

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

**REGULAR LAFCo MEETING – DECEMBER 2, 2009**

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

**Members Present:** Commissioners Susan Anderson, Larry Fortune, Henry Perea, Victor Lopez, and Alternate Commissioner Lujan

**Members Absent:** Commissioner Rodriguez

**Staff Present:** Rick Ballantyne, 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**
2. **Pledge of Allegiance**
3. **Minutes from the Regular LAFCo Meeting of November 4, 2009.**

The minutes were approved as presented.

4. **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.**

Commissioner Lopez inquired whether a potential conflict of interest would exist should he desire to vote on Agenda Item No. 9 that would permit a one-year extension of time for an approved Orange Cove reorganization. LAFCo Counsel Ken Price advised that there did not appear to be a conflict of interest that would prohibit Commissioner Lopez from voting on this matter.

5. **COMMENTS FROM THE PUBLIC**

There were no comments from the public.

**CONSENT AGENDA**

6. **Consider Approval: Fresno LAFCo Transitional Audit Proposal.**

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

## **PUBLIC HEARING**

### **7. Request for a One-Year Extension to Complete Proceedings for the City of Reedley “Frankwood-Floral Reorganization, Annexation #2004-6” (LAFCo File No. RO-05-32).**

Executive Officer Ballantyne presented staff’s report. Commissioner Anderson asked whether there was a limit as to the number of times a proposal could be extended. Mr. Ballantyne responded that there was no maximum. He reported that the City stated that the applicant was working with them towards completing the final map requirements.

Commissioner Lujan asked whether an easier process existed for allowing cities to be granted extensions. Executive Officer Ballantyne responded by explaining that LAFCo’s policies were recently amended to allow for “economic hardships” to be considered as justification in support of an extension. He also indicated that LAFCo policies were recently amended that provided that the first two extensions of time would be placed on the Commission’s Consent Agenda.

David Brletic representing the City of Reedley concurred with the staff report and recommendation. A motion to approve the extension was made, seconded, and unanimously approved.

### **8. City of Clovis “Nees-Sunnyside Southeast Reorganization” (LAFCo File No. RO-06-38).**

Executive Officer Ballantyne presented staff’s report and summarized the Commission’s Resolution of Approval. He said that the request for the extension of time came from project developer—Gary McDonald. Mr. McDonald stated that the request was due to economic hardships and conditions that existed within the City of Clovis. Mr. Ballantyne reported that substantial work had been accomplished towards completion in that the City had approved a tentative tract map, that homes on the site were moved, that the site had been graded, and that the right-of-way requirements for Sunnyside and Nees Avenues had been complied with. He also reported that the City of Clovis supported the one-year extension.

Commissioner Anderson inquired whether taking an action upon an extension of time request would constitute a conflict of interest. Ken Price responded that such requests were not considered “ministerial” decisions but were “discretionary” so that conflicts of interest would apply. Commissioner Anderson then reported that she had a conflict of interest with this item and that she would abstain.

A motion to approve the extension was unanimously approved with Commissioner Anderson abstaining.

### **9. City of Orange Cove “Jacobs-Benjamin Reorganization” (LAFCo File No. RO-06-39).**

With regards to Commissioner Lopez’ earlier question to Ken Price regarding whether he had a conflict of interest on this item, Ken Price inquired whether the Commissioner had a financial interest or any other interest in this proposal other than that of being the Mayor of the City of Orange Cove. Commissioner Lopez responded that he did not. Based upon this response, Counsel Price advised that there would be no conflict and that Commissioner Lopez could participate.

Executive Officer Ballantyne presented staff's report and summarized the Resolution of Approval. He said that the Orange Cove City Planner reported that there had been no major land use changes within the vicinity of the project that would affect the suitability for an annexation. Mr. Ballantyne reported that the City's representative and the developer had both indicated that adverse economic/housing market conditions served as justification for allowing an extension. A motion to approve the extension was made, seconded, and unanimously approved.

## **CLOSED SESSION**

### **10. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION. Subdivision (a) of Section 54956.9: *City of Fresno v. Fresno Local Agency Formation Commission***

Ken Price reported that it would not be necessary to hold a closed session at this time.

## **OTHER ITEMS**

### **11. LAFCo Independence: Information Concerning LAFCo Independence.**

Executive Officer Ballantyne reported that no action on this item was necessary since Agenda Item No's 12 and 13 provided and update on LAFCo Independence. The Commission concurred with staff and moved to Item No. 12.

### **12. Consider Execution of Agreement For LAFCo's Participation in the Fresno County Employee Retirement System (FCERA).**

LAFCo Counsel, Ken Price, presented an agreement that would allow LAFCo employees membership within the Fresno County Employees Retirement Association (FCERA). Counsel Price reported that the Commission had requested that the agreement allow future LAFCo employees to participate in FCERA at a level other than Tier 1. Mr. Price felt that LAFCo could do that—but not entirely without risk.

