

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

**“MINUTES”**

**REGULAR LAFCo MEETING – October 10, 2007**

**Call to Order:** Chairman Lopez called the meeting to order at 1:30 p.m.

**Members Present:** Commissioners Susan Anderson, Larry Fortune, Victor Lopez, Phil Larson, and Trinidad Rodriguez

**Members Absent:** None

**Staff Present:** Rick Ballantyne, LAFCo Executive Officer  
Darrel Schmidt, LAFCo Deputy Executive Officer  
Kenneth J. Price, LAFCo Counsel  
Candie Fleming, Clerk to the Commission  
Susan Pool, LAFCo Office Assistant II

1. **Pledge of Allegiance**
2. **Call to Order and Roll Call**
3. **Consider Approval: Minutes from the regular LAFCo Meeting of September 12, 2007.**

The minutes were unanimously approved as presented.

4. **Potential Conflicts of Interest – Commission members were asked to identify any known “conflicts of interest” and recuse themselves from discussing and voting on any agenda items where conflicts existed.**

Commissioner Larson stated he had conflicts with items # 6 and # 11.  
Commissioner Lopez stated he had conflicts with items # 5D and # 14.  
Commissioner Rodriguez stated he had conflicts with items # 6 and # 21.

A representative of the Pinedale Public Utility District requested that Commissioner Fortune recuse himself from voting on Agenda Item # 18. He indicated that Commissioner Fortune had previously expressed a negative opinion related to the District’s longevity.

Ken Price, LAFCo Counsel, asked Commissioner Fortune if he maintained any contracts or financial interests in the District and whether he could serve as an “impartial” decision maker. Commissioner Fortune stated he has no financial interests and/or contracts with the District, that he did not reside in the District, and believed that he could be impartial in any matters pertaining to the Pinedale District. He indicated that he formerly rented space to the District, but that financial relationship was terminated years ago. LAFCo Counsel advised Mr. Fortune that he was under no

obligation to recuse himself.

**CONSENT AGENDA**

5. **Request for a One-Year Extension to Complete Proceedings**
  - A. **City of Sanger “Reorganization No. 05-07”(LAFCo File No. RO-06-25).**
  - B. **City of Fresno “Kings Canyon-Minnewawa No. 3 Reorganization” (LAFCo File No. RO-06-27).**
  - C. **City of Fresno “California-Temperance No. 3 Reorganization” (LAFCo File No. RO-06-28).**
  - D. **City of Orange Cove “Jacobs-Adams Reorganization” (LAFCo File No. RO-06-29).**
  - E. **City of Fresno “Dakota-Polk No. 4 Reorganization” (LAFCo File No. RO-06-30).**
  - F. **City of Fresno “McKinley-Hayes No. 2F Reorganization” (LAFCo File No. RO-06-31).**
  - G. **City of Fresno “Shields-Polk No. 4E Reorganization” (LAFCo File No. RO-06-32).**
6. **City of Mendota “North East Bass Avenue Annexation”. (LAFCo File No. RO-07-17).**
7. **City of Fresno “Olive-Polk No. 4F Reorganization” (LAFCo file No. RO-07-20).**
8. **Municipal Service Reviews and Sphere of Influence Updates for the Hills Valley and James Irrigation Districts.**
9. **Municipal Service Review and Sphere of Influence Update for the Fresno Slough Water District.**
10. **Municipal Service Review and Sphere of Influence for the County Service Area No. 51.**
11. **County Service Area No. 51 “CSA #51 Annexation” (LAFCo File No. AD-07-1).**

A motion to approve the consent calendar with the exception of items 5D, 6, and 11, was made, seconded, and approved unanimously.

- 5D. **City of Orange Cove “Jacobs-Adams Reorganization”. (LAFCo File No. RO-06-29).**

A motion to grant a one-year extension was made, seconded, and passed with Commissioner Lopez abstaining.

**6. Consider Approval: City of Mendota “North East Bass Avenue Annexation”. (LAFCo File No. RO-07-17).**

A motion to conditionally approve the annexation was made, seconded, and passed with Commissioners Larson and Rodriguez abstaining.

**11. Consider Approval: County Service Area No. 51 “CSA #51 Annexation”. (LAFCo File No. AD-07-1).**

A motion to approve the annexation was made, seconded, and passed with Commissioner Larson abstaining.

**PUBLIC HEARINGS**

**12. Consider and Adopt Municipal Service Reviews and Sphere of Influence Updates for the Coalinga, Kingsburg, Selma, and Sierra-Kings Hospital Districts.**

LAFCo Counsel informed the Commission that his firm represents the Selma Local Health Care District, but that he did not feel that a conflict of interest existed in relationship to the MSR being prepared since there were no formal changes recommended. Bob Braitman, of Braitman and Associates, presented the MSR for each district individually.

