

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

(Fresno County, California)

“MINUTES”

REGULAR LAFCo MEETING – March 5, 2008

Call to Order: Chair Pro-Tem Anderson called the meeting to order at 1:30 p.m.

Members Present: Commissioners Susan Anderson, Larry Fortune, Henry Perea, Trinidad Rodriguez and Alternate Commissioners Sandra Neri and 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 II
Samantha Hendricks, LAFCo Technician

- 1. Call to Order and Roll Call**
- 2. Pledge of Allegiance**
- 3. Minutes from the regular LAFCo Meeting of February 6, 2008.**

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 recues themselves from discussing and voting on the matter.**

There were no conflicts of interest noted.

PUBLIC HEARINGS

- 5. Municipal Service Review and Sphere of Influence Update for County Service Area No. 35—Road Maintenance (Continued from February 6, 2008).**

Deputy Executive Officer Darrel Schmidt presented staff’s report noting that the County Service Area’s Sphere of Influence (SOI) and service area boundary overlap. This condition has resulted over time since the District’s boundary was not detached when City Spheres of Influence boundaries were expanded.

Staff recommended that a SOI revision for CSA No. 35 be initiated by the Commission along with a recommendation that Fresno County initiate a concurrent detachment application of its District in order to adjust the current boundary so that it is coterminous with City Spheres of Influence. Further, that the LAFCo fees for such revision be waived.

The hearing was opened for public testimony, but none was offered. A motion to approve the Municipal Service Review and update the District's Sphere of Influence was made, seconded, and passed unanimously.

6. Request for a One-Year Extension to Complete Proceedings

- A. **City of Orange Cove "Jacobs-South Reorganization" (Valle del Rey)** (LAFCo File No. RO-07-3).
- B. **City of Reedley "Reed-Beechwood Reorganization, Annexation 2005-1"** (LAFCo File No. RO-07-6).

Executive Officer Rick Ballantyne presented staff's report indicating that this was the first extension request for both proposals. Chair Pro-Tem Anderson then opened the public hearing for testimony.

David Brletic, representing the City of Reedley, concurred with the staff recommendation and indicated that he was available to answer Commission questions. With no other additional testimony the public hearing was closed and a motion was made to approve the extension requests. The motion was seconded and passed unanimously.

7. City of Fresno "Barstow-Garfield No. 1 Reorganization" (LAFCo File No. RO-07-23).

Executive Officer Ballantyne presented staff's report stating that the reason for the required "Conducting Authority Proceedings" was because not all property owners had consented in writing to the annexation. He reported that four official protests had been received representing 19.47% of the total assessed value of the affected territory. This amount was not sufficient to defeat the annexation (50% required).

Chairman Pro-Tem Anderson opened the public hearing. No public testimony was offered and no additional protest(s) were received. The public hearing was then closed. It was declared that based upon the protests received, the Commission's prior action to approve would stand.

8. City of Fresno "McKinley-Blythe No. 1 Reorganization" (LAFCo File No. RO-08-2).

Executive Officer Ballantyne presented staff's report. He noted that although the affected territory was uninhabited, not all property owners consented to the annexation. Chairman Pro-Tem Anderson then opened the public hearing.

Mr. Carl Davis, inquired as to who prepared the Environmental Impact Report for the proposal. He stated that San Joaquin Kit foxes (an endangered species) had been seen on his property.

Executive Officer Ballantyne explained that the City of Fresno had conducted the environmental analysis for the project. Bruce Barnes, representing the City of Fresno offered comments related to the City's environmental review process.

Commissioner Perea asked if there was any reason to believe that the City's Environmental Impact Report (EIR) was deficient upon which to not take action. LAFCo Counsel Ken Price stated that the time to have commented upon the City's EIR had passed.

The public hearing was then closed and a motion to approve was made, seconded and passed unanimously. The protest hearing was set for May 7, 2008.

9. Request for Reconsideration: City of Fresno "McKinley-Brawley No. 4" Reorganization (Filed by Dirk Poeschel, Land Development Services, Inc.) (LAFCo File No. RO-07-24).

Executive Officer Ballantyne presented staff's report. He reported that although a timely request for reconsideration had been received by LAFCo, reconsideration actions could only take place if new or different facts, that could not have been presented earlier, are offered.

Mr. Ballantyne reported that it was believed that no new information had been presented by the proponents that had not been previously considered by the Commission. The hearing was then opened for public testimony.

Bruce Barnes, representing the City of Fresno, reported that the City had recently approved an ANX "overlay" district that would accommodate existing rural lifestyles and allow a limited number of farm animals.

Mr. Dirk Poeschel, representing the developer, withdrew his request for reconsideration and urged that the City and County work with the residents of the affected territory in order to facilitate annexation to the City. Ms. Fran Doos, representing Riverfront Ventures, concurred with Mr. Poeschel's comments adding that if the affected territory is not annexed, it will diminish her client's ability to develop and annex their property located south of the subject territory.

Since the reconsideration request was withdrawn, no formal Commission action was necessary. The protest hearing was set for April 9, 2008.

