorize Chairman to Execute Agreement with Fresno County to provide the full range of LAFCo Support Services for Fiscal Years 2001-2004

8. Malaga Incorporation Proceedings

A. CLOSED SESSION FOR CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one case). The "Existing Facts and Circumstances" giving rise to this Request for Closed Session consist of the following:

Existing litigation known as County of Fresno v. Malaga County Water District, the County's request for LAFCo to suspend all future Malaga incorporation proceedings, the District's response, and the County's express or implied threat to join LAFCo as a defendant in the suit.

B. Request by Fresno County to suspend all future Malaga Incorporation proceedings.

Recommended Action: Deny

COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held June 20, 2001, beginning at 1:30 p.m. in Room 301, Fresno County Hall of Records Annex.
Chairman Pro Tem Victor Lopez called the meeting to order at 1:30 p.m.

Members Present: Commissioners Larry Fortune, Deran Koligian, Victor Lopez, and Trinidad Rodriguez. Juan Arambula arrived after the roll was called.

Members Absent: None

Staff Present: Jeff Tweedie, Executive Officer
Brian Melikian, LAFCo Counsel
Jeff Kuhn, LAFCo Special Counsel
Candie Fleming, Secretary

MINUTES

The minutes for the April 18, 2001 meeting were approved as written.

Don Clark read a letter on behalf of the City of Kingsburg thanking Jeff Tweedie for his services as LAFCo Executive Officer and wished him luck in his retirement.

CONSENT AGENDA

"Sierra Ranch Reorganization No. 2" (RO-01-4)

No further staff report was given and the proposal was unanimously approved.

Shaw-Locan Southwest Reorganization" (RO-01-3)

There was no further staff report since this item was on the consent agenda but was taken off the consent agenda in order to open for discussion.

The Commission asked staff to explain Condition B on the staff report pertaining to the property tax revenue exchange.

Staff explained that the proposal area is within the existing Clovis Sphere of Influence, and the current Tax Sharing Agreement between the City and County will apply.
PUBLIC HEARING

"Formation of Camp 13 Drainage District"

Staff gave its report and revised its recommendation to combine Conditions A and F, and delete Condition D of the staff report.

The Commission asked what was to keep Central California Irrigation District (CCID) from providing drainage after the Camp 13 Drainage District is formed, and asked what the advantage is of forming a new district.

Staff explained that CCID is currently authorized to provide drainage services, but refuses to do so due to liability concerns. Presently, the subject property owners perform their own drainage-related activities, and each owner is limited as to his ability to deal with problems. A district would have greater resources to respond to any concerns, and any liability that could arise would be a liability of the district, not the individual property owner.

Tom Keene, attorney representing the property owners, spoke in favor of the formation and explained why they could not be annexed to any other districts.

The Commission unanimously approved the district formation proposal.

OTHER ITEMS

Final Budget for Fiscal Year 2002

Staff gave its report and informed the Commission that the Board of Supervisors approved LAFCo's proposed Agreement for Services at its May 22, 2001 meeting.

Kelly Hohenbrink, representing the Sierra-Kings Hospital District, asked how his district would be affected by the proposed budget.

Staff explained that special districts would only be required to fund a portion of the Commission's net operating costs if special districts have representation on LAFCo. Such representation does not exist, and could only be achieved if a majority of the special districts request representation. In that case, special districts would be required to pay for 1/3 of LAFCo's net operating costs.

Trish Johnson, Vice President of the Board of Directors for the Sierra-Kings Hospital District, stated that they were concerned that they would be required to involuntarily participate. Staff explained how the election process would be conducted.

The Commission unanimously approved the Final Budget for Fiscal Year 2002.
Provision of LAFCo Support Services

Staff gave its report, and the Commission unanimously voted to authorize the Chairman to execute the agreement with Fresno County for LAFCo Support Services.

Malaga Incorporation Proceedings

CLOSED SESSION FOR CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one case).

No reportable action was taken.

Request by Fresno County to suspend all future Malaga Incorporation proceedings.

Staff gave its report and recommendation.

Wes Merritt, Chief Deputy County Counsel, spoke on behalf of the County and its request. He argued that Judge Jane York had ordered an injunction, and that LAFCo was bound by that decision. He said that if LAFCo didn’t act, the matter would become moot.

Neal Costanzo, representing Malaga County Water District, spoke against the County’s request. He said the bottom line is "the litigation is ongoing and there would be no final resolution until a Court of Appeal rules on the matter." He said LAFCo was not named and would not be bound to the judgment.

The Commission unanimously voted to deny the County's request.

COMMENTS FROM THE PUBLIC

There were no comments from the public.

The hearing was adjourned at 2:30 p.m. A tape recording of the hearing is available at the Commission office.

Jeff Tweedie
Executive Officer
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* Except Items 8a and 8b
** Items 8a and 8b
FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION

AGENDA
JUNE 6, 2001

Board of Supervisors' Chambers
Hall of Records, Room 301

1:30 p.m.

Commission Members:

Juan Arambula, Chairman
Victor Lopez, Chairman Pro Tem

Alternate Members:

Larry Fortune
Deran Koligian
Trinidad Rodriguez

Cynthia Downing
Bob Waterston
Vacant

Staff: Mike Waiczis, Executive Officer
Candie Fleming, Secretary/Clerk
Jeff Kuhn, LAFCo Special Counsel

Office Location: 2100 Tulare Street, Suite 502
Fresno, CA 93721
(559) 495-0604

1. Call to Order and Roll Call

2. Malaga Incorporation Proceedings

A. Request for Closed Session pursuant to Government Code Section 54956.9(a) for CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION

Name of case: COUNTY OF FRESNO v. FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION and JEFF TWEEDIE, Executive Director of the FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION; Fresno County Superior Court Case # 01 CE CG 01792.


If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or even prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff as to the requirements of the Political Reform Act (Government Code Section 84308).
COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held June 20, 2001, beginning at 1:30 p.m. in Room 301, Fresno County Hall of Records Annex.
Chairman Arambula called the meeting to order at 1:33 p.m.

Members Present: Commissioners Larry Fortune, Deran Koligian, and Juan Arambula. Commissioners Víctor Lopez and Trinidad Rodríguez arrived after the roll was called.

Members Absent: None

Staff Present: Mike Waiczis, Executive Officer
Jeff Kuhn, LAFCo Special Counsel
Candie Fleming, Secretary

CLOSED SESSION

2. Malaga Incorporation Proceedings

A. Request for Closed Session pursuant to Government Code Section 54956.9(a) for CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION

Name of case: COUNTY OF FRESNO v. FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION and JEFF TWEEDIE, Executive Director of the FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION; Fresno County Superior Court Case # 01 CE CG 01792.

Commissioner Arambula reported that he had asked County Counsel if there would be a conflict of interest if the County members voted on the Malaga lawsuit and was given the opinion that said there would be no conflict.

Jeff Kuhn, Special LAFCo Counsel informed the Commission that the County removed Jeff Tweedie's name from the lawsuit, replaced it with Mike Waiczis' name because he is the new LAFCo Executive Officer.


Following consultation with its special legal counsel, the Commission unanimously determined and directed (1) that it will not appear in the new lawsuit; (2) that in light of the new lawsuit the Commission will request the EIR and the comprehensive fiscal analysis consultants to temporarily defer any further work on the Malaga matter, pending the judge's ruling on the new lawsuit, which will be heard on June 26, 2001; (3) that the Commission will request that both consultants render invoices for all work done
to date so that the Commission may make final payment for those services that have already been completed; (4) that the Commission will offer the Malaga County Water District the opportunity to suspend or cancel its contract with the Commission regarding the processing of the incorporation application and receive a refund of the unspent portion of the District's deposit of funds; and (5) that special counsel shall notify the hearing judge in the new lawsuit of these Commission actions.

The hearing was adjourned at 2:33 p.m. A tape recording of the hearing is available at the Commission office.

Mike Waiczis, AICP
Executive Officer
MALAGA INCORPORATION

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THE COMMISSION UNANIMOUSLY DETERMINED TO SUSPEND PROCESSING OF THE MALAGA INCORPORATION APPLICATION UNTIL A FINAL JUDGMENT IS MADE BY THE COURTS. THE COMMISSION DETERMINED TO NOTIFY THE CONSULTANTS WORKING ON THE CFA AND EIR OF THIS DECISION, PAY CONSULTANTS FOR ANY AND ALL WORK EXECUTED TO DATE, AND GIVE MALAGA COUNTY WATER DISTRICT THE OPTION TO REQUEST A REFUND OF THEIR PROCESSING FEE, OR WAIT FOR A FINAL JUDGMENT.

ADJOURN

S M Y Y Y
FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION

AGENDA

JUNE 20, 2001

Board of Supervisors' Chambers
Hall of Records, Room 301

1:30 p.m.

Commission Members:
Juan Arambula, Chairman
Victor Lopez, Chairman Pro Tem

Larry Fortune
Deran Koligian
Trinidad Rodriguez

Alternate Members:
Cynthia Downing
Bob Waterston

Mike Waiczis, Executive Officer
Candie Fleming, Secretary/Clerk
Brian Melikian, LAFCo Counsel

Office Location: 2100 Tulare Street, Suite 502
Fresno, CA 93721
(559) 495-0604

1. Call to Order and Roll Call

2. Approval of the May 23, 2001 meeting minutes

3. Approval of the June 6, 2001 meeting minutes

CONSENT AGENDA

4. Extension of One Year to Complete Proceedings

A. "Tri-Valley Water District Reorganization, 1997-1" (Tri-Valley Water District)

B. "Terra Linda Farms-Hansen Ranch Annexation" (City of Mendota)

Recommended Action: Approval

If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or even prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff as to the requirements of the Political Reform Act (Government Code Section 84308).
5. "Shaw-Locan Northwest Reorganization" (RO-01-2) - Annex 40 acres located at the northwest corner of Shaw and Locan Avenues to the City of Clovis and detach from the Fresno County Fire Protection District and the Kings River Conservation District.

