

# **LOCAL AGENCY FORMATION COMMISSION OF FRESNO COUNTY (LAFCO)**

## **MINUTES (DRAFT)**

### **MARCH 26, 2003 REGULAR MEETING**

Members Present: Commissioners Susan Anderson, Larry Fortune, Sandra Neri, Trinidad Rodriguez, and Bob Waterston

Members Absent: Commissioner Victor Lopez

Staff Present: Michael Waiczis, Executive Officer  
Brian Melikian, LAFCo Counsel  
Candie Fleming, Clerk to the Commission

### **Presentation of Plaque**

Chairman Fortune presented a plaque to Juan Arambula for the six years he served on the Commission, two as Chairman. Mr. Arambula was unable to attend and Commissioner Anderson offered to deliver the plaque to him.

### **Approval of Minutes**

The minutes for the February 26, 2003 hearing were approved.

### **CONSENT AGENDA**

#### **Proposed City of Orange Cove "Reorganization 02-01 (South/Monson)"**

Executive Officer Waiczis reported that the Commission received a call from the Consultant for the City of Orange Cove informing staff that the City engineer had inadvertently submitted the wrong map and therefore the staff report was prepared for the wrong parcel. The Consultant requested this item be withdrawn and rescheduled for the April 30, 2003 hearing.

The Commission unanimously approved the request to postpone consideration of the item to the April 30<sup>th</sup> hearing.

### **PUBLIC HEARING**

#### **"CSA #34 Sphere of Influence Amendment"**

#### **"Ventana Hills Estates Annexation"**

Executive Officer Waiczis presented the staff report and recommendation for approval and findings. Mr. Waiczis said the application for annexation was made to satisfy a condition of approval of tentative tract map #4699 for development of 62 lots in the area. The County required that either a new CSA be created to provide municipal services to the area or annex the territory to a neighboring CSA for the provision of services.

Executive Officer Waiczis said staff received several phone calls from individuals representing CSA #34, including Mr. Ben Ewell and Mr. John Bonadelle, who were concerned that the proponents for this project would seek to obtain water rights that currently exist in CSA #34. The above individuals were interested in having the proponent sign a letter assuring them that there will be no effort to secure these services that would exceed the capacity of the existing CSA #34.

Commissioner Anderson said she would have to abstain from voting on the proposal because of campaign contributions from some of the participants and proponent.

Commissioner Waterston stated that he would also have to abstain.

Jeff Roberts, representing Ventana Hills, LLC (Granville Homes), said they concur with the recommendations of staff and were trying to fulfill an obligation that was placed upon the property by the Board of Supervisors and that was agreed to by the previous property owners, in 1996. He said Granville Homes acquired the property late last year and has been working with staff and other affected agencies in an effort to accomplish what was required of this subdivision.

In response to the letters sent to the Commission by other CSA #34 proponents, Mr. Roberts said that he thought they misunderstood the intentions of Granville's proposal. He explained that CSA #44 in Friant had three noncontiguous boundaries that had three distinct zones of benefit. Mr. Roberts said that the concern of some of the people is that Ventana Hills is going to attempt to obtain surface water rights existing within the CSA #34 boundary which is subject to an infrastructure agreement between those property owners. Mr. Roberts stated that Ventana Hills is not attempting to do so. He explained that Ventana Hills is a totally separate entity having their own water wells and are very comfortable moving forward on their own..

Mr. Roberts read a letter sent by Ventana Hills to Mr. Ewell explaining their intentions that they propose a stand-alone zone of benefit and would notify property owners in advance of any proposed change.

Chairman Fortune asked Mr. Roberts about a fax staff received from Bonadelle Development Corp. and a copy of a letter addressed to Millerton New Town.

Mr. Roberts responded that Chairman Fortune was referring a letter drafted by Mr. Prior and his attorney that they were asked to sign. He said they declined to sign that letter but provided a letter to them of their intentions.

Chief Steve Sunderland, Fresno County Fire Protection District, said that after speaking with Mr. Roberts he wanted to withdraw the District's objection to the proposal.

Executive Officer Waiczis made a correction to the staff report. He said the territory is **uninhabited** and that the Commission could waive the protest hearing, absent of any protests.

The proposal was approved as recommended by staff with two Commissioners abstaining.

## **Request to Defer LAFCo Application fees for the Formation of CSA #50**

Executive Officer Waiczis reported that staff received an application from Richard Brogan, Fresno County Public Works Director proposing formation of a new CSA to provide fire protection and medical response services to the Auberry area.

Subsequently, staff received a request from Ron Eldridge, Chief of the Auberry Volunteer Fire Department to defer LAFCo application fees until after formation of the CSA has been completed and taxes have been collected. Staff reported that if the fees were deferred by the Commission, the total deferment would be approximately \$13,000.