**Coalinga Hospital District** - No public testimony was offered and a motion to affirm the current sphere was made, seconded, and passed unanimously.

**Kingsburg Hospital District** – No public testimony was offered and a motion to affirm the current sphere was made, seconded, and passed unanimously.

**Selma Health Care District** – No public testimony was offered and a motion to maintain the current sphere and direct staff to participate in discussions regarding a regional approach was made, seconded, and passed unanimously.

**Sierra-Kings Hospital District** -- No public testimony was offered and a motion to maintain the current sphere and direct staff to participate in discussions regarding a regional approach was made, seconded, and passed unanimously

**13. Municipal Service Reviews (MSRs) and Sphere of Influence (SOI) Updates for the following:**

- A. City of Clovis**
- B. City of Fresno**
- C. City of Sanger**

**City of Clovis** - Mr. Bruce O’Neal of Land Use Associates presented the City of Clovis Municipal Service Review (MSR).

Dave Fey, Clovis Deputy City Planner, spoke in favor of the MSR, as well as Mr. Alan Weaver, of Fresno County Public Works and Planning.

A motion to affirm the current sphere and direct staff to write a letter to the City of Clovis

representatives recommending that the Tarpey Village Area be annexed to the City was made, seconded, and passed unanimously.

**City of Fresno** – Bob Braitman presented the City of Fresno MSR. He stated that the City of Fresno recently completed a Sphere of Influence revision during April 2006 that encompassed 8,863 acres (“Southeast Growth Area”). The MSR also discussed possible future actions related to consideration of dissolving Pinedale County Water, Pinedale Public Utility, and the Calwa Recreation Districts and services provided by the City of Fresno.

Commissioner Larson went on record to request that Mr. Braitman investigate why nothing is being done on the West side of Fresno’s Sphere of Influence. Mr. Braitman assured Commissioner Larson that he would bring back a report on the West Side.

Don J. Adams, a resident of the Pinedale area, spoke in support of the City of Fresno taking over the Pinedale County Water District.

Neal Costanza, representing the Pinedale County Water District and Malaga County Water District expressed his concern over the suggestion of dissolving the Pinedale County Water District.

Bruce Barnes of the City of Fresno concurred with staff’s recommendations. Mr. Barnes also informed the Commission that the City is in the process of annexing nine County islands.

Paula Guzman, a resident of the Pinedale County Water District, requested that the Commission hold off on any decisions until the residents of the District had a chance to be heard and requested that any hearings be held within the Pinedale Community.

The Public hearing was then closed and a motion to approve the MSR and that future discussions with Pinedale County Water District be held in the Pinedale area so the public may have a chance to speak to the issues was made, seconded, and passed unanimously.

**City of Sanger** – Bob Braitman presented his report recommending the Cities of Sanger, Fowler, Parlier, Selma, and Kingsburg along with the County of Fresno and the Consolidated Irrigation District, work with LAFCo to mitigate groundwater issues.

With no public testimony offered, a motion to affirm the current sphere was made, seconded, and passed unanimously.

#### **14. Municipal Service Review and Sphere of Influence Update for the City of Orange Cove.**

Ken Price advised Commissioner Lopez that he did not see a need for him to recuse himself for this MSR. With that being said, Bob Braitman presented his report.

With no public testimony offered, a motion to affirm the current sphere was made, seconded, and passed unanimously.

**15. Municipal Service Review and Sphere of Influence Update for the Consolidated Irrigation District.**

LAFCo Counsel, Ken Price, stated that although his firm represents the Consolidated Irrigation District, he didn't feel it would be a conflict of interest for him to be present for the MSR item since no changes were being proposed to the District.

Bob Braitman Presented the MSR report to the Commission. Commissioner Lopez opened the public hearing for testimony.

Mark Gilkey, of the Consolidated Irrigation District, stated that he is satisfied with the MSR as presented.

Don Pauley, Kingsburg City Manager, informed the Commission that he had been selected to represent the five cities located within the District. He indicated that discussions regarding regional groundwater issues were in progress. The City of Kingsburg had also approved a waiver of Conflict of Interest for Mike Noland (Kingsburg's attorney) to participate freely in discussions concerning such issues.

The public hearing was then closed and a motion to approve the MSR was made, seconded and passed unanimously.

**16. Municipal Service Review and Sphere of Influence Update for County Waterworks District No. 42.**

Daniel Hamilton of Pacific Municipal Consultants (PMC) presented the MSR prepared for County Waterworks District No. 42 to the Commission. Commissioner Lopez opened the public hearing.

Kevin Olsen, a resident of the District, expressed concern over County and LAFCo staff comments contained within the MSR that recommended consideration of possible dissolution of the District.

Phil Jones commented that the District is operating well and should not be changed.

