

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
(Fresno County, California)

“MINUTES”

REGULAR LAFCo MEETING – July 11, 2007

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

Members Present: Commissioners Susan Anderson, Larry Fortune