Recommended Action: Approval

6. "Escalon-Blackstone No. 3B Reorganization" (RO-01-5) - Annex 0.48 acres located at the southeast corner of Escalon and Calaveras Avenues to the City of Fresno and detach from the Fresno County Fire Protection District and the Kings River Conservation District.

Recommended Action: Approval

PUBLIC HEARING

OTHER ITEMS

7. Final LAFCo 2001-2002 Budget Format

Recommended Action: Receive and File

8. Malaga Incorporation Proceedings

Request from the Lozano Smith law firm (Jeff Kuhn) for consent to continued representation of (1) the Commission and the Executive Officer in the Malaga Incorporation Proceedings (including the case of COUNTY OF FRESNO, Plaintiff and Petitioner vs. FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION and MIKE WAICZIS, Executive Director of the FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION, et al., Defendants and Respondents; MALAGA COUNTY WATER DISTRICT, et al., Real Party in Interest, Fresno County Superior Court Case No. 01 CE CG 01792) and (2) the County of Fresno, the Fresno County Board of Supervisors, the Fresno County Auditor-Controller Gary Peterson, and the Fresno County Superior Court in the case of ANN M. BENNETT; GERALD A. GALLAGHER; THOMAS GATTIE; DOLORES MEDINA; SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 535, AFL-CIO, FRESNO DEPUTY SHERIFF'S ASSOCIATION, Plaintiffs and Petitioners, vs. COUNTY OF FRESNO; BOARD OF SUPERVISORS, COUNTY OF FRESNO; GARY PETERSON, AUDITOR/CONTROLLER, COUNTY OF FRESNO; SUPERIOR COURT, COUNTY OF FRESNO, Defendants and Respondents, Fresno County Superior Court Case No. 01 CE CG 01042.

Recommended Action: Consider Alternatives
9. Consider authorization of payment of invoice for services in excess of the December 20, 2000 contract amount of $3,500.00, and the amendment of the contract with Michael Noland to provide legal services regarding City of Clovis Sphere of Influence Update and environmental document.

Recommended Action: Authorize Payment and Amendment to Contract

10. CLOSED SESSION FOR CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 (one case). The "Existing Facts and Circumstances" giving rise to this Request for Closed Session consist of the following:

The City of Fresno's express threat to initiate legal action against LAFCo as a result of LAFCo's approval, at its December 20, 2000 meeting, of the City of Clovis Sphere of Influence Update and environmental document related thereto.

COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held August 1, 2001, beginning at 1:30 p.m. in Room 301, Fresno County Hall of Records Annex.
LAFCo MINUTES
June 20, 2001

Chairman Juan Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Trinidad Rodriguez, Deran Kollgian, Juan Arambula, Larry Fortune, and Victor Lopez

Members Absent: None

Staff Present: Mike Waiczis, Executive Officer
Brian Melikian, LAFCo Counsel
Jeff Kuhn, Special Counsel
Mike Noland, Special Counsel
Candie Fleming, Clerk to the Commission

MINUTES

The minutes for the May 23, 2001 and the June 6, 2001 meetings were approved as written.

CONSIDER ADDITION OF ITEM 1A TO THE JUNE 20, 2001 AGENDA

Chairman Arambula asked the Commission to consider and determine the need to add an agenda item that came to LAFCo staff's attention after the agenda was posted. Chairman Arambula asked the Executive Officer to explain the request to add an agenda item. Mr. Waiczis said that there was a need to take immediate action on Fresno County Counsel's request for written consent of dual representation of the County of Fresno and LAFCo that came to the attention of the Executive Officer subsequent to the agenda being posted for the June 20, 2001 meeting. Mr. Waiczis said that pursuant to California Government Code Section 54954.2(b)(2), the Commission may consider adding items of business not appearing on the agenda by taking the following actions: make a determination by a two-thirds vote of the members of the legislative body present at the meeting that there is a need to take immediate action; that the Commission make a finding that the need for action came to the attention of the local agency subsequent to the agenda being posted; and that prior to discussing any item, the Commission publicly identifies the item.

The item was a request from the Office of Fresno County Counsel for an Informed Written Consent to Dual Representation of Adverse Interests to allow the County Counsel to provide legal advice and representation to both the County of Fresno and the Commission during Fresno County's Lawsuit against the Commission and its Executive Officer.
Brian Melikian of the County Counsel's office said the written consent to dual representation would allow his office to continue to serve LAFCo on all matters not related to the Malaga Incorporation proceedings.

By consensus of the Commission the appropriate actions were taken and the agenda item was added. The Commission unanimously voted to authorize Chairman Arambula to sign the Informed Written Consent to Dual Representation of Adverse Interests.

CONSENT AGENDA

Extension of One Year to Complete Proceedings

Tri-Valley Water District Reorganization, 1997-1 (Tri-Valley Water District)
Terra Linda Farms-Hansen Ranch Annexation

Request for Annexations

"Sierra Ranch Reorganization No. 2" (RO-01-4)
"Shaw-Locan Southwest Reorganization" (RO-01-3)

No staff report was given. The extensions of time and the proposals for annexation were unanimously approved.

OTHER ITEMS

Malaga Incorporation Proceedings - Request from the Lozano Smith Law Firm (Jeff Kuhn for Consent to Continued Representation).

Staff reported that Jeff Kuhn, LAFCo Special Counsel who represents LAFCo in the Malaga Incorporation proceedings, requested that the Commission authorize the Chairman to sign an "Written Consent To Representation". Mr. Kuhn reported that the firm he works for (Lozano Smith) entered into an agreement with County of Fresno to represent the County and other County defendants regarding the County's annual leave litigation. Since Mr. Kuhn's firm represents the County who is also in litigation with LAFCo, the special counsel requested that the Commission authorize Chairman Arambula to provide written consent for Lozano Smith to continue representing LAFCo in all matters related to the Malaga Incorporation proceedings.

The Commission unanimously agreed and authorized Chairman Arambula to sign the Informed Written Consent.
Consider Authorization of Payment of Invoice for Services in Excess of Contract Amount and Amend Contract with Michael Noland to Provide Legal Services

The Executive Officer said that after consulting with LAFCo Counsel, the recommendations on the staff report have been modified. At this time Staff is recommending that the Commission consider directing LAFCo Counsel to prepare an amendment to the contract with Mr. Noland's firm to provide legal services regarding the City of Clovis' Sphere of Influence Update and environmental document, in an amount not to exceed $3,500.00; and authorize Chairman Arambula and the LAFCo Executive Officer to sign the amended contract. Staff noted that the $300.00+ in overages incurred under the original contract would be included in the $3500.00. Staff reported that it would be necessary to continue with Mr. Noland's services until the Clovis matter is resolved.

The Commission unanimously authorized the LAFCo Executive Officer and Chairman Arambula to sign an amended contract.

Closed Session for Conference with Legal Counsel

After the Commission returned from closed session, Mike Noland, LAFCo Special Counsel, reported that the Commission agreed to extend the City of Fresno's and LAFCo's tolling agreement related to the Clovis Sphere of Influence boundary change and related environmental document for 90 days to September 30, 2001, at 5:00 p.m.

COMMENTS FROM THE PUBLIC

There were no comments from the public.

The hearing was adjourned at 2:05 p.m. A tape recording of the hearing is available at the Commission office.

Michael R. Waiczis, AICP
Executive Officer
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<td>1A</td>
<td>ADD ITEM 1A TO AGENDA</td>
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<td>ACCEPT JEFF KUHN'S AFFIRMATION THAT THERE IS NO CONNECTION BETWEEN THE MALAGA INCORPORATION PROCEEDINGS AND THE OTHER UNRELATED LAWSUIT LOZANO SMITH IS LITIGATING FOR THE COUNTY OF FRESNO. AUTHORIZE CHAIRMAN ARAMBULA TO SIGN THE WRITTEN CONSENT TO REPRESENTATION.</td>
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<td>DIRECT COUNTY COUNSEL TO PREPARE AN AMENDMENT TO THE EXISTING CONTRACT WITH THE LAW OFFICES OF KAHN, SOARES &amp; CONWAY, LLP, TO PROVIDE LEGAL SERVICES REGARDING THE CITY OF CLOVIS' SPHERE OF INFLUENCE UPDATE AND ENVIRONMENTAL DOCUMENT, IN AN AMOUNT NOT TO EXCEED $3,500; AUTHORIZE CHAIRMAN ARAMBULA AND THE LAFCO EXECUTIVE OFFICER TO SIGN THE AMENDED CONTRACT.</td>
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<td>EXTEND CITY OF FRESNO'S AND LAFCO'S TOLLING AGREEMENT TO WAIVE LIMITATIONS TO DATE CERTAIN WITH RESPECT TO THE CITY OF CLOVIS SPHERE OF INFLUENCE BOUNDARY CHANGE AND RELATED ENVIRONMENTAL DOCUMENT FOR 90 DAYS TO SEPTEMBER 30, 2001 AT 5:00 P.M.</td>
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LOCAL AGENCY FORMATION COMMISSION OF FRESNO COUNTY

AGENDA

AUGUST 1, 2001

Board of Supervisors' Chambers
Hall of Records, Room 301

1:30 p.m.

Commission Members:
Juan Arambula, Chairman
Victor Lopez, Chairman Pro Tem

Alternate Members:
Larry Fortune
Deran Koligian
Trinidad Rodriguez
Cynthia Downing
Sandra Neri
Bob Waterston

Staff: Mike Waiczis, Executive Officer
Candie Fleming, Secretary/Clerk to the Commission
Brian Melikian, LAFCo Counsel
Jeff Kuhn, LAFCo Special Counsel

Office Location: 2100 Tulare Street, Suite 502
Fresno, CA 93721
(559) 495-0604

1. Call to Order and Roll Call

2. Approval of the June 20, 2001 meeting minutes.

CONSENT AGENDA

3. Requests for Extension of Time to Complete Proceedings

A. "Mansionette Estates #3 Annexation" - Annexation of 77 acres to CSA No. 10, located on the south side of East Herndon Avenue between DeWolf and Langley Avenues, approximately ¾ mile east of the City of Clovis. The Commission approved the annexation on August 23, 2000. (Spalding Wathen, chief petitioner).

