

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

(Fresno County, California)

“MINUTES”

REGULAR LAFCo MEETING – March 14, 2007

1. Call to order: Chairman Waterston called the meeting to order at 1:33 p.m.

Members Present: Commissioners Susan Anderson, Larry Fortune, Trinidad Rodriguez, Bob Waterston, and Alternate Commissioner Joe Chaidez.

Members Absent: Commissioner Victor Lopez

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

2. Pledge of Allegiance

Commissioner Waterston asked for a moment of silence for Commissioner Lopez whose brother passed away.

3. Minutes from the regular LAFCo meeting of February 7, 2007

The minutes were unanimously approved as presented

CONSENT AGENDA

4. A. City of Fowler, “Fowler-Adams No. 1 Reorganization”. (LAFCo File No. RO-06-13).

B. City of Sanger “Reorganization No. 05-05 (Church-Quality Southeast) Reorganization”. (LAFCo File No. RO-06-14).

Agenda Items 4A and 4B were unanimously approved

LAFCo Counsel Kenneth Price informed the Commission that since the posting of the agenda, an issue came to his attention that he believed necessitated a closed session of the Commission under Government Code Section 54956.9 due to “anticipated litigation.”

He requested that the Commissioners find that there was a need for immediate action and that this need came to the attention of the Commission after the posting of the agenda. Commissioner Anderson made a motion to go into closed session based upon Counsel's representations. The motion was seconded by Commissioner Rodriguez.

The Commission resumed open session at 1:48 PM. Chairman Waterston reported that there was no reportable action.

PUBLIC HEARINGS

5. City of Orange Cove “Jacobs-South Reorganization (Valle Del Rey)” (LAFCo File No. RO-07-3).

Executive Officer Ballantyne presented staff’s report. He indicated that the State Department of Health Services reported concern related to the adequacy of the City’s water supply and treatment capacity to meet the maximum day demand requirements.

The Department also reported that the City was in the early stages of designing and expanding its surface water treatment plant to provide additional capacity, but such efforts constituted a multi-year process. Staff reported that if the City is not able to document such capacity, the Commission can not record a Certificate of Completion for the proposed reorganization.

Executive Officer Ballantyne also noted that the reorganization contained two agricultural parcels that were currently under Agricultural Land Conservation Contract. He indicated that both contracts were protested in the early 1970’s and both protests were upheld by the City, County and/or LAFCo.

Mr. Ballantyne reported that the Department of Conservation had stated that the protests were invalid since they failed to specifically identify the subject parcels as explicitly required by Government Code §51243.5(f). LAFCo Counsel, however, had indicated that circumstances and conditions did exist that provided constructive public knowledge of the protests when they were approved and that the Commission could take action to recognize said protests as meeting legal requirements. Counsel did recommend, however, that the City indemnify LAFCo.

Commissioner Waterston opened the public hearing. No one offered testimony. A motion for approval was made, seconded and passed unanimously.

6. City of Sanger “Annexation 05-06 (Indianola-California Northeast)” Reorganization (LAFCo File No. RO-06-40).

Executive Officer Ballantyne presented staff’s report. He indicated that this Proposal had been continued from the Commission’s January 10th meeting at the request of the City of Sanger in order to pre-zone the entire affected territory. He also reported that the Fresno Irrigation District (FID) had not been notified by the City of Sanger during the environmental review process conducted by the City since it was believed by the City that the affected territory was located within the boundaries of the Consolidated Irrigation District rather than FID.

LAFCo Counsel was concerned that the City of Sanger’s Environmental Review process did not comply with CEQA. Fresno Irrigation District was notified by LAFCo and FID did make recommendations that were necessary to mitigate potential impacts to the District’s facilities, etc. Said conditions were recommended as conditions of approval to mitigate concerns related to the entitlement permit process as well as the environmental review process.

Executive Officer Ballantyne informed the Commission that a portion of the affected territory was subject to a Williamson Act Contract. He stated that while the contract had been protested by the City in the 1970s, that the Department of Conservation, similar to the Orange Cove project, stated that the protest were invalid. Again, LAFCo Counsel

reported that the City's protest was in order, but recommended an agreement be required of City of Sanger to indemnify LAFCo against any potential legal actions, etc.