Commissioner Anderson suggested that the City of Clovis and Waterworks District No. 42 should come to an agreement and that the District would need to agree to any changes.

A motion to approve the MSR and staff's recommendations was made, seconded, and passed unanimously.

**17. Municipal Service Reviews and Sphere of Influence Updates for the following:**

- A. Malaga County Water District**
- B. Pinedale County Water District**

**Malaga County Water District** – Daniel Hamilton of PMC gave his report to the Commission. With no public testimony offered, the public hearing was closed. A motion to approve the MSR and SOI Update and to acknowledge all testimony

previously offered by Neal Costanza within the City of Fresno's MSR was made, seconded and passed unanimously.

**Pinedale County Water District** – Daniel Hamilton presented the Pinedale County Water District MSR and noted a recommendation that the City of Fresno and the Pinedale County Water District enter into discussions concerning possible dissolution of the District and transfer of assets to the City. Commissioners inquired what the rate difference was between the District and the City of Fresno. Mr. Hamilton noted that the fees the District charges were contained within the MSR.

Frank Blake, representing the City of Fresno's Finance Department, informed the Commission that the rates are set by the City Council and requested the Commission to support recommendations E and F of staff's report.

David Rodriguez of Pinedale County Water District noted that at a previous LAFCo meeting, a representative from the City of Fresno had stated that the City had no desire of taking over the Pinedale County Water District. He also indicated support of the idea of holding future meetings within Pinedale so that residents could have an opportunity of participating.

Don Adams, and area resident, stated that the residents should be given a list showing the comparison between the District's rates and the City of Fresno's rates and that it should then go to election.

Bruce Barnes representing the City of Fresno Planning and Development Department, noted that if two of the County islands that are presently located within the District are annexed as anticipated under the City's Annexation Program, that these areas would then be served with community water and sewer services by the City instead of the District.

The public hearing was then closed and a motion to approve the MSR, reaffirm the current SOI, and acknowledge all testimony previously offered by Neal Costanza within the City of Fresno's MSR was made, seconded, and passed unanimously.

#### **18. Municipal Service Review and Sphere of Influence Update for the Pinedale Public Utility District.**

Daniel Hamilton of PMC presented the MSR report. He noted that the City of Fresno had recommended that all services currently provided by the District that were located outside the District's current SOI should be transferred to the City of Fresno. Similar to the Pinedale County Water District MSR, it was recommended that a joint investigation be made and discussions held between the residents, District, the City of Fresno, and LAFCo. The public hearing was then opened.

Truman Campbell, Counsel for the District, testified against dissolution of the District. He, however, did not oppose discussions with residents, the City, and LAFCo staff.

The public hearing was then closed and a motion to approve the MSR was made, seconded, and passed unanimously.

**19. Conducting Authority Proceedings: City of Selma “Highland-Rose-Bratton 1 Reorganization” (LAFCo File No. RO-07-15).**

Executive Officer Ballantyne presented staff’s report. He stated that the reason for the protest hearing was because not all property owners had consented in writing to the annexation. Chairman Lopez then opened the public hearing. No public testimony was offered and the hearing was closed.

A motion to reaffirm the Commission’s prior approval of July 11, 2007, was made, seconded, and passed unanimously.

**20. Conducting Authority Proceedings: City of Fresno “Dakota-Cornelia No. 2 Reorganization” (LAFCo File No. RO-07-7).**

Executive Officer Ballantyne presented staff’s report informing the Commission that staff received protest forms from 25 of the 31 registered voters in the affected territory. Executive Officer Ballantyne determined valid protests as confirmed by the Fresno County Registrar of Voters being equal to 75.5% of the total registered voters residing within the affected territory. Mr. Ballantyne indicated that such protest resulted in the proceedings being terminated. The public hearing was then opened. With no additional protests being offered or no protests being retracted, it was determined that the proceedings were terminated.

Michael Govinetti, a resident of the affected territory thanked the Commission for the opportunity to be heard.

**21. Conducting Authority Proceedings: City of Kerman “Northeast Kerman Annexation” (LAFCo File No. RO-07-16).**

Ken Price, LAFCo Counsel, advised the Commission that while Commissioner Rodriguez served as the Mayor of Kerman, a protest hearing was a “ministerial” act and that he did not need to recuse himself.

Executive Officer Ballantyne presented staff’s report. He stated that the reason for the protest hearing was because not all property owners had consented in writing to the annexation. The public hearing was then opened.

The project developer (Mitch Covington) and Kerman’s City Manager (Ron Manfredi) testified that they were available for questions.

A motion to reaffirm the Commission’s prior approval of July 11, 2007, was made, seconded, and passed unanimously.