If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or even prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff as to the requirements of the Political Reform Act (Government Code Section 84308).
B. "Jensen-West No. 3 Reorganization" - Annexation of approximately 139 acres located between Jensen and North Avenues on both sides of West Avenue to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District. The Commission approved the reorganization on February 26, 1997. (City of Fresno, initiating agency).

Recommended Action: Approval

PUBLIC HEARINGS

4. "Colorado-Springfield No. 1 Annexation" - Reorganization (RO-01-6). Request to annex 84.2 acres to the City of San Joaquin and detach from the Kings River Conservation District and the James Irrigation District located north of Springfield Avenue, South of Colorado Avenue, and east of Colusa Avenue.

Recommended Action: Approve

CONDUCTING AUTHORITY PROCEEDINGS - PROTEST HEARING

5. "Formation of Camp 13 Drainage District" (FD-00-2) – Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the "Act"), the Commission will act as Conducting Authority for protest proceedings related to the Commission's approval of the formation of a drainage district to establish the means to dispose of surface and subsurface drainage water on approximately 4,923 acres located west of Storey Road, between the Main and Outside Canals, in Fresno County.

Recommended Action – Conduct protest proceedings pursuant to the Act, determine value of written protests, terminate or order the formation of Camp 13 Drainage District as appropriate.

6. Malaga Incorporation Proceedings

A. CLOSED SESSION FOR CONFERENCE WITH LEGAL COUNSEL
EXISTING LITIGATION: Pursuant to subdivision (a) of Government Code Section 54956.9.

Name of Case: County of Fresno v. Fresno County Local Agency Formation Commission and Mike Waiczis, Executive Director of the Fresno County Local Agency Formation Commission; Malaga County Water District, Real Party in Interest.
B. REQUESTS BY MALAGA COUNTY WATER DISTRICT

1. Request by the Malaga County Water District for LAFCo to resume performance of agreements between LAFCo and the consultants performing work necessary for the preparation of a fiscal analysis and EIR for the Malaga Incorporation.

2. Request by the Malaga County Water District that the Board of Supervisors members of the Commission either be removed or voluntarily step aside (e.g., recused) from considering business related to the Malaga Incorporation Proceedings.

3. Request by the Malaga County Water District that the Commission consider terminating the employment of its special counsel, Jeffery Kuhn.

C. REPORT OF CLOSED SESSION ACTIONS PURSUANT TO GOVERNMENT CODE SECTION 54957.1.

ADMINISTRATIVE REPORT


EXECUTIVE OFFICER REPORT

Report from the Executive Officer

COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular meeting will be held September 19, 2001, beginning at 1:30 p.m. in Room 301, Fresno County Hall of Records Annex.
Chairman Juan Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Trinidad Rodriguez, Deran Koligian, Juan Arambula, Larry Fortune, and Victor Lopez

Members Absent: None

Staff Present: Mike Waiczis, Executive Officer
Brian Melikian, LAFCo Counsel
Jeff Kuhn, Special Counsel
Candie Fleming, Clerk to the Commission

The minutes for the June 20, 2001 meeting were approved as written.

CONSENT AGENDA

Extension of One Year to Complete Proceedings

Mansionette Estates #3 Annexation
Jensen-West No. 3 Reorganization

The Commission asked for further clarification on the reasons for the extension of time for the Mansionette Estates #3 and unanimously approved the extension for one year.

The Commission asked what the issues between the County and the City of Fresno were keeping the Jensen-West No. 3 Reorganization from being completed.

Dave Braun, representing the City of Fresno said that one of the conditions was that the City of Fresno pave North Avenue for four miles between the sewer plant and the wastewater treatment plan. He said the County determined that the pavement was faulty and the shoulder needed grading. Mr. Braun said the City of Fresno and County Public Works are scheduled to meet over the issues, and hopefully will be resolved soon.

Request for Annexations

"Colorado-Springfield No. 1 Annexation" Reorganization (RO-01-6)

Staff gave its report, recommending conditional approval of the request.
The Commission was concerned about the irregular boundary of the proposed annexation and wondered why the area to the north was not included.

Staff explained that the City was unable to get consent from the property owner and the City wanted to move forward with the annexation and avoid a protest hearing.

Jim McKelvey, representing the City of San Joaquin, said that the issues involving the 2.6-acre parcel in question had been resolved and that the property owner wanted to be included, and he said he would give his consent.

Keith Freitas, said he agreed that the annexation was good for the City of San Joaquin and would provide the Commission with the necessary signed consent form.

The Commission asked staff if they could add the parcel to the proposed annexation and staff replied that it could.

Jim McKelvey wanted to state for the record that the agreement was reached between Mr. Freitas and Cal Pine.

Brian Melikian, LAFCo Counsel, suggested that the Commission give Mr. Freitas 10 days to get the signed consent form and waiver of the protest hearing to the Commission office, and that if the consent form and waiver of the protest hearing is not signed and in the Commission office within 10 days, the Commission action approving the annexation would not include the 2.6-acre parcel.

The Commission unanimously approved the proposal to include the 2.6-acre parcel with the condition that proper consent form and waiver of protest hearing be in the Commission office within 10 days.

**Conducting Authority Proceedings - Protest Hearing**

"Formation of Camp 13 Drainage District" (FD-00-2)

Staff summarized the Commission's resolution of approval and informed the Commission of the purpose of a protest hearing. Staff informed the Commission that the office had not received any letters of protest concerning the formation of Camp 13 Drainage District.

There were no public comments and the Commission unanimously ordered the formation of the Camp 13 Drainage District.
OTHER ITEMS

Malaga Incorporation Proceedings

Closed Session for Conference with Legal Counsel

The Commission went into closed session.

Requests by Malaga County Water District

- Request for LAFCo to resume performance of agreements between LAFCo and the consultants

- Request that the Board of supervisors members of the Commission be removed or voluntarily step aside from considering business related to the Malaga Incorporation Proceedings

- Request that the Commission consider terminating the employment of its special counsel

Neal Costanzo, representing the Malaga County Water District, gave the reasons for the District's requests. Mr. Costanzo said history demonstrates the Supervisor members were unable to act independently of the County. He felt that their minds were already made up to deny the incorporation.

Mr. Costanzo said that Jeff Kuhn had a conflict because his firm was representing the County in another lawsuit and said Mr. Kuhn was not able to have the conflict waived. He said an attorney representing a governmental agency must have a heightened standard of ethics. Mr. Costanzo felt Mr. Kuhn has given the Commission poor advice.

Wes Merritt, County Counsel's office, said that Mr. Kuhn had not given bad advise, reminding Mr. Costanzo that earlier, at the advise of Mr. Kuhn, the Commission denied the County's request to suspend processing the Malaga Incorporation proceedings.

The Commission asked if it was written anywhere that a supervisor member must abstain from voting on the issue of incorporation.

Wes Merritt, said nowhere in LAFCo law did it say that a Supervisor member must abstain from voting, and if they did it was voluntary.
Jeff Kuhn, LAFCo Special Counsel, said the Commission was subject to financial disqualification, and agreed with Mr. Merritt that it was only voluntary that a Supervisor member had to abstain from voting.

The Commission felt that Mr. Kuhn gave the best advice possible in a respectable manner.

The Commission unanimously agreed to resume performance of the agreements between LAFCo and consultants for the Fiscal Analysis and EIR, denied the request for the Supervisor members to abstain from voting on Malaga proceedings, and denied the request to terminate Jeff Kuhn as special counsel for the Malaga Incorporation proceedings.

Administrative Report

Staff reported that Westlands Water District agreed to be lead agency for the environmental impact report required for the Westlands Water District requested detachment.

The Commission unanimously agreed that LAFCo should not be the lead agency and directed staff to send a letter to the Westlands Water District informing them that LAFCo would not be lead agency for the EIR for their District's detachment of the Lemoore Naval Air Station.

Executive Officer Report

Staff gave a report on the transition of LAFCo from a County department to an independent agency.

COMMENTS FROM THE PUBLIC

There were no comments from the public.

The hearing was adjourned at 2:30 p.m. A tape recording of the hearing is available at the Commission office.

Michael R. Waiczis, AICP
Executive Officer
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AGENDA

SEPTEMBER 19, 2001

Board of Supervisors' Chambers
Hall of Records, Room 301
1:30 p.m.

Commission Members:
Juan Arambula, Chairman
Victor Lopez, Chairman Pro Tem

Larry Fortune
Deran Koligian
Trinidad Rodriguez

Alternate Members:
Cynthia Downing
Sandra Neri
Bob Waterston

Staff:
Mike Waiczis, Executive Officer
Candie Fleming, Secretary/Clerk
Brian Melikian, LAFCo Counsel

Office Location: 2100 Tulare Street, Suite 502
Fresno, CA 93721
(559) 495-0604

1. Call to Order and Roll Call
2. Approval of the August 1, 2001 regular meeting minutes
3. Report by Carolina Jimenez-Hogg, Director of the Fresno County Planning and Resource Management Department, on Negotiations between Fresno County and the Cities of Clovis and Fresno regarding sphere of influence and update of Metropolitan Planning Agreement (eighth request).

CONSENT AGENDA

4. Extension of One Year to Complete Proceedings
   A. "Temperance-Gettysburg East Reorganization" - Proposed annexation of approximately 53 acres located at the southeast corner of Temperance and Gettysburg Avenues to the City of Clovis and detachment from the Fresno County Fire Protection District and the Kings River Conservation District.

   Recommended Action: Denial

If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or even prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff as to the requirements of the Political Reform Act (Government Code Section 84308).
PUBLIC HEARING

5. "Teague-Willow Northeast Reorganization" - Proposed annexation of 19.3 acres located at the northeast corner of Teague and Willow Avenues to the City of Clovis and detachment from the Fresno County Fire Protection District and the Kings River Conservation District.

   Recommended Action: Approval with Revised Boundaries and Conditions

6. "Shepherd-Chestnut No. 2 Reorganization" - Proposed annexation of 70 acres located east of Chestnut Avenue between Shepherd and Teague Avenues to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District.

