

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

(Fresno County, California)

“MINUTES”

REGULAR LAFCo MEETING –MARCH 11, 2009

Call to Order: Chairman Lopez called the meeting to order at 1:35 p.m.

Members Present: Commissioners Susan Anderson, Larry Fortune, Victor Lopez, Henry Perea 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. **Call to Order and Roll Call**
2. **Pledge of Allegiance**
3. **Minutes from the regular LAFCo Meeting of February 4, 2009.**

The minutes were unanimously approved as presented.

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

There were no conflicts of interest noted.

5. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9:
Number of Cases: 1**

Note: The Commission at the request of staff moved this item to follow Agenda Item # 8

CONSENT AGENDA

6. **Destruction of Fresno LAFCo Public Records**

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

PUBLIC HEARINGS

7. Fresno LAFCo Policies and Procedures Related to Extension of Time Requirements – Informational Item.

Deputy Executive Officer Darrel Schmidt presented staff's report. He explained that State law gives the Commission flexibility in determining what constitutes "just cause" for a time extension. If the Commission considered economic hardships as constituting a "just cause" for allowing time extensions, the Commission should direct staff to amend its policies.

Chairman Lopez indicated support for an amendment that would allow economic hardships to be considered as just cause for allowing time extensions. Commissioner Fortune also indicated his support and further that two one-year extensions should be permitted as long as the annual extension fee of \$500.00 is paid and accompanied by a letter from the annexing city stipulating that the project is still viable. Commissioner Fortune felt that the first two extensions could be considered routine and placed on the Commission's Consent Agenda. A third time extension should be subject to review by the Commission. Chairman Lopez then opened the public hearing.

Bob Dillon of Gary McDonald Homes, Michael Prandini of the Building Industry Association, Jeff Roberts of Granville Homes, and David Brletic of the City of Reedley, all spoke in support of "economic hardship(s)" as justification for extensions of time.

Commissioner Anderson supported the idea of a one-year automatic extension, but indicated that a substantial change in Commission policies was not warranted since the current economic downturn should only be considered temporary in nature.

Commissioner Rodriguez supported Commissioner Fortune's point that two one-year extensions should be considered normal and considered as Consent Agenda items.

After some further discussion, it was recommended that staff report back on how other LAFCos are handling extension requests and recommend appropriate changes to Commission Policies and Procedures.

This was an informational item only. No action was required.

8. Request for a One-Year Extension to Complete Proceedings for the City of Reedley "Reed-Beechwood Reorganization, Annexation 2005-1" (LAFCo File No. RO-07-6).

Deputy Executive Officer Schmidt presented the staff report. He indicated that the extension of time request was being justified based upon "economic hardships" and that little progress towards recordation had been made. Chairman Lopez then opened the public hearing.

David Brletic, representing the City of Reedley, supported the request and answered Commissioner questions. Commissioner Perea questioned the basis for the request. Mr. Brletic responded that there was no demand for the planned development at this time; however, the proposal still remained consistent with the City of Reedley's Land Use Plan.

With no further public comment the public hearing was then closed. A motion to approve the extension was made, seconded, and passed unanimously.

**5. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) of Section
54956.9:
Number of Cases: 1**

LAFCo Counsel Ken Price explained that an additional item had come to his attention after the posting of the agenda. A motion to add the item to be discussed in closed session was made, seconded, and passed unanimously. The Commission adjourned into closed session.

There was no reportable action from the closed session.

9. City of Fresno “Belmont-Sunnyside No. 3 Reorganization” (Island Annexation). (LAFCo File No. RO-08-14) (Continued from the February 5, 2009 Hearing.)

Executive Officer Rick Ballantyne reported that this item was continued from February’s hearing so that City and County of Fresno staff, Dr. Jay Slaven representing the Homeowners’ Association, and LAFCo staff could meet to discuss neighbors’ concerns related to annexing this County Island. Representatives met at the LAFCo Office on February 13, 2009, where several issues were addressed. Executive Officer Ballantyne reported that if the Commission determined that the criteria specified within the State law could be met, the Commission would be required to approve the application and waive Conducting Authority Proceedings.

Chairman Lopez then opened the public hearing. With no public testimony offered the public hearing was closed. Commissioner Anderson then asked LAFCo Counsel what “substantially developed” or “developing” meant as per the State law criteria. LAFCo Counsel Price responded that it meant that substantial improvements, construction, or development had taken place within the Island. He indicated that such was the case in this proposal.

Commissioner Anderson expressed displeasure with the Island Annexation law since it removed discretion from the Commission—but that all eight findings listed in the State law could be met. A motion to approve was made, seconded, and passed unanimously.

10. City of Fresno “Sphere of Influence Revision” (LAFCo File No. RSOI-152).

LAFCo Counsel Price advised the Commission that staff would not be presenting this item due to concerns regarding the California Environmental Quality Act (CEQA) whereby LAFCo had not been given an opportunity to comment on the proposal at the time that the Initial Study was circulated for comments and that this situation needed to be reviewed prior to Commission action. Chairman Lopez then opened the public hearing.

Tom Lang of the Aquarius Aquarium questioned if all Environmental documents were required to be routed through LAFCo for comments. Commissioner Fortune explained that LAFCo is referred to as a “Responsible” Agency and LAFCo’s decision is based on the City’s prepared documents. With no other public testimony, a motion to continue this item to the April 15, 2009 hearing was made, seconded, and passed unanimously.

11. Aquarius Aquarium “Extension of Municipal Services” (LAFCo File No. OS-09-1).

Because this item was dependant on the Fresno SOI revision, a motion to continue this item to the April 15, 2009 hearing was also made, seconded, and passed unanimously.

OTHER ITEMS:

12. Fresno LAFCo’s Preliminary Budget for Fiscal Year 2009-2010.

Executive Officer Ballantyne reviewed the Preliminary Budget for the Commission noting that both proposed revenues and expenditures were less than contained within the current budget. Due to the Commission’s staffing concerns, an alternative budget that further reduced expenses and the level of City and County contributions was also prepared but was not recommended.

Chairman Lopez then opened the public hearing. Commissioner Anderson pointed out that some of the calculations shown on Exhibit 4 were not correct and needed to be revised. In addition, she suggested that the Cities and County be notified that higher contribution rates may be required for the FY 2010-2011, LAFCo Budget—especially if the economy continues to slump. It was also recommended that Mike Noland’s name not be listed as LAFCo Special Counsel in case he was not available to fill this position. A motion to approve the FY 2009-2010, Preliminary Budget was made, seconded, and passed unanimously.

COMMENTS FROM THE PUBLIC

No public comments were offered.

ADJOURNMENT

THE NEXT LAFCO MEETING will be held on April 15, 2009, at 1:30 p.m. in the Board of Supervisors’ Chamber - Hall of Records, Room 301, Fresno, California.