Executive Officer Waiczis recommended approval of the request to defer the fees. He said that since the Commission has been concerned in the past over waiving fees, deferment would require the fees to be paid eventually whether the CSA is formed or not.

Commissioner Neri asked how long was the deferment for?

Executive Officer Waiczis said that assuming the CSA is approved, fees would be paid when enough assessments are collected to pay the deferred fees.

Commissioner Anderson asked what happens if the CSA is not formed? How are the fees paid?

Executive Officer Waiczis said that the Department and the Commission could establish a payment plan to pay LAFCo back.

Commissioner Waterston said that the Auberry Fire Department is going to be shut down unless something is done to keep it going. Commissioner Waterston said that a survey of property owners said that 82% voted that they would be willing to assess themselves to keep the fire department in operation.

Commissioner Anderson said she wasn't opposed to the deferment but wondered what would be the annual revenue brought in by an assessment. Commissioner Anderson also questioned whether there was any other alternative besides deferral, such as reducing the fee?

Executive Officer Waiczis responded that the fees are part of LAFCo's adopted policy and that he didn't believe is a mechanism for reducing the fees just waiving them.

Brian Melikian, LAFCo Counsel, said that LAFCo may waive any processing fee by a 4/5 vote if the imposition of the fee would be detrimental to the public as determined by the Commission. Mr. Melikian said that since the Commission by a 4/5 vote could waive a fee that would give them the authority to reduce the fee if they wished.

Ron Eldridge, Chief, Auberry Volunteer Fire Department, said they were hoping to raise \$70,000 to \$80,000 per year through the assessment. He said presently they are operating on around \$19,000 per year that is received through donations.

Commissioner Neri asked if that money was just to run the department or to also pay employees?

Chief Eldridge said they wouldn't have any defined employees because it is still a volunteer fire department.

Chairman Fortune asked if the proposal area would need to be detached from any other fire department.

Chief Eldridge said they used to be included in the Bald Mt. Fire Protection District's sphere of influence but were removed by LAFCo.

Chairman Fortune asked who paid the LAFCo fees at that time and Chief Eldridge responded that the fire department did. Chairman Fortune said he had a problem with waiving and deferring fees because the Commission had denied the request for a fee waiver by the proponents of the Del Rio Reorganization, even though the area had major health and safety issues.

Commission Waterston said the proposals are two completely different issues.

Chief Eldridge said the \$19,000 that the department has is earmarked for fire protection and did not know if he would be able to justify to the Community that \$14,000 of that went to LAFCo fees. He said the department understood that the fees had to be paid whether the formation was successful or not, and that they were just asking for the fees to be deferred.

Chairman Fortune asked LAFCo Counsel "what were LAFCo's chances of collecting their fees if the formation was unsuccessful?"

Brian Melikian responded that LAFCo can only assume what the Chief says is true, that there would be money to pay the fees. He said that he thinks that LAFCo's policy is that the public interest is better served by taking whatever risk there may be. He said the question is whether LAFCo is comfortable with the representation that is being made. He said LAFCo had the prerogative to alternatively add some conditions to the deferment if they choose to do that.

Chairman Fortune asked Chief Eldridge if the Department would guarantee the payment of the LAFCo fees of \$13,000 if the formation is unsuccessful and Chief Eldridge responded that they do.

The Commission unanimously approved the fee deferment.

## **OTHER ITEMS**

### **Amendments to LAFCo Policies, Standards, and Procedures**

Executive Officer Waiczis presented the staff report and recommendation to adopt amendments to the policies, standards, and procedures as outlined in Exhibit A. Mr. Waiczis said he would like to add a section from the Cortese-Knox-Hertzberg Act to Section 102-04, third paragraph after (Gov. Code, sec. 56375). **The Commission may adopt standards for any of the factors enumerated in Section 56668, and would be Gov. Code sec. 56375.**

Executive Officer Waiczis said staff would require cities to provide proof that a transition agreement with the fire district along with application materials or explain why they do not have one. Once staff received a copy of a fire transition agreement with a city, it would be kept on file.

Executive Officer Waiczis said the most important recommended amendment to the policies, standards and procedures is the ability for the Commission to consider waiving the requirement for a transition agreement if certain findings were made. He said the overall goal of the policy would be to solve the transition agreement issue as part of the application process before the proposal came before the Commission.

Commissioner Rodriguez said he felt these policies would give the Commission the flexibility that they are looking for.

Lee Daugherty, Chief, North Central Fire Protection District, said he hadn't had the opportunity to review staff's recommendations and requested some time to review them and to be able to provide some written feedback.

Steve Sunderland, Chief, Fresno County Fire Protection District, said he hadn't had time to review the recommendations in detail. He said upon a quick review, he felt the policy was rather lengthy, requiring several paragraphs to say "LAFCo retains the management ability to waive the need of a transition agreement." He said he was also concerned over the terms "sufficiently significant" and "significant". What does that mean? He said what can be found to be "insignificant" would have a cumulative affect to be "significant".