Staff also reported that LAFCo was recently made aware of an on-going legal action brought against the City of Sanger that challenged the Environmental Documents prepared by the City. The legal action had been brought against the City of Sanger by the Miller-Clark Landscape & Nursery Company—property owners residing within the affected territory. Counsel recommended that the required indemnification agreement also indemnify the Commission in regards to this lawsuit.

Commissioner Waterston opened the item to the public for comment. Commissioner Anderson inquired why the City didn't notify LAFCo about the pending lawsuit.

Mr. Jason Rickards, the developer's representative, informed the Commission that he was unaware of why LAFCo wasn't notified and added that the judge in the lawsuit should have a decision in the next thirty days. Mr. Rickards also concurred with the revised condition suggested by the County of Fresno.

Bruce O'Neal, representing the City of Sanger was requested to comment upon the pending lawsuit and why LAFCo was not notified. Mr. O'Neal stated that he gave verbal notice to Executive Officer Ballantyne. Commissioners Waterston and Anderson were upset by this situation and informed Mr. O'Neal that when proper notice is not given, it puts LAFCo in a bad situation as well as being named in the lawsuit. Mr. O'Neal apologized to the Commission.

Commissioner Waterston closed the public hearing and made a motion to deny the proposed annexation with no second. LAFCO Counsel, Kenneth Price, laid out the Commission's legal options on how they could proceed.

Commissioner Anderson made a motion for approval with conditions including the indemnification agreement to address all Commission concerns. The motion was seconded and passed with Commissioner Waterston opposing.

7. City of Clovis "Nees-Armstrong Southwest Reorganization". (LAFCo File No. RO-07-1).

Executive Officer Ballantyne presented staff's report. He reported that the public notice was sent to all property owners and registered voters residing within the affected territory. The public notice was prepared in accordance with State law in such manner as to be able to waive a protest hearing if no protests were received by the Commission prior to the end of their meeting.

Commissioner Waterston inquired of Executive Officer Ballantyne if all neighbors were notified about this proposal. Executive Officer Ballantyne affirmed that all property owners residing within the affected territory and those living within 300 feet outside the outer boundaries of the territory were sent official public notice. He added that only one phone call had been received and that was from a individual living outside the affected territory.

Commissioner Waterston reported that he met with a group of people and they did not want to be annexed into the City and were very upset. Commissioner Waterston then opened the public hearing.

Ryan Burnett representing the City of Clovis spoke in favor of the Proposal. Commissioner Waterston indicated amazement that no one was there to speak against the Proposal. Mr. Burnett explained that the City staff had met with the residents and had answered their questions and alleviated concerns. He also noted that people who were against this proposal resided outside the area rather than within the affected territory.

The public hearing was closed. A motion to approve with conditions and waive the protest hearing was made, seconded, and passed unanimously.

8. City of Fresno “Shields-Armstrong No. 3 Reorganization”. (LAFCo File No. RO-07-2).

Executive Officer Ballantyne presented staff’s report indicating that the Proposal was set for public hearing because not all property owners had consented in writing to the reorganization. Commissioner Waterston then opened the public hearing. With no public comment, a motion for approval was made, seconded and passed unanimously with the protest hearing set for May 16, 2007.

9. City of Reedley “Reed-Beechwood Reorganization, Annexation 2005-1”. (LAFCo File No. RO-07-6).

Executive Officer Ballantyne presented this item and reported that the application was set for public hearing because not all property owners had consented in writing to the annexation. Commissioner Waterston then opened the public hearing.

Dianne Guzman, Reedley Community Development Director, spoke in favor of the proposal and answered Commission questions. With no other public testimony, the public hearing was closed.

A motion for approval was made, seconded and passed unanimously with the protest hearing set for May 16th, 2007.