**22. City of Clovis “Bullard-DeWolf Southwest Reorganization” (LAFCo File No. RO-07-11).**

Executive Officer Ballantyne presented staff’s report. He stated the reason for the public hearing was because not all property owners had consented in writing to the annexation. The public hearing was then opened.

Dave Fey of the City of Clovis spoke in support of the staff reports findings and

recommendations. He made himself available to the Commissioner questions. With no further public testimony, the public hearing was closed. A motion to approve the reorganization and set the protest hearing for December 5, 2007 was made, seconded, and passed unanimously.

### **OTHER ITEMS:**

#### **23. City of Fresno Municipal Water District Formation Update.**

Bob Braitman informed the Commission of the ongoing efforts and progress being made on the application for a municipal water district in the City of Fresno. The application is expected to be submitted to LAFCo in the Spring of 2008.

Robert Anderson representing the City of Fresno Public Utilities Department stated that the District would be formed by a vote of the people and that if passed, the District would contract for services with the City.

Commissioner Anderson expressed concern related to any potential perception that could result related to LAFCo's consultant's (Bob Braitman) relationship to the City of Fresno's application and potential recommendation related to a future District formation. Mr. Braitman responded that his duties were strictly related to making sure that when the application is submitted, that it would be deemed complete. His position was not that of crafting the proposal—but to insure that the state and local processes were being followed.

Alex Goya, Union Representative of the City Employee Association, spoke against the formation of a municipal water district and had concerns over LAFCo's consultant, Bob Braitman, assisting the City of Fresno in preparing the application.

Executive Officer Ballantyne assured the Commission that Mr. Braitman was conducting himself professionally and was strictly serving LAFCo in the capacity of informing the City of Fresno as to what was required by LAFCo in order to submit for a complete application that would meet State and LAFCo guidelines.

Mr. Braitman stated that he was only representing the Fresno LAFCo Commission and had no opinion on the application being submitted other than it meeting LAFCo's guidelines.

LAFCo Counsel Ken Price informed the Commission that it is within the Commission's purview to request and obtain fees for consulting services and since he is the one who drew up the contract between Mr. Braitman and the Commission, he was satisfied that Mr. Braitman's duties are to the Commission.

#### **24. Increase Contract Fee with Bob Braitman to Finalize Consultant Services to Fresno LAFCo Regarding Evaluation of City of Fresno Municipal Water District.**

A motion to approve the request was made, seconded, and passed unanimously.

### **LAFCo Counsel's Reports:**

**25. Retention of Ms. Nancy Miller of Miller, Trost & Owen of Sacramento as Special Counsel to LAFCo to Facilitate a Resolution of Groundwater Mitigation Dispute and Related Issues Between Consolidated Irrigation District and the Cities of Fowler, Kingsburg, Parlier, Sanger and Selma.**

LAFCo Counsel Ken Price reported that because his firm represents the Consolidated Irrigation District, that he would recommend the Commission formerly retain Ms. Nancy Miller by execution of an engagement letter.

A motion to have Chairman Lopez execute an engagement letter was made, seconded, and passed unanimously.

**26. Consent to Conflict of Interest Waiver for Baker Manock & Jensen and Kahn, Soares & Conway for Kenneth Price and Michael Noland, Respectively, to Assist in the Facilitation of Resolution of Groundwater Mitigation Dispute and Related Issues Between Consolidated Irrigation District and the Cities of Fowler, Kingsburg, Parlier, Sanger and Selma.**

LAFCo Counsel Ken Price reported on the purpose of the "Conflict of Interest" waiver. A motion to execute the "Conflict of Interest" waiver was made, seconded, and passed unanimously.

**27. Revision of all Applications to LAFCo to Include Mandatory Legal Indemnity of LAFCo.**

LAFCo Counsel Ken Price reported that indemnity agreements had previously been reserved for controversial items, but now believes all applicants should indemnify the Commission at the time they submit an application to LAFCo. A motion to approve the requirement of mandatory "Legal Indemnity Agreements" at the time of application filing for all Fresno LAFCo applications was made, seconded and passed unanimously.

**28. Revision of all Applications to LAFCo to Include Disclosure of Gifts, Contributions, and Honoraria by Applicants to Commissioners.**

LAFCo Counsel Ken Price reported that LAFCo wants to have applicants disclose any Gifts, Contributions, and Honoraria given to the Commission at the time applications are submitted. Commissioner Fortune suggested adding to the disclosure "Do you have any business relationships with any of LAFCo's Commissioners"?

A motion to approve was made, seconded, and passed unanimously.

### **COMMENTS FROM THE PUBLIC**

There was no public comment.

### **ADJOURNMENT**

A motion for adjournment was made, seconded and passed unanimously

**THE NEXT LAFCO MEETING** will be held on November 7, 2007, at 1:30 p.m. in the Board of Supervisors' Chamber - Hall of Records, Room 301, Fresno, California