   Recommended Action: Approval with Conditions

7. "Fowler-Shepherd Reorganization" - Proposed annexation of 84.3 acres located south of Shepherd Avenue, from 1/4 mile west of Fowler Avenue to Armstrong Avenue to the City of Clovis and detachment from the Fresno County Fire Protection District.

   Recommended Action: Alternative Actions for Approval or Denial

OTHER ITEMS

8. Request to waive application fees for the proposed Del Rio Reorganization.

   Recommended Action: Denial

9. Malaga Incorporation Update - Administrative Report

   Recommended Action: No Action Required

EXECUTIVE OFFICER REPORT

10. Administrative Report - (staff analyst recruitment, expansion of office facilities, etc.)

   Recommended Action: No Action Required

COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held October 17, 2001, beginning at 1:30 p.m. in Room 301, Fresno County Hall of Records Annex.
Call to Order: Chairman Juan Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Juan Arambula, Larry Fortune, Deran Koligian, Victor Lopez, and Sandra Neri

Members Absent: Commissioner Trinidad Rodriguez

Staff Present: Mike Waiczis, Executive Officer
Brian Melikian, LAFCo Counsel
Candie Fleming, Clerk to the Commission

Approval of Minutes: The minutes for the August 1, 2001 meeting were approved as written.

Report by Carolina Jimenez-Hogg Regarding Negotiations between Fresno County and the Cities of Clovis and Fresno regarding sphere of influence and update of Metropolitan Planning Agreement.

Due to the length of the agenda this item was continued to an undetermined meeting.

CONSENT AGENDA

EXTENSION OF ONE YEAR TO COMPLETE PROCEEDINGS

"Temperance-Gettysburg East Reorganization"

This item was pulled from the Consent Agenda by Commissioner Fortune who asked Executive Officer Waiczis why staff was recommending denial. Mr. Waiczis noted that this was the eighth request for an extension and the applicant's correspondence did not provide sufficient information on the progress of the application. He felt the explanation for the request given by the City of Clovis was not adequate and did not merit an extension.

Spalding Wathen, the developer of the property, requested approval of an extension of time saying he had just bought the property a year and a half ago and would be ready to draw plans for the model houses in a couple of weeks.

After being assured by the developer that this would be the last request for extension, the Commission unanimously approved the extension for one year.
PUBLIC HEARING

"Teague-Willow Northeast Reorganization" (RO-01-7)

Executive Officer Waiczis presented the staff report and recommendations. He reported that the Fresno County Fire Protection District asked that this item be put on the public hearing agenda. The fire department said it is negotiating with the City of Clovis with regard to a new transition agreement with the City. Mr. Waiczis noted that since the fire department did not sign a consent to waive its protest rights, the proposal would have to go to protest hearing. Mr. Waiczis recommended the inclusion of a condition of approval requiring that the District sign a waiver of protest rights within 30 days or a protest hearing would have to be set.

Jeff Witte, Assistant City Manager, City of Clovis, presented a letter the City sent to the fire district for signature saying the City was confident the fire department would sign within the next week or two.

Jim Donabed, Land Development Services, who represents the proponent, concurred with staff's recommendation of approval and the conditions for approval.

Brian Melikian, LAFCo Counsel clarified staff's recommendations by adding the following to such recommendation: 1) for condition No. 2 [governing the City of Clovis' succession to the Land Conservation Contract No. 92] "and pursuant to section 56754(a)", 2) condition No. 4 [City's payment of Land Conservation Contract fees] is conditioned further on "if the City cancels the contract", 3) add to the Commission's CEQA finding that inclusion of the Fresno Metropolitan Flood Control District basin falls under the City's categorical exemption.

The Commission unanimously approved the reorganization, with conditions, as staff recommended, with the recommended clarifications made by LAFCo Council, and the addition of "Condition 6" as follows:

6. "The City of Clovis shall submit to the Executive Officer signatures of all agencies losing or gaining territory in the affected area giving consent to the proposed annexation. If the Commission finds that all affected agencies have not consented in writing to the annexation, should the City be unable to comply with Condition 6 contained in the resolution, staff is directed to set a protest hearing pursuant to Part 4 (commencing with Section 57000) of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 following the 30-day reconsideration period".
"Shepherd-Chestnut No. 2 Reorganization" (RO-01-8)

Executive Officer Waiczis presented the staff report and recommendations as set forth in staff’s written report to the Commission.

Dave Valenzuela, representative for Cambridge Homes (the proponent), said that due to a misunderstanding, Cambridge Homes did not realize that if the proposal did not have consent from all of the landowners in the affected territory, the proposal would have to be scheduled for a protest hearing at the November 26th LAFCo hearing. Mr. Valenzuela said that he was sure that Cambridge Homes would be able to obtain a written consent from all of the landowners. He reported that they had an approved tentative map and could not file the final map until the proposal was completed.

Staff reported that the LAFCo office did not receive any phone calls or letters opposing the reorganization and recommended approving the proposal with the condition that the proponent must obtain landowner consent forms from all the property owners within the annexation area, in order to avoid the protest hearing.

Dave Braun spoke in favor of the proposal and agreed to the condition requiring consent from the landowners.

Daniel Sherman, who represented his wife, one of the property owners in the affected territory spoke against the annexation. He said that his wife did not want her property to be annexed into the City. Mr. Sherman asked why they couldn't develop the tract in the County. He said that his wife would not sign the consent form.

Commissioner Koligian responded to Mr. Sherman's question that the County was not in the development business and has agreements with the Cities to direct development to the cities where the development could be served with city services. The Commission then asked Mr. Sherman why he was opposed to being annexed to the City.

Mr. Sherman replied that the City and County had different rules and felt there was no need to annex his property.

Mr. Valenzuela assured Mr. Sherman that there was no conspiracy by the developer and that the only reason his property was being included in the annexation was to avoid creating an island.

The Commission unanimously approved the reorganization, with conditions, as staff recommended, and the addition of “Condition E” as follows:

E. "The City shall submit to the Executive Officer original signatures of all property owners in the affected area giving consent of the proposed annexation. If the Commission finds that all affected property owners have not consented in writing to the annexation, should the City be unable to comply with Condition E staff is directed to set a protest hearing pursuant to Part 4 (commencing with Section 57000) of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 following the 30-day reconsideration period".
Executive Officer Waiczis presented the staff report and recommendations as set forth in staff's written report to the Commission. He reported that the Fresno County Fire Protection District asked that this item be put on the public hearing agenda. The fire department said it is negotiating with the City of Clovis with regard to a new transition agreement with the City. Mr. Waiczis noted that since the fire department did not sign a consent to waive its protest rights, the proposal would have to go to protest hearing. Mr. Waiczis recommended the inclusion of a condition of approval requiring that the District sign a waiver of protest rights within 30 days or a protest hearing would have to be set. He pointed out that a condition of annexation per state law is that a city must prezone the property to be annexed. Parcel #1 in the affected territory was not earmarked for development and had not been prezoned. Another issue he discussed was the potential of the rural residential area south of the affected territory becoming an county island in the future.

The Commission asked if it could approve the reorganization with a condition that the territory be prezoned before completion. The Commission indicated that it would be looking at this issue more closely in the future and would like to see a "good faith" effort by the City to have the annexation areas prezoned before bringing them to LAFCo.

Jeff Witte, Assistant City Manager for the City of Clovis, asked that the Commission leave Parcel #1 in with the proposal. Parcel #1 is a turkey farm and is in conflict with the developing area around it. He stated that the owner was looking to develop the land in the future.

Jim Donabed, from Land Development Services, urged the Commission to approve the reorganization as proposed.

Vernon Crowder, a neighbor to the north of the proposal area, supported the annexation of Parcel #1. He said the land had no resale value as a poultry farm.

A residential property owner bordering Parcel #1 spoke against the annexation because the area was zoned for mixed use and he did not want an apartment complex across from his property. He also didn't want to hook up to the City's sewer and water system.

Jeff Witte said that the City of Clovis works with neighboring property owners to match up new development with existing areas. Mr. Witte also submitted a letter written by the Clovis City Attorney giving the opinion that upon its annexation to the City, Parcel #1 automatically would either be zoned in the district equivalent to the County's zoning ordinance, or if that district is not consistent with the City's general plan, it would be zoned in the City's R-A zone district.

Brian Melikian, LAFCo Counsel, said the state law requires property to be prezoned before completion of the reorganization.
Jeff Witte said Parcel #1 would automatically be rezoned to R-A until details are worked out or it could be rezoned for mixed use.

The Commission unanimously approved the reorganization including both Parcels #1 and #2, with conditions, and waived the Commission's policy that discouraged the creation of peninsulas of land and the potential to create county islands. In waiving this policy, the Commission made the necessary findings of overriding circumstances, noting that annexation and development of land around the rural residential area south of the affected territory could not occur if this rural residential area had to first be annexed to the city. Some county islands were pre-determined many years ago by other decision makers. The Commission approved the reorganization per staff's recommendations with the addition of "Condition E" as follows:

E. "The City of Clovis shall submit to the Executive Officer signatures of all agencies losing or gaining territory in the affected area giving consent to the proposed annexation. If the Commission finds that all affected agencies have not consented in writing to the annexation, should the City be unable to comply with Condition E staff is directed to set a protest hearing pursuant to Part 4 (commencing with Section 57000) of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 following the 30-day reconsideration period".

OTHER ITEMS

Request to Waive Application Fees for the Proposed Del Rio Reorganization

Executive Officer Waiczis presented the staff report and recommendation as set forth in staff's written report to the Commission. He recommended denial of the request noting that because of the change in law LAFCo was now an independent agency and application fees are necessary to support the independent agency.

Terry Perkins, the Chief Petitioner, explained the reason for annexing to the City of Firebaugh. Mr. Perkins reported that there were only about 300 people in the community, 90 are landowners. He said many are low-income farm workers and would be unable to pay the LAFCo fee.

Commissioner Koligian asked why CDBG funds could not be used to pay for the reorganization.

