

**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)  
(Fresno County, California)**

**“MINUTES”**

**REGULAR LAFCo MEETING – JANUARY 13, 2010**

- Call to Order:** Chairman Victor Lopez called the meeting to order at 1:30 p.m.
- Members Present:** Commissioners Trinidad Rodriguez, Susan Anderson, Larry Fortune, Henry Perea, Victor Lopez, and Alternate Commissioner Joe Chaidez
- Members Absent:** None
- Staff Present:** Jeff Witte, LAFCo Executive Officer  
Kenneth J. Price, LAFCo Counsel  
Candie Fleming, Clerk to the Commission  
Samantha Hendricks, LAFCo Technician II

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

Chairman Lopez called for a moment of silence for his brother Miguel Lopez who passed away on Sunday.

**2. Pledge of Allegiance**

**3. Elect Chairman and Vice-Chairman for 2010 and 2011**

Trinidad Rodriguez made a motion to maintain the current organization with Commissioner Lopez as Chairman and Commissioner Anderson as Chairman Pro Tem. The motion was seconded by Commissioner Fortune and unanimously approved.

**4. Minutes from the Regular LAFCo Meeting of December 2, 2009 and Special LAFCo Meeting of December 18, 2009.**

The minutes were unanimously approved as presented.

**5. Potential Conflicts of Interest: Any Commission Member who has a potential conflict of interest may now identify the item and recues themselves from discussing and voting on the matter.**

No conflicts of interest were reported.

**6. COMMENTS FROM THE PUBLIC**

There were no comments from the public.

## **CONSENT AGENDA**

### **7. Request for a One-Year Extension to Complete Proceedings for the City of Fresno “Shields-Locan No. 3 Reorganization” (LAFCo File No. RO-07-26).**

A motion to approve the Consent Agenda was made, seconded, and unanimously approved.

Chairman Lopez introduced Jeff Witte, the new Executive Officer.

## **PUBLIC HEARING**

### **8. Payment of Annual Contribution: Failure of City of Huron to Pay FY 2009-2010 Contribution to LAFCo.**

Executive Officer Witte reported that the City had called and reported that their contribution would be made within the week. Commissioner Perea moved to continue the item to the February 3, 2010 hearing, which was unanimously approved.

### **9. Conducting Authority Proceedings: City of Orange Cove “Jacobs-South Reorganization (Del Rey Villas, LLC.)” (LAFCo File No. RO-09-3).**

Executive Officer Witte presented his report and reported that no protests had been received. A motion to re-affirm the Commission’s resolution of approval was made, seconded, and unanimously approved. Approval of the reorganization stands.

### **10. Consider Approval: City of Parlier “City of Parlier Reorganization No. 06-02” (LAFCo File No. RO-8-5).**

Special Counsel, Rueben Castillo, reported that at the last meeting held on November 4<sup>th</sup>, the Commission was not aware that CID had filed a lawsuit against the City of Parlier, and that the Commission had continued the item for 60 days. Since that time, Mr. Castillo said he was given a copy of the lawsuit, and that now, there is a clock ticking and LAFCo must act to approve or disapprove the application before March 13<sup>th</sup>. This would leave March 10<sup>th</sup> as the last possible day for LAFCo to take action at a regularly scheduled meeting. He reported that the CEQA law has removed discretion from the Commission as far as whether the Commission could approve or disapprove and that the Commission must act on the application before the 180-day period is up. Mr. Castillo said that the Commission should schedule the proposal for March 10<sup>th</sup> and be prepared to take action to either approve or disapprove the proposal.

Mr. Castillo also reported that he received a phone call from Scott Brown, Special Counsel for CID, who indicated that they have been trying to get a settlement conference date from Judge Hamilton in Fresno County, but have been unsuccessful, and so it looks like things will not be resolved before LAFCo needs to take action.

A motion to continue this item to the March 10, 2010 hearing, was made, seconded, and unanimously approved.

## **OTHER ITEMS**

### **11. City of Selma Request: Discussion on the Process of Annexing Previously Detached Parcels Back to the Consolidated Irrigation District.**

Executive Officer Witte reported that staff received a letter from the City of Selma that was included in their Commission packet, asking if the City could re-annex all the property in the City back to CID. Mr. Witte said staff invited representatives from both the City of Selma and the Consolidated Irrigation District to address the Commission by presenting their points of view.

Special Counsel, Rueben Castillo, reported that the City of Selma asked two questions. First, could Selma file an application with LAFCo to detach a portion of their property now in the City, and second can they reattach or annex that same property into CID. The answer to the first question was yes. He said they could also initiate proceedings to reattach, but there are a couple of problems in that CID would have veto power and could exercise their power by filing an application resolution to terminate the proceedings, and that if LAFCo received that resolution, then LAFCo must terminate the proceedings. If the proceedings are not asked to be terminated by CID, there would still have to be a protest hearing.