10. Fresno LAFCo’s Preliminary Budget for the 2007-2008 Fiscal Year.

Executive Officer Ballantyne reviewed the Preliminary LAFCo Budget. He reported that overall expenditures for 2007-2008 would be less than the current year resulting in a larger than expected year-end balance as well as a reduction in the County and City contributions necessary to fund LAFCo operations for the next fiscal year.

Mr. Ballantyne reviewed the major changes proposed in the new budget. After surveying State of California LAFCO Commissioner stipends, Executive Officer Ballantyne reported that Fresno LAFCo Commissioner per diem stipends were low by State standards and recommended that they be increased from \$50.00 per meeting to \$75.00. Even given this increase, Executive Officer Ballantyne reported that a majority of the State LAFCOs provided a per diem stipend of \$100.00 per meeting per Commission member.

Commissioner Waterston opened the item to the public. With no public comment offered, a motion to raise Commissioner per diem payments to \$75.00 a meeting was made and a motion to approve the Preliminary Budget was made, seconded and passed unanimously.

11. Executive Officer's Report:

Executive Officer Ballantyne inquired as to Commissioner desires related to "paperless" reports and other documents. He reported that Fresno LAFCo has the ability to scan required documents (i.e. voluminous environmental studies, etc.) and have them posted on the new Fresno LAFCo website that the County of Fresno has been helping to create. Samantha Hendricks, LAFCo Technician, would serve as the LAFCo "web master". The Commission indicated support of such concept and directed staff to continue to work on this idea.

12. Deputy Executive Officer's Report:

Deputy Executive Officer Darrel Schmidt updated Commissioners on LAFCo's Municipal Service Review (MSR) and Sphere Of Influence (SOI) Programs. He noted that five cities and thirty-six special districts have yet to submit requested information and that efforts would continue to acquire all necessary information.

Mr. Schmidt invited Commissioners to attend Fresno LAFCo's *SOI Update Workshop* to take place on May 30th, 2007. The workshop will review the "SOI Update Process" and is intended to educate city and special district representatives about growth issues and how they can participate in addressing important growth issues.

Commissioner Anderson inquired whether the Fire District MSRs would be available soon for review. Deputy Executive Officer Schmidt anticipated that the fire district reports would be available before the Commission's July 11th meeting.

13. LAFCo Counsel's Report:

LAFCo Counsel, Kenneth Price, gave an update on Fresno LAFCo Independence. He indicated that health care coverage remained a major issue. He reported that in order for LAFCo employees to participate in Fresno COG's Health Insurance Program, that LAFCo employees would be required to maintain COG Employee Identification Numbers—thus making them COG employees which is not possible.

Also, after further investigation it was determined that health insurance from the Special District Risk Management Association (SDRMA) would result in increased health insurance costs approximating an additional forty percent. Noting that the current contract with the County expires on June 30th, Mr. Price requested that he be allowed to review/modify the agreement.

Executive Officer Ballantyne concurred with Counsel and indicated that County services have generally been excellent. He did indicate, however, that issues related to personnel matters still remain, especially in that LAFCo positions are still being compared with County positions in relationship to job classifications and pay, and that such situation has not been looked upon favorably by the Commission.

Commissioner Fortune offered to sit as the Private Sector Member Representative along with one of the Fresno County Supervisors, on a Sub-Committee to sit with the County Personnel Director to see what could be done to rectify the problem.

Commissioner Anderson asked if the problem with Personnel was just them processing things or job classifications. Executive Officer Ballantyne replied it's the classifications that LAFCo has. Commissioner Anderson suggested to have the Personnel Department draft specific LAFCo classifications but added the down side is difficulty

transferring people in and out of the County positions to LAFCo positions and vice versa.

Since no action could be taken on the County Personnel Sub-Committee idea, it was suggested to add it to an upcoming agenda for vote.

COMMENTS FROM THE PUBLIC

There were no comments from the public.

ADJOURNMENT

A motion for adjournment was made, seconded and passed.

THE NEXT LAFCO MEETING will be held on April 18, 2007, at 1:30 p.m. in the Board of Supervisors' Chamber - Hall of Records, Room 301, Fresno, California