Rebecca Madrigal said the County already has a stake in assisting with the annexation. She explained that the County would be doing the environmental assessment, and absorb the cost of about $12,000.

The Commission felt that the Board, which allocated the CDBG funds, would approve funds for the LAFCo fee. The Commission didn't think the fees should be waived since that could cause all of the cities to be forced to cover the cost of annexation for Del Rio.
Corrina Nunez, the CDBG Budget Analyst, said that there was no money left in the 2001-2002 CDBG budget and there were many more projects in line for the money.

The Commission unanimously voted to continue the item in order to give the County more time to find money for the LAFCo fee.

**Malaga Incorporation Update - Administrative Report**

Mr. Waiczis reported that LAFCo held a meeting with EPS and Willdan, consultants, and representatives from the Malaga County Water District, and LAFCo. He reported that he informed EPS that the Commission would accept the figures already provided in the Comprehensive Fiscal Analysis. Mr. Waiczis said that Malaga's Legal Counsel was afraid that those figures would be challenged in court. He reported that letters requesting information from affected agencies will be sent under LAFCo's letterhead and not the Consultant's.

The Commission directed staff to send a letter to the Malaga County Water District and inform them again, that new figures for the Comprehensive Fiscal Analysis would not be necessary.

**Executive Officer Report**

Executive Officer Waiczis reported that staff was continuing their recruitment for a temporary staff analyst. He said it would be difficult to find a qualified analysts due to the fact that the position was temporary with no benefits. Mr. Waiczis informed the Commission that LAFCo has leased an additional office amending the existing Fresno County lease in anticipation of hiring an additional analyst, and that efforts are being made to obtain computer equipment and office furniture to accommodate the new analyst. Staff is also looking into designing or contracting for the design of a web page for LAFCO, (part of the new Cortese-Knox-Hertzberg Act) and is looking into converting all of the microfilm files on to computer disks (CD-ROMs) where files can be accessed through the office computers.

**COMMENTS FROM THE PUBLIC**

There were no comments from the public.

The hearing was adjourned at 4:20 p.m. A tape recording of the hearing is available at the Commission office.
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<td>VERBAL REPORT VERBAL REPORT BY CAROLINA JIMENEZ-HOOG - CONTINUED TO A DATE UNCERTAIN</td>
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<td>PULL #4 OFF CONSENT OFF AGENDA APPROVED</td>
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<td>RO-01-7 APPROVED WITH REVISED BOUNDARIES (INCLUDE 20+ ACRES EAST OF SUBJECT PROPERTY) AND CONDITIONS</td>
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<td>RO-01-10 APPROVED WITH CONDITIONS, WAIVE PROTEST HEARING IF WRITTEN CONSENT FROM ALL LANDOWNERS IN AFFECTED TERRITORY IS RECEIVED WITHIN 3 WEEKS (10/12/01), OTHERWISE SET PROTEST HEARING</td>
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<td>DIRECT STAFF TO WORK WITH CLOVIS AND OTHER CITIES TO FIND WAYS TO REDUCE COUNTY ISLANDS----</td>
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<td>WAIVE FEE -DEL RIO ANNEXATION CONTINUED TO OCTOBER 17, 2001 HEARING</td>
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<td>VERBAL REPORT ON MALAGA INCORPORATION</td>
<td>SEND LETTER TO MALAGA COUNTY WATER DISTRICT SAYING THE LATEST FISCAL FIGURES GIVEN WOULD BE ADEQUATE.</td>
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<td>ADMINISTRATIVE REPORT</td>
<td>GAVE AUTHORIZATION FOR STAFF TO MOVE FUNDS FROM ACCOUNT USED TO PURCHASE COMPUTERS INTO ACCOUNT TO BUY OFFICE FURNITURE.</td>
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AGENDA

LOCAL AGENCY FORMATION COMMISSION
OF FRESNO COUNTY (LAFCo)

OCTOBER 17, 2001 - 1:30 p.m.

Board of Supervisors' Chambers
Hall of Records, Room 301

Commission Members
Juan Arambula, Chairman
Victor Lopez, Chairman Pro Tem
Larry Fortune
Deran Koligian
Trinidad Rodriguez

Alternate Members
Cynthia Downing
Sandra Neri
Bob Waterston

LAFCo Staff
Mike Waiczis, Executive Officer
Candie Fleming, Clerk to the Commission
Brian Melikian, LAFCo Counsel

LAFCo Office: 2100 Tulare Street, Suite 502, Fresno, CA - 93721 - (559) 495-0604 - FAX (559) 495-0655

1. Call to Order and Roll Call

2. Consider Approval – Minutes from the September 19, 2001 regular meeting.

CONSENT AGENDA


A. "Gettysburg-Locan Southwest Reorganization" (RO-00-8, City of Clovis) - Annexation of approximately 10 acres located at the southwest corner of Gettysburg and Locan Avenues to the City of Clovis and detachment from the Fresno County Fire Protection District and the Kings River Conservation District.

If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff at 559-495-0604 as to the requirements of the Political Reform Act (Government Code Section 84308).

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate at this meeting, please contact Candie Fleming, Clerk to the Commission at 559-495-0604. Notification 48 hours prior to the meeting will enable the Clerk to make reasonable arrangements to ensure accessibility to this meeting. Pursuant to the ADA, the meeting room is accessible to the physically disabled.
B. "Dinuba-Dockery Reorganization" (RO-00-10, City of Selma) - Annexation of approximately 20.27 acres located at the southwest corner of Dinuba Avenue and the Dockery Avenue alignment to the City of Selma and the Selma-Kingsburg-Fowler County Sanitation District and detachment from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District.

Recommended Action: Approve Request A and B

4. Consider Approval - "Laton Community Services District Annexation 1999-1". A request to annex 11.52 acres located south of the Grant Canal, east of Gonser Avenue in the Community of Laton to the Laton Community Services District. LAFCo File No. AD-01-3.

Recommended Action: Conditional Approval

5. Consider Approval – City of Fresno "Teague-Willow No. 4 Reorganization". The reorganization consists of annexation of 57 acres located on the northwest corner of East Nees and North Willow Avenues, 36 acres on the northwest corner of East Teague and North Willow Avenues, and a 2.64-acre strip of land along Willow Avenue to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District. LAFCo File No. RO-01-10.

Recommended Action: Conditional Approval

6. Consider Approval – City of Huron "Reorganization 01-1" – The proposed reorganization consists of annexation of approximately 55 acres located at the southwest corner of the Palmer Avenue alignment and Lassen Avenue to the City of Huron and detachment from the Westlands Water District and the Westside Resource Conservation District. LAFCo File No. RO-01-11.

Recommended Action: Conditional Approval

PUBLIC HEARING

7. Consider Approval – Extension of Services for County Service Area No. 43 to allow operation of a domestic water system for the unincorporated community of Raisin City. Initiated by Registered Voter Petition. LAFCo File No. EP-01-1.

Recommended Action: Approval
8. **Consider Approval** – City of Fresno "Willow-Perrin No. 3 Reorganization" – The proposed reorganization consists of annexation of approximately 36 acres located at the southwest corner of Willow and Perrin Avenues to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District. LAFCo File No. RO-01-12. (Alternative "A" - Area 1)

**Recommended Action:** Conditional Approval with Revised Boundaries
(Alternative "B")

Alternative "B" includes Area 1 (see above), and the following territory:

Area 2 described as a 90+/- acre parcel located at the southwest corner of Behymer and Willow Avenues.

Area 3 described as a 17+/- acre parcel located at the southeast corner of Behymer and Chestnut Avenues.

Area 4 described as a 34+/- acre parcel located at the northwest corner of Willow and Shepherd Avenues.

Total acreage in Revised Boundaries: 177+/-

**OTHER ITEMS**

9. **CONSIDER APPROVAL** – A request by Mr. Terry Perkins, representing the Del Rio Community, to waive application fees for the processing of a proposed reorganization. (Continued from September 19, 2001 hearing).

10. **CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION** (Subdivision (a) of California Government Code Section 54956.9). City of Fresno v. County of Fresno, Fresno Local Agency Formation Commission, City of Clovis. Fresno County Superior Court Case No. 01CECG03337.

11. Consider modifications to the contract for LAFCo Special Counsel, Kahn, Soares and Conway, as necessary depending on discussions in Closed Session regarding existing litigation.
EXECUTIVE OFFICER’S REPORT

- Update on permanent storage of LAFCo public records.
- Update on recruitment for extra-help position.

COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held November 28, 2001, beginning at 1:30 p.m. in Room 301, Fresno County Hall of Records Annex.
LOCAL AGENCY FORMATION COMMISSION
OF FRESNO COUNTY (LAFCo)

MINUTES

OCTOBER 17, 2001 REGULAR MEETING

Call to Order: Chairman Juan Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Juan Arambula, Larry Fortune, Deran Koligian, Victor Lopez, and Sandra Neri

Members Absent: Commissioner Trinidad Rodriguez

Staff Present: Mike Waiczis, Executive Officer
Brian Melikian, LAFCo Counsel
Mike Noland, LAFCo Special Counsel
Candie Fleming, Clerk to the Commission

Approval of Minutes: The minutes for the September 19, 2001 meeting were approved as written.

CONSENT AGENDA

Requests (A and B) for Extension of One-Year Requirement to Complete Proceedings.

A. "Gettysburg-Locan Southwest Reorganization" (RO-00-8, City of Clovis)
B. "Dinuba-Dockery Reorganization" (RO-00-10, City of Selma)

Other Items on the Consent Calendar

"Laton Community Services District Annexation 1999-1". Request to annex 11.52 acres located south of Grant Canal, east of Gonser Avenue in Laton to the Laton Community Services District. LAFCo File No. AD-01-3

"Teague-Willow No. 4 Reorganization". Reorganization consisting of annexation of 57 acres located on the NWC of E. Nees and N. Willow Avenues, 36 acres on the NWC of E. Teague and N. Willow Avenues, and a 2.64-acre strip of land along Willow Avenue to the City of Fresno and detachment from the Fresno Co. Fire Protection District and the Kings River Conservation District. LAFCo File No. RO-01-10.

"City of Huron Reorganization 01-1" – Proposed reorganization consisting of annexation of 55+/- acres located at the SWC of the Palmer Avenue alignment and Lassen Avenue to the City of Huron and detachment from the Westlands Water District and the Westside Resource Conservation District. LAFCo File No. RO-01-11.

The Commission approved the Consent Agenda Items as recommended by staff without further discussion.
PUBLIC HEARING

Request for Extension of Services for County Service Area No. 43 to allow operation of a domestic water system for the unincorporated community of Raisin City. Initiated by Registered Voter Petition. LAFCo File No. EP-01-1.

Executive Officer Waiczis reported that this application initiates the approval process necessary to add operation of a domestic water system to County Service Area No. 43. He explained that once approval for the extension of powers was given by LAFCo detailed plans for the water system would be prepared and the matter would be sent to the County Board of Supervisors for final approval.

Commissioner Arambula asked staff to elaborate on the need for a water system.

Mr. Waiczis explained that the Community of Raisin City received a $4,000 grant to test the quality of water in a number of private wells used by residents. In all, thirty-three wells were tested and all were found to have contaminants of one kind or another.

The Commission unanimously approved the proposal as recommended by staff.

Request to approve the "Willow-Perrin No. 3 Reorganization" – A proposed reorganization consisting of annexation of 36+/- acres located at the SWC of Willow and Perrin Avenues to the City of Fresno and detachment from the Fresno Co. Fire Protection District and Kings River Conservation District. LAFCo File No. RO-01-12.

Executive Officer Waiczis reported that after receiving the above proposal, property owners to the north and south of the annexation area contacted staff and requested that their property be included in the reorganization.

Mr. Waiczis recommended the inclusion of the two properties, in addition to a school site that would have been surrounded by the City on three sides if not included in the proposal. Mr. Waiczis recommended conditional approval with the addition of property (Alternative "B") as follows:

Area 1 (the original affected territory as proposed).

Area 2 described as a 90+/- acre parcel located at the southwest corner of Behymer and Willow Avenues.

Area 3 described as a 17+/- acre parcel located at the southeast corner of Behymer and Chestnut Avenues.

Area 4 described as a 34+/- acre parcel located at the northwest corner of Willow and Shepherd Avenues.

Commissioner Arambula asked if that would make for more logical boundaries.

Mr. Waiczis responded that bringing land incrementally into the city would create more of a potential for islands.
Commissioner Arambula asked if the inclusion of the additional property would create any obstacles.

Mr. Waiczis responded both "yes" and "no". Staff was able to give notice and obtain approval of the additional property from the agencies losing and gaining territory, however, according the Cortese-Knox-Hertzberg Act requires all property to be prezoned and the property to the south of the proposal has not yet been prezoned.

The Commission asked if that was a condition for Alternative B and staff responded that it was.

Commissioner Koligian asked if there were tract maps on the table for the different areas requesting annexation and staff responded that all had maps except area 4.

Commissioner Koligian asked how staff justified annexing Area 4 if there was no map on the area.

Mr. Waiczis responded that development was eminent for over 50% of the entire area. Commissioner Koligian said he didn't think that was the idea of substantial development.

Commissioner Arambula suggested approving all of the areas that had final maps filed and conditioning approval of area 4 on the filing an acceptable final map with the City.

Brian Melikian, LAFCo Counsel, advised that Item B2 of Alternative B would have to be revised to require a final map for area 4 also.

Staff suggested that in order for Area #4 not to hold up the rest of the annexation, the annexation could be phased in two or more parts. Staff suggested that a phased annexation could be worked out and reflected in the resolution.

Jim Donabed, Land Development Services, spoke in favor of the annexation saying that all of the parcels would be good governmental planning and supported the proposal being phased that would condition Area #4 with the final map.

The Commission unanimously approved the entire territory, totally approximately 177+/- acres in the revised boundaries, in phases, with conditions.

**OTHER ITEMS**

A Request by Mr. Terry Perkins, Representing the Del Rio Community, to waive Application Fees for the Processing of a Proposed reorganization (Continued from September 19, 2001 hearing)

Executive Officer Waiczis reported that the Commission received correspondence saying that a funding source had been identified and the request for a fee waiver was withdrawn.

Closed Session - Conference with Legal Counsel - Existing Litigation

No reportable action was taken.
Consider Modifications - To the Contract LAFCo Special Counsel, Kahn, Soares, and Conway.

The Commission unanimously agreed to amend the agreement with Kahn, Soares, and Conway to add an additional $1,500.00, for a total maximum of $7,000.00.

Executive Officer's Report

- Update on permanent storage of LAFCo public records
  Brian Melikain, LAFCo Counsel, gave a report.

- Update on recruitment for extra-help position
  Executive Officer Waiczis reported that the recruitment is on going.

COMMENTS FROM THE PUBLIC

There were no comments from the public.

The hearing was adjourned at 2:30 p.m. A tape recording of the hearing is available at the Commission office.

Michael R. Waiczis, AICP
Executive Officer
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<td>7</td>
<td>RO-01-12</td>
<td>APPROVED WITH CONDITIONS AND BOUNDARY REVISIONS IN TWO PARTS; PART ONE SHALL INCLUDE PARCELS 1, 2, &amp; 3; PART 2 SHALL INCLUDE PARCEL 4.</td>
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<td>DEL RIO FEE WAIVER REQUEST</td>
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<td>AGREEMENT WITH MIKE NOLAND</td>
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AGENDA
LOCAL AGENCY FORMATION COMMISSION
OF FRESNO COUNTY (LAFCo)

NOVEMBER 28 2001 - 1:30 p.m.
Board of Supervisors' Chambers
Hall of Records, Room 301

Commission Members
Juan Arambula, Chairman
Victor Lopez, Chairman Pro Tem
Larry Fortune
Deran Koligian
Trinidad Rodriguez

Alternate Members
Cynthia Downing
Sandra Neri
Bob Waterston

LAFCo Staff
Mike Walczis, Executive Officer
Candie Fleming, Clerk to the Commission
Brian Melikian, LAFCo Counsel

LAFCo Office: 2100 Tulare Street, Suite 502, Fresno, CA - 93721 - (559) 495-0604 - FAX (559) 495-0655

1. Call to Order and Roll Call

2. Consider Approval – Minutes from the October 17, 2001 regular meeting.

CONSENT AGENDA

3. Consider Approval – "Petersen Reorganization" (RO-01-13) - Proposed reorganization consisting of the annexation of 19.54 acres located at the northeast corner of Academy and Clarkson Avenues to the City of Kingsburg and the Selma-Kingsburg-Fowler County Sanitation District and detachment from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District.

Recommended Action: Conditional Approval

If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff at 559-495-0604 as to the requirements of the Political Reform Act (Government Code Section 84308).

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate at this meeting, please contact Candie Fleming, Clerk to the Commission at 559-495-0604. Notification 48 hours prior to the meeting will enable the Clerk to make reasonable arrangements to ensure accessibility to this meeting. Pursuant to the ADA, the meeting room is accessible to the physically disabled.
PUBLIC HEARING

4. Consider Approval - Schedule a special meeting on Wednesday December 5, 2001.

   Recommended Action: Approval

5. Consider Approval - "Del Rio Reorganization" (RO-01-14) - Proposed reorganization consisting of the annexation of approximately 88+/- acres located northwest of the City of Firebaugh, (Community of Del Rio) to the City of Firebaugh; detachment from the Fresno County Fire Protection District and the Central California Irrigation District; and dissolution of County Service Area No. 40.

   Recommended Action: Conditional Approval on December 5, 2001

OTHER ITEMS

6. Presentation by consultant Mr. Walter Keiser, Principal, EPS, regarding the revision of the Comprehensive Fiscal Analysis for the Malaga Incorporation Proceedings and necessary steps for completion.

7. Malaga Incorporation Proceedings

   A. Consider Approval - Amendments to the LAFCo contracts with EPS and the Malaga County Water District prepared by LAFCO Special Council to allow work to proceed on the revision of the Comprehensive Fiscal Analysis for the Malaga Incorporation Proceedings.

   B. Consider Authorization - Authorize the LAFCo Chairman to sign contract amendments with EPS and the Malaga County Water District to facilitate the revisions to the Comprehensive Fiscal Analysis for the Malaga Incorporation Proceedings as presented in the Revised Workscope prepared by EPS and attached to the contracts as Exhibit "C".

   C. Consider Authorization - Authorize and direct the Executive Officer to transfer of existing funds from LAFCo Special Fund 4825, deposited during the previous fiscal year for the processing of applications currently under consideration by LAFCo, to Services and Supplies, Account No.: 7295 (Professional & Specialized Services). Authorize the Executive Officer to amend of the LAFCo 2001-2002 Budget as follows: Total Appropriations - $494,121.00. Authorize the Executive Officer to appropriate funds from Account No. 7295 to pay consultants under contract for the preparation of studies as work is completed and invoices are received by LAFCo.

      Recommended Action: Approval of A, B and C


      Recommended Action: Adopt Hearing Schedule
9. **CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION**
   - (Subdivision (a) of California Government Code Section 54956.9). City of Fresno v. County of Fresno, Fresno Local Agency Formation Commission, City of Clovis. Fresno County Superior Court Case No. 01CECG03337.

**COMMENTS FROM THE PUBLIC**

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held December 19, 2001, beginning at 1:30 p.m. in Room 301, Fresno County Hall of Records Annex. The Commission may determine to hold a special meeting on December 5, 2001. Should this meeting be scheduled it will begin at 1:30 p.m. in Room 301, Fresno County Hall of Records Annex.
LOCAL AGENCY FORMATION COMMISSION
OF FRESNO COUNTY (LAFCo)

MINUTES

NOVEMBER 28, 2001 REGULAR MEETING

Call to Order: Chairman Juan Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Juan Arambula, Larry Fortune, Deran Koligian, Victor Lopez, and Trinidad Rodriguez

Members Absent: None

Staff Present: Mike Waiczis, Executive Officer
Brian Melikian, LAFCo Counsel
Jeff Kuhn, LAFCo Special Counsel
Mike Noland, LAFCo Special Counsel
Candie Fleming, Clerk to the Commission

Approval of Minutes: The minutes for the October 17, 2001 meeting were approved as written.