D-B Heusser, City Manager of the City of Selma, addressed the Commission. Mr. Heusser reported that the City of Selma is one of the cities that CID has been in discussions with over a cooperative agreement, which has expired. He said there has been a proposed agreement that the City does not feel will benefit the citizens of Selma, now or in the future. Mr. Heusser said they are working to propose a whole new agreement, which should be given to CID within the month. Mr. Heusser said their request before LAFCo today is what the process would be to reattach the CID lands. He said it was their opinion that having water rights and development of facilities that they can adequately provide water recharge for their developing city.

Phil Desatoff, Consolidated Irrigation District's General Manager, reported that CID is opposed to reattaching to the City of Selma because CID is an irrigation district and their water licenses mention using their water for irrigation and incidental domestic use. CID is concerned about their water license and how this would impact CID. He also said of big concern is that because part of their district goes into Kings County, and Kings County has a military base in it, provisions of the voter rights act impacts how CID has to do elections and reorganize which costs time and money. He said that even if the property was reattached, CID would keep the rights for those property owners but now they would have to go out and bill everyone which is another cost to CID. The landowners would have to pay CID a fee and if they were also getting water through CALWATER the City of Selma there would probably be another fee they would have to pay. Mr. Desatoff said that clearly his board is opposed to reattachment proposal so they would save LAFCo some time by informing the Commission that they would be exercising their veto power.

Commissioner Fortune asked for clarification of who would own the water rights and Mr. Desatoff replied that the water rights would go with the land and that CID is the guardian of the water rights and they maintain those rights for the property owners.

Commissioner Lopez asked Mr. Desatoff what the outcome was for the mediation that had taken place between CID and the five cities. Mr. Desatoff responded that the City of Selma had dropped out of the negotiations quite for some time ago. Mr. Desatoff said they developed a draft agreement for the other cities and have only heard back from the City of Kingsburg who is planning to take action on the agreement at their January 29<sup>th</sup> City Council meeting,

Mr. Desatoff said the CID Board has had meetings with the Mayor, Mayor Pro Tem, and Lou Martinez of the City of Parlier. Mr. Desatoff reported that they had promising discussions earlier in the week and felt they were moving along with the City of Parlier.

D-B Heusser said that Mr. Pauley, City Manager for the City of Kingsburg, was chosen as the cities' negotiator. He said negotiations took place and agreements were made without checking back with the cities to see if the agreement were acceptable to them until a final agreement was made with all the cities involved. Mr. Heusser said the City of Selma is in a unique position in that the California Water Services is responsible for operating their water system. Mr. Heusser said that and the City has said from the beginning that the California Water Services needed to be a part of the negotiations for the City Selma because they could not make decisions for the California Water Services. Mr. Heusser said they have had several meetings with CID to discuss various issues.

Commissioner Rodriguez called for a continuance so there is further legal research done on the issues and to give enough time for the other two parties as to whether they can reach some type of agreement and if not, let our legal counsel come back with a legal opinion.

Ruben Castillo, Special Counsel, volunteered to write up the ABC's of detachment and reattachments and make sure all the parties receive it.

Commissioner Fortune asked if CID could veto a citizens' petition for reattachment and Mr. Castillo responded that CID could only veto a City's resolution requesting reattachment.

It was a consensus of the Commission to have Special Counsel Castillo write a letter outlining the steps for reattachment.

## **12. Action Regarding LAFCo "Independence" Options.**

- (a) Consider Authorization to Enter into Amended and Restated Professional Services Agreement with the County of Fresno.**
- (b) Consider Execution of Agreement for LAFCo's Participation in the Fresno County Employee Retirement Association (FCERA).** (Continued from December 2, 2009)
- (c) Consider Fresno LAFCo Participation In CalPERS Health Insurance Program.** (Continued from December 2, 2009)

LAFCo Counsel, Ken Price, presented his report and explained the Commission's options. Mr. Price explained that Option A would allow the existing staff that are assigned to LAFCo but are employees of the County of Fresno could keep their existing employment with the County but would be supervised on a day-to-day basis by the Executive Officer. Under the Agreement, the

Executive Officer would be a LAFCo employee and all future employees hired by LAFCo would be LAFCo employees.

Commissioner Rodriguez made a motion to approve Option A that was seconded by Commissioner Anderson and unanimously approved. Items B and C were continued to a later date.

**13. Report from Ad Hoc “Executive Officer” Negotiating Committee.**

Commissioner Perea presented the Committee’s report. LAFCo Counsel, Ken Price, recommended this item be continued to March 10, 2010. The continuation was unanimously approved by the Commission.

**ADJOURNMENT**

The meeting was adjourned at 2:09 p.m.

**THE NEXT REGULAR LAFCO MEETING** will be held on March 10, 2010, at 1:30 p.m. in the Board of Supervisors' Chamber - Hall of Records, Room 301, Fresno, California.