- 10. A. City of Mendota "Sphere of Influence Revision" (LAFCo File No. RSOI-150).**
- B. City of Mendota "Wastewater Treatment Plant Expansion". (LAFCo File No. RO-08-3).**

Deputy Executive Officer Schmidt presented staff's report noting that the City's existing wastewater treatment plant and wastewater ponding area was being expanded by 100 acres. Said expansion area was necessary to accommodate future growth. He reported that four parcels (totaling 61.06 acres) that were included within the SOI

Revision and Reorganization proposals that contained existing public facilities, were not shown as “Public Facilities” within *Mendota’s 2008 General Plan Update*. Mr. Schmidt indicated that a recommended condition was that said public facilities be designated for Public Facility use on the City’s General Plan prior to recordation. Chair Pro-Tem Anderson then opened the public hearing.

Mendota City Manager, Gabe Gonzales spoke in favor of the request and concurred with the recommended conditions. He stated that the area between the affected territory and the current City Limits to the west was a trust and wasn’t included in the proposal. A motion to approve the proposals, exclude Condition C-2 (to include portions of the San Luis Drain within the annexation), and to waive conducting authority proceedings was made, seconded, and passed unanimously.

OTHER ITEMS:

11. Amend Sections 330-02 and 330-11 (Sphere of Influence Updates and Revisions) of Fresno LAFCo’s Adopted Policies, Standards, and Procedures to reflect changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that were effective January 1, 2008.

Deputy Executive Officer Schmidt reported that the amendment was a “housekeeping” measure resulting from changes in the State law (Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000). It would delete the mandatory requirement that a City and the County meet to discuss proposed SOI changes at least 30 days prior to submittal of an application. Also, the mandatory factors (determinations) considered by the Commission in its review of *Municipal Service Reviews* were reduced from nine to six.

The public hearing was opened, but no public comment was offered. A motion to approve was made, seconded and passed unanimously.

12. 2008 LAFCo Work Program:

Staff presented its proposed “Annual Work Program”. Many items included within the Work Program had resulted from prior Commission actions resulting from consideration of *Municipal Service Reviews* and *Spheres of Influence Updates*. Other topics included a future actions related to land use buffers, agricultural preservation, fire protection district adjustments, City Island Annexation Programs, etc. Commissioners Anderson and Perea suggested having Dr. Moreno, the Fresno County Public Health Officer; speak before LAFCo on public health and Land Use decisions.

A motion to approve the Annual Work Program was made, seconded and passed unanimously.

13. Fresno LAFCo’s Preliminary Budget for the 2008-2009 Fiscal Year.

Executive Officer Ballantyne presented staff’s Preliminary Budget. He reviewed anticipated income sources and LAFCo expenditures. Commissioner Perea questioned the necessity of a large “contingency” fund since it had not been used in prior years.

Commissioner Anderson responded that if LAFCo were to experience an emergency and needed additional funding, that it would be necessary for the County Auditor's Office to transfer money from the fund balance into the Contingency account—but in order to do that, the Commission would be required to amend the Budget requiring a four-fifths affirmative vote.

Alternate Commissioner Joe Chaidez offered comments and spoke in favor of the preliminary budget noting that it was consistent with last year's budget. Alternate Commissioner Chaidez indicated that the Auditor's Office recommended that 20-25% of the annual budget be held in reserve. This would equate to \$144,000 or approximately three months worth of LAFCo operating expenses. Commissioner Anderson suggested that the contingency fund be reduced to \$3,000, that the special consulting fund be reduced from \$10,000 to \$5,000, and that the reserve balance be reduced to approximate 18% of the annual budget. A motion to approve the LAFCo Preliminary Budget was made, seconded and passed unanimously.

14. LAFCO Counsel's Reports:

A. Presentation: Update Regarding LAFCo Efforts to Facilitate a Resolution of Dispute Between Consolidated Irrigation District and Cities of Fowler, Kingsburg, Parlier, Sanger, and Selma.

LAFCo Counsel Ken Price reported tangible progress was being made in the facilitation process which had been entered into between the five cities and the Consolidated Irrigation District (CID) and led by LAFCo's Special Counsel Nancy Miller. He reported that CID Counsel, Doug Jensen, was drafting a formal agreement to be presented to the parties. Also that funding for the facilitation process was currently over budget by \$2,000 (payment to Nancy Miller). It was reported, however, that CID had agreed to contribute additional money as long as the five cities also contributed. The Commission agreed that all parties would benefit greatly once an agreement was in place.

Mr. Mike Gaston, Selma's Planning Director, addressed the Commission stating that Selma desired to come to a reasonable agreement with the District in order to avoid being "held hostage" by the District upon processing of new reorganization proposals.

B. Presentation: Update Regarding LAFCo "Independence" Action and Proposed "Agreement for Services" With Fresno County.

LAFCo Counsel, Ken Price, presented his report and affirmed that LAFCOs are to function as "Independent" Agencies in accordance with State law. Such law recommends that consideration be given to having LAFCo employ its own staff rather than contracting with the County for its employees. Commissioner Perea raised concern related to the possibility of having LAFCo staff lose any protection offered under the "civil service" system. LAFCo Counsel Price stated that staff would be able to maintain their same level of benefits if they became LAFCo employees.

COMMENTS FROM THE PUBLIC

No comments were offered.

ADJOURNMENT

The meeting was adjourned at 3:30 p.m.

THE NEXT LAFCO MEETING will be held on April 9, 2008, at 1:30 p.m. in the Board of Supervisors' Chamber - Hall of Records, Room 301, Fresno, California.