CONSENT AGENDA

"Petersen Reorganization" (RO-01-13) - Reorganization consisting of annexation of 19.54 acres located at the northeast corner of Academy and Clarkson Avenues to the City of Kingsburg and the Selma-Kingsburg-Fowler County Sanitation District and detachment from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District.

The Commission approved the Consent Agenda Item as recommended by staff without further discussion.

PUBLIC HEARING

Schedule Special Meeting - Request to schedule a special meeting on Wednesday, December 5, 2001.

Executive Officer, Mike Waiczis, recommended that the Commission approve the scheduling of a Special Meeting for Wednesday, December 5, 2001 in order to comply with noticing and public review requirements pursuant to CEQA Guidelines and the Public Resource Code.

The Commission adopted December 5, 2001, as the next hearing date for LAFCo.
"Del Rio Reorganization" (RO-01-14) - Reorganization consisting of the annexation of approximately 88+/- acres located northwest of the City of Firebaugh, (Community of Del Rio) to the City of Firebaugh; detachment from the Fresno County Fire Protection District and the Central California Irrigation District; and dissolution of County Service Area No. 40.

Executive Officer Waiczis gave staff's report and recommendation. Mr. Waiczis recommended that this item be continued from this meeting to the Special Meeting approved for December 5, 2001. At that meeting the Commission will hear additional public testimony, if any, and may take action on this item pursuant to state law.

Terry Perkins, the Chief Petitioner, along with two Del Rio residents spoke in favor of the annexation. He said that they tried to annex the community of Del Rio in the 70's before the County made improvements such as putting in sewer and water, curbs and gutters, but were unsuccessful. They felt the annexation would be beneficial to both the City and the residents of Del Rio.

Art Maldonado, a former Del Rio resident, spoke in favor of the proposal and felt the reorganization was long overdue and felt that in the most part, the residents were in favor of the proposal.

Marcia Sablan, Councilman for the City of Firebaugh, spoke in favor of the annexation and asked that the City and County work towards a mutual agreement on the annexation.

Chairman Arambula asked staff who would be eligible to vote at the Protest Hearing.

Brian Melikian, LAFCo Counsel, said he would need to check into it further and would report back to the Commission.

A resident of Del Rio, through an interpreter (Carolina Jimenez-Hogg) said she would like to be able to build a home or have a trailer on her property.

Carolina Jimenez-Hogg, Planning Director, explained that there is an agreement between the City of Firebaugh and the County of Fresno that the County will not allow urbanization in the County.

Gil Flores, a resident of Del Rio, spoke in favor of the proposal.

Commissioner Koligian said that in the past, before the County put in sewer and water, the residents had to go to the Housing Authority to get water to carry to their homes. He said one of the County's main concerns is the health and safety of its residents and that the County has tried to upgrade homes that were unsafe.

Carolina Jimenez-Hogg said that the County spent a lot of grant money to put in sewer and water to all of the existing and legal residences in the area. Once the infrastructure was in place the area was to be annexed to the City of Firebaugh and the
City would then be responsible to extend hookups to any new structures. She said the County felt it must honor its commitment to the City by not building out at this time.

Ms. Hogg also stated that the County has carried out an aggressive code enforcement in the area. The Board of Supervisors funded cleanup by paying tipping fees and placing trash bins in the area for the residents to put their trash in. She also said that money has been appropriated to pay for the acquisition and construction of a storm drainage system.

Frank Fowler, County Design Division, said that the plan to install new streets, curbs, and gutters in the core area of Del Rio was 85% complete. He said a ponding basin was to be built to serve new development to the east in the future.

Gerald Forde, Firebaugh City Manager, showed the Commission some slides of homes and areas of concern in the Del Rio Community. He said that if the City had to correct the problems it would put a financial strain on the City and was worried of the financial implications. He asked that conditions be placed on the proposal and that they be strictly enforced. He said the City Council would like to resolve some issues relative to the 12 year old agreement.

Commissioner Koligian responded to the slides that were shown by saying he picked some of the worst areas and that conditions like those could be found in most any city including Fresno. He said the County will continue its vigorous enforcement process. Mr. Koligian felt the agreement between the County and the City of Firebaugh was a good agreement, even if it was 12 years old. He asked County staff to come up with an agreement satisfactory to both the City of Firebaugh and County to present to the Commission at the December 5th LAFCo hearing.

Commissioner Fortune asked Mr. Forde whether the only issue for the City was the cost to the City for taking in the Del Rio area.

Mr. Forde responded that the City was afraid that they would not have the financial ability to provide the services needed in the area. He said that they were not able to find any up to date cost of services and wanted to be able to analyze the costs.

Dale Baciagalupe, attorney for the City of Firebaugh, asked that the Commission place some specific conditions on the proposal that the annexation would only be complete upon the completion of the drainage system, completion of streets and roads with curbs and gutters, completion of the cleanup of tires and other trash that the County said that they would do, and a promise that the County would continue its code enforcement efforts. Mr. Baciagalupe said the sales tax generated from the area would not cover the cleanup.

Commissioner Koligian said that the City of Firebaugh got all most all of the sales tax from the area and the County only received a small fraction of the sales tax.
Commissioner Fortune asked how the code enforcement would continue after annexation.

Brian Melikian said that the other parties -- the County, the City and the petitioners - ought to seek an agreement among themselves as a condition of the Commission's approval, rather than have the Commission placing conditions on the County. He said this would avoid putting the Commission in the middle of the other parties' problems.

The Commission voted to continue this item to the December 5, 2001 Hearing

Presentation by Consultant, Mr. Walter Keiser, Principal, EPS

Mr. Keiser gave a presentation/report on the steps that were going to be taken to complete the Comprehensive Fiscal Analysis for the Malaga Incorporation.

Malaga Incorporation Proceedings

Executive Officer, Mike Waiczis, gave his reports and recommendations.

Jeff Kuhn, LAFCo Special Counsel for the Malaga Incorporation Proceedings, reported that the money on deposit to pay for Malaga's comprehensive fiscal analysis and environmental impact report or usable funds.

The Commission approved the Amendments to LAFCo contracts with EPS and Malaga County Water District, and authorized the Chairman to sign the contracts to facilitate the revisions, and authorized and directed the Executive Officer to transfer existing funds from LAFCo Special Fund 4825, to Services and Supplies, Account No. 7295.

Year 2002 LAFCo Hearing Schedule

The Commission adopted the 2002 LAFCo Hearing Schedule as proposed

Closed Session - Conference with Legal Counsel - Pending Litigation.

There was no reportable action

COMMENTS FROM THE PUBLIC

There were no comments from the public.

The hearing was adjourned at 3:35 p.m. A tape recording of the hearing is available at the Commission office.
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<td>EPS PRESENTATION</td>
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<td>EPS &amp; MCWD CONTRACTS</td>
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<td>CONTRACT AMENDMENTS</td>
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<td>BUDGET AMENDMENTS</td>
<td>APPROVED INCREASE OF APPROPRIATIONS IN THE AMOUNT OF $161,575 IN ACCOUNT NO. 7295; APPROVED AMENDMENT TO ACCOUNT NO. 7295 TO REFLECT THE TRANSFERRED MONEY -$412,986; AND APPROVED INCREASE OF ESTIMATED REVENUES FOR ACCOUNT NO. 4914 IN THE AMOUNT OF $161,575</td>
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AGENDA

LOCAL AGENCY FORMATION COMMISSION OF FRESNO COUNTY (LAFCo)

SPECIAL MEETING - DECEMBER 5, 2001 - 1:30 p.m.

Board of Supervisors' Chambers
Hall of Records, Room 301

Commission Members
Juan Arambula, Chairman
Victor Lopez, Chairman Pro Tem
Larry Fortune
Deran Koligian
Trinidad Rodriguez

Alternate Members
Cynthia Downing
Sandra Neri
Bob Waterston

LAFCo Staff
Mike Waiczis, Executive Officer
Candie Fleming, Clerk to the Commission
Brian Melikian, LAFCo Counsel

LAFCo Office: 2100 Tulare Street, Suite 502, Fresno, CA - 93721 - (559) 495-0604 - FAX (559) 495-0655

1. Call to Order and Roll Call

2. Consider Approval – Minutes from the November 28, 2001 regular meeting.

PUBLIC HEARING

3. Consider Approval – "Del Rio Reorganization" (RO-01-14) The proposed reorganization consists of annexation of approximately 88+/- acres to the City of Firebaugh and detachment of the Fresno County Fire Protection District and the Central California Irrigation District. The proposal also includes dissolution of County Service Area (CSA) No. 40. The affected territory (Del Rio) is immediately northwest of Firebaugh, east of State Highway 33 (Continued from November 28, 2001 Hearing).

Recommended Action: Conditional Approval

FRIDAY, DECEMBER 09, 2000

If you are an applicant for, or a participant in (actively supporting or opposing) any proceedings on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members listed above, State law provides for disqualification of Commissioner voting or prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff at 559-495-0604 as to the requirements of the Political Reform Act (Government Code Section 84308).

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate at this meeting, please contact Candie Fleming, Clerk to the Commission at 559-495-0604. Notification 48 hours prior to the meeting will enable the Clerk to make reasonable arrangements to ensure accessibility to this meeting. Pursuant to the ADA, the meeting room is accessible to the physically disabled.
4. CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Initiation of litigation pursuant to subdivision (c) of California Government Code Section 54956.9):

Number of cases: one (1).

5. CONSIDER ADDITION TO THE AGENDA - CLOSED SESSION (to discuss a personnel matter pursuant to Government Code Section 54957.6(a). Pursuant to Government Code Section 54954.3(b), consider action on an item of business not appearing on the posted agenda.

Prior to discussing this item the Commission must comply with the following Brown Act Requirements:

A. Publicly identify the item to be discussed.

B. Determine by a majority vote of the Commission that an emergency situation exists, as defined in Section 54956.5.

C. Determine by a two-thirds vote of the Commission present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the Commission subsequent to the agenda being posted.

COMMENTS FROM THE PUBLIC

Any person wishing to address the Commission on a subject not on the agenda may do so by making a written request to the Clerk of the Commission.

The next regular LAFCo meeting will be held December 19, 2001, beginning at 1:30 p.m. in Room 301, Fresno County Hall of Records Annex.
DECEMBER 5, 2001 SPECIAL MEETING

Call to Order: Chairman Juan Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Juan Arambula, Larry Fortune, Deran Koligian, Victor Lopez, and Trinidad Rodriguez

Members Absent: None

Staff Present: Mike Waiczis, Executive Officer
Brian Melikian, LAFCo Counsel
Candie Fleming, Clerk to the Commission

Approval of Minutes: The minutes for the November 28, 2001 meeting were approved as written.

PUBLIC HEARING

"Del Rio Reorganization" (RO-01-14) - Reorganization consisting of the annexation of approximately 88+/– acres located northwest of the City of Firebaugh, (Community of Del Rio) to the City of Firebaugh; detachment from the Fresno County Fire Protection District and the Central California Irrigation District; and dissolution of County Service Area No. 40. (Continued from November 28, 2001 Hearing)

Executive Officer Waiczis gave his supplemental report and revised recommendations.

Commissioner Arambula asked if LAFCo had the legal authority to condition approval of the Del Rio Reorganization based on the improvement work agreed to be done by the County.

Brian Melikian, LAFCo Counsel, said that placing a condition on the proposal that the County must first complete certain public improvements to the Del Rio community infrastructure would put the Commission in the middle of a potential dispute between the petitioners, the City and the County. Mr. Melikian also said that he could not find any legal authority that would allow LAFCo to place those kinds of conditions of approval on the proposal.
Commissioner Koligian asked if instead of placing conditions on the proposal, would it be proper for the County to publicly state for the record what the County is willing to do by having the Planning Director spell out the County’s plans for Del Rio?

Mr. Melikian said that Mr. Koligian’s suggestion would not be improper and believed that the Commission hearing was a good place for the items to be discussed. Mr. Melikian also stated for the record that the County’s response was not being stated as a condition of approval.

Responding to a December 5, 2001 letter from Gerald Forde, Firebaugh City Manager, to the Commission, Commissioner Lopez said he was concerned that the necessary infrastructure was not yet completed by the County.

Carolina Jimenez-Hogg, Director of County Planning and Resource Management Department, said County staff met with Mr. Forde, Dale Bacigalupi, City Attorney, and Fred Rabe, City Engineer to answer questions, discuss concerns and clarify the extent of improvements the County would be constructing in Del Rio under the terms of the County’s existing agreement with the City of Firebaugh. She said that County staff members Frank Fowler and Dennis Ellis attended a City Council meeting at the City’s request to present information regarding the improvements that the County will provide to the Del Rio community and construct in the Del Rio community, along with implementation of the County’s Code Enforcement Program.

Ms. Hogg said that the County of Fresno will construct streets, curbs, gutters, and a drainage system to serve the Del Rio “core area” as stipulated in an existing agreement between the County, the City of Firebaugh and the Firebaugh Redevelopment Agency. She said that the County will also continue to provide targeted zoning code enforcement of 50 properties in the Del Rio community with code enforcement violations and continue to monitor the Del Rio community to discourage future zoning code violations, until the annexation has been completed. Further, she said that the County will enforce the County Zoning Ordinance to eliminate the occupancy of residential units not entitled to be connected to the sewer and water system in Del Rio.

Ms. Hogg also said the County will pursue the elimination of the “tire pile” existing on December 12, 2001 - at APN 007-110-40 which includes County staff working with City of Firebaugh staff to prepare an application to seek State grant funds to address the situation. If such funds are not obtained, she said that the County will fund the cleanup effort on this parcel.

Ms. Hogg said that even after the annexation has been completed, the County of Fresno will continue to market and offer the Home Program to Del Rio residents, as long as Federal Funds are available to Fresno County. Ms. Hogg explained that the Home Program offers deferred low interest loans for homeowner residents to rehabilitate their homes to meet building code standards.
She also said the County will continue implementing the Del Rio Specific Plan and conditional zoning as contained in the County of Fresno's General Plan. She said that this means that, as required by the City in its General Plan, the County will not allow residents to connect if the property owners do not have a legal connection to the sewer and water system.

Commissioner Rodriguez asked what is the time frame for the County to finish the infrastructure.

Ms. Hogg responded that the County was in the process of finishing plans and specifications on the curbs and gutters and would put it out to bid in order to proceed with construction.

Frank Fowler, Principal Engineer for the County of Fresno, said that money was already set aside for the purchase of the right-of-way and that it would take approximately 10 months for the purchase to be completed. He felt the project could probably be completed by the summer of 2003.

Carolina Hogg said that water and sewer lines have already been installed in accordance with the existing City/County agreement.

Terry Perkins, Chief Petitioner, spoke in favor of the proposal and said he was encouraged by the County's progress. He felt the County's guarantee that the streets, curbs, gutters and ponding basin were going to be built, was reasonable.

Miguel Flores spoke in favor of the proposal but was concerned about being told by the County that they could not build more homes.

Commissioner Koligian said the reason the County isn't allowing more homes to be built in the area is because the water and sewer lines were at capacity.

Mr. Forde expressed his concerns over the City's ability to provide the Del Rio residents with the same level of services that the City's residents now receive. He said the City is still working towards a comfort level with the County, but they are "getting there."

Commissioner Arambula asked if the Firebaugh City Council would support the annexation if their concerns were addressed. Mr. Forde responded that they would.

Mr. Bacigalupe was concerned about the timing of the filing of the petition. He said he didn't understand why the petition was filed before the County had time to complete all of the things they said they were going to do. Mr. Bacigalupe said he would like to see most of the work done before the annexation is completed.
Commissioner Arambula pointed out that the agreement between the existing County and City is legally binding.

Mr. Bacigalupe responded that "today" it is legally binding, but would be moot if annexed. He asked if the County would amend the agreement to make it enforceable. Mr. Bacigalupe was also concerned because a large portion of the money expected to fund the improvements was through federal grants which he believed could be eliminated through factors beyond the County's control.

Based on additional testimony from representatives from the City of Firebaugh and among the Commissioners, Chairman Arambula asked that if he took of his LAFCo hat and put on his County of Fresno hat, he would look favorably upon addressing these matters of concern as presented by County staff, in the form of a separate agreement between the County of Fresno and the City of Firebaugh. He then asked Commissioner Koligian if he would also look favorably upon such an agreement wearing his County hat, and Commissioner Koligian stated he would favorably view such an approach to addressing the matters.

Commissioner Arambula asked Mr. Bacigalupe if he would support the annexation if a supplemental County/City agreement was written and Mr. Bacigalupe replied that he would and would work with the County to establish such an agreement.

The Commission unanimously approved the annexation as recommended by staff.

Consider Addition to the Agenda - Closed Session

The Commission unanimously approved the addition of a closed session agenda item to discuss Personnel matters.

Closed Session was held on this item. There was no reportable action.

Closed Session - Conference with Legal Counsel - Anticipated Litigation.

Closed Session was held on this item. There was no reportable action.

COMMENTS FROM THE PUBLIC

There were no comments from the public.

The hearing was adjourned at 2:54 p.m. A tape recording of the hearing is available at the Commission office.

Michael R. Waiczis, AICP
Executive Officer

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**Adjournment**

(M = Maker)
(S = Second)
(A = Absent)
LOCAL AGENCY FORMATION COMMISSION
OF FRESNO COUNTY (LAFCo)

MINUTES

DECEMBER 19, 2001 SPECIAL MEETING

Call to Order: Chairman Juan Arambula called the meeting to order at 1:30 p.m.

Members Present: Commissioners Juan Arambula, Larry Fortune, and Bob Waterston

Members Absent: Commissioners Victor Lopez and Commissioner Trinidad Rodriguez

Staff Present: Mike Waiczis, Executive Officer
Brian Melikian, LAFCo Counsel
Candie Fleming, Clerk to the Commission

Approval of Minutes: The minutes for the December 5, 2001 meeting were approved as written.

CONSENT AGENDA

"Minnewawa-Nees Reorganization" (RO-01-15) - Proposed reorganization consisting of annexation of approximately 160.96 acres to the City of Clovis and detachment from the Fresno County Fire protection District and the Kings River Conservation District located north of Nees Avenue between Minnewawa and Clovis Avenues.

The Commission unanimously approved the annexation as recommended by staff.

PUBLIC HEARING

Provide Direction to Staff - Recruitment for a Staff Analyst position - Staff gave its report and recommendation.

Executive Officer Waiczis reported that his previous attempts to hire a temporary staff analyst with necessary qualifications had failed. Mr. Waiczis told the Commission that an additional staff analyst was necessary to comply with additional requirements of AB 2838.

Commissioner Arambula asked staff if the recruitment for an extra-help had been successful, and if not why. He also asked why a full-time staff analyst was necessary.
Executive Officer Waiczis responded that the recruitment for an extra-help analyst did not produce any candidate that he felt could offer the Commission the expertise necessary to provide an adequate level of professional support needed to serve this agency. He said he believes that hiring a suitable individual would necessitate recruiting for a full time permanent analyst to provide efficient, timely and professional support.

The Commission unanimously approved the creation of a permanent staff analyst position and authorized the Executive Officer to carry out the recruitment and hiring of the staff analyst in FY 2001-02.


Executive Officer Waiczis, noted that Brian Melikian LAFCo Counsel, was largely responsible for preparing the report and asked Mr. Melikian to present the report.

Brian Melikian highlighted the changes that were being made to the Policies, Standards, and Procedures Manual. He explained the changes are necessary to comply with AB 2838.

The Commission unanimously approved the changes and agreed to review them further at a workshop some time after the first of the year.

The hearing was adjourned at 1:49 p.m. A tape recording of the hearing is available at the Commission office.

Michael R. Waiczis, AICP
Executive Officer
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