LAFCo Counsel Price reported that the agreement did not address the issue pertaining to an administrative fee. He did indicate that FCERA may charge such fee in the future (similar as for special districts). Mr. Price reported that the agreement provided that LAFCo would not automatically become a member on January 11, 2010, as had been originally expected. The agreement provided that LAFCo employees would become members after the agreement was fully executed. The agreement does, however, stipulate that May 31, 2010, had been established as the deadline.

Executive Officer Ballantyne reported that he had attended FCERA's Board meeting that morning where they did consider this item and took action to tentatively approve it. Roberto Pena, FCERA Administrator, reported that the FCERA Board considered and accepted the language of the draft agreement. His Board requested that LAFCo approve the agreement prior to his Board taking its final action.

Commissioner Anderson asked if there would be an increase in cost either to the employees or to the agency. Roberto Pena said that he did not anticipate any increase in costs for years to come because FCERA issues one report a year which is the same employer rate for all the agencies participating in FCERA (i.e. the County and all Special Districts).

Commissioner Perea offered comments. He again restated his concerns with respect to not having future employees of LAFCo being part of the County's retirement system. He said the County made a decision last year to reduce 700 positions over the next year and to negotiate lower retirement tiers for new employees. He said the County is trying to reduce its liability to funding the retirement system so that the County can insure that funds will be available for all retirees. He also said that LAFCo should initiate a 401-K or private sector type plan for future employees.

Commissioner Fortune agreed with Commissioner Perea and that LAFCo should begin transitioning out of the current retirement system with the hiring of its new executive officer. Roberto Pena, representing FCERA, stated that their counsel's position was that if LAFCo joins FCERA that all LAFCo employees would become members of the plan. Mr. Pena indicated that LAFCo could offer different tiers to new employees.

Commissioner Perea indicated that if LAFCo chooses not to join FCERA that the two employees that are currently County employees could remain within the system as County employees. Roberto Pena responded that it was his understanding that if LAFCo became an independent employer that the two employees would no longer be County employees. Ken Price responded that it was his understanding that once LAFCo becomes an independent employer, LAFCo could in theory still have a contract to obtain employment services from the County of Fresno.

Mr. Price said that they had looked into the concept where LAFCo would employ their own Executive Officer who would in turn supervise County employees. He said it was his understanding that either all the employees would be in or all the employees would be out. Commissioner Perea said he was adamant that future LAFCo employees should not be in the County's retirement system.

Roberto Pena reported that if a new employee is 60 years old or older, that said employee could opt not to be a member of the retirement system. Ken Price suggested obtaining a new opinion from the Fresno County Counsel regarding whether it might be possible for the Commission to hire its own Executive Officer to supervise County employees.

Commissioner Anderson said that she has been opposed to LAFCo becoming independent all along, because of her concern for higher costs. She said her real concern was over the health insurance issue which would increase the cost to LAFCo. Commissioner Perea made a motion to continue the item to the next meeting and asked Counsel to sit down and meet with County Counsel. The motion was seconded by Commissioner Fortune and was approved with Commissioner Lujan voting no.

### **13. Consider Fresno LAFCo Participation In CALPERS Health Insurance Program.**

Executive Officer Ballantyne reported that he had been advised by Counsel that this item should be continued. Counsel Ken Price reported that he had reviewed documents received from CalPERS, which is a standardized document that contemplated Fresno LAFCo becoming a member of the Fresno County Employees Retirement Association. However, at this point LAFCo had not yet joined the retirement system. He said there are some statutory requirements with respect to an Actuarial Study that needed to take place according to CalPERS. Mr. Price felt those two items could be addressed by the next meeting and recommended the item be continued.

Commissioner Perea said he would like to see options from the private sector and that health insurance doesn't have to be a government-related option.

Executive Officer Ballantyne reported that because of the small size of the agency it would be more favorable to go under a larger umbrella, but staff could look further into the options and report back.

Commissioner Anderson made a motion to continue the item to the January 13<sup>th</sup> meeting. Commissioner Perea seconded the motion which was approved on a 3 to 2 vote with Commissioners Lujan and Lopez voting no.

**14. Retirement Ceremony for Rick Ballantyne, Fresno LAFCo Executive Officer.**

Chairman Lopez presented a plaque on behalf of the Commission to Rick Ballantyne for his outstanding service and leadership as Executive Officer.

Commissioner Fortune read a proclamation received from Bob Braitman, Executive Officer of Santa Barbara County LAFCo declaring the "Rick Ballantyne detachment from LAFCo".

Chairman Lopez also presented a plaque of appreciation on behalf of the Orange Cove City Council and its citizens.

Following numerous comments from the public expressing their appreciation and congratulations, the meeting was adjourned and was followed by a reception held at the Downtown Club.

**ADJOURNMENT**

The meeting was adjourned at 2:45 p.m.

**THE NEXT REGULAR LAFCO MEETING** will be held on January 13, 2010, at 1:30 p.m. in the Board of Supervisors' Chamber - Hall of Records, Room 301, Fresno, California.