Commissioner Anderson asked if the policies were not made available to the fire districts and Executive Officer Waiczis said that the districts are on the agenda mailing list and should have been mailed a copy when the hearing packets went out.

Chief Sunderland said his organization may have received the packet but he hadn't received it yet. Chief Daugherty said he received a copy of the policy on March 24<sup>th</sup>, but that wasn't enough time to review it and respond at this meeting in writing.

Commissioner Rodriguez said if the Commission wished to allow the Chiefs additional time for review that would be okay, but he was comfortable with what staff had presented and made a motion to adopt the policies.

Commissioner Waterston seconded the motion, but said he didn't want to vote for something that would make the fire districts uncomfortable with what the Commission did.

Commissioner Anderson asked what the harm would be to continue to the next meeting?

Commissioner Waterston asked Chief Daugherty if it would cause the district concern if they vote for the amendments today.

Chief Daugherty said he was concerned when the onerous for providing the information for a transition agreement falls upon the districts.

Commissioner Waterston rescinded his second to the motion and the motion was seconded by Chairman Fortune.

Commissioner Anderson made a motion to table the item to the April 30<sup>th</sup> hearing. The motion to table the item was seconded and unanimously approved by the Commission.

### **Preliminary Fiscal Year 2003-2004 Budget Estimates**

Executive Officer Waiczis gave a status report on the Fiscal Year 2002-2003 budget and reported on the budget estimates for Fiscal Year 2003-2004.

Executive Officer Waiczis informed the Commission that Bruce Barns, resigned from LAFCo and that staff would be recommending some changes to the agency. He also said that he was looking at creating a LAFCo clerk position. He said most LAFCo's around the state have been slowly converting their secretarial position to a LAFCo clerk position, which is more comparable to the Board Clerk position. Mr. Waiczis said staff had looked for a classification that would more fit what Candie Fleming does for the organization that is much more than a secretarial position. Mr. Waiczis said that staff would be working with John Weiser in the CAO's office and the Personnel Division to create a position that would reflect better what Candie does.

Executive Officer Waiczis also reported that it is estimated that LAFCo will be taking in around \$100,000 more in fees than anticipated and therefore is recommending hiring a consultant to help take care of the MSR program that LAFCo is obligated to do. Mr. Waiczis said that most LAFCo's have not started their program and are looking to hire consultants to do them.

Mr. Waiczis also reported that staff was recommending replacement of it's copy machine since the current one is old and replacement parts are hard to find.

Commissioner Waterston said he didn't have a problem with the creation of a new clerk position and felt the LAFCo was critical to the valley and supported whatever staff needed to run efficiently.

Commissioner Anderson said "so you are going to fill Bruce's position and hire consultants to do the MSR work." She asked Mr. Waiczis where he was going to put the additional staff. She said staff should be looking at different and larger facilities. She felt the LAFCo office was not only too small, but inadequate and needed a more professional look.

Commissioner Fortune said we should budget the above items because they are necessary, not because there is a surplus in the budget.

The Commission unanimously set April 30<sup>th</sup> for adoption of the Preliminary 2003-2004 Budget and May 21<sup>st</sup> for adoption of the Final 2003-2004 Budget.

### **Consider Adoption of Revised LAFCo Hearing Schedule**

The Commission unanimously adopted the revised LAFCo Hearing Schedule moving the June 25, 2003 Hearing to June 18, 2003.

## **EXECUTIVE OFFICER REPORT**

### **Report on Revenue Neutrality Negotiations for the proposed Malaga City Incorporation**

Executive Officer Waiczis said staff had set a meeting for the Revenue Neutrality Negotiations but all parties agreed that the meeting should be postponed to allow all them to review legal opinions on matters related to the CFA and to allow the County and Chief Petitioners to review the Administrative Draft Environmental Impact Report and is looking at setting a new meeting for April 21, 2003.

Executive Officer Waiczis said staff will be preparing a revised schedule and may be looking at having another fiscal analysis done.

## **COMMENTS FROM THE PUBLIC**

Chief Sunderland gave a report on the transition agreement status. He said the District has a meeting schedule in one week with the City of Fresno. He also said he and the Fowler City Manager had been talking and he expected closure in their agreement negotiations in the near future. He said Coalinga, Reedley, Sanger, Selma, and Kingsburg are all engaged in conversations with the District.

The meeting was adjourned at 3:28 p.m.

A tape recording of the hearing is available at the Commission office, 2100 Tulare Street, Suite 502, Fresno.

REVIEWED AND SUBMITTED BY:

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Michael R. Waiczis, AICP  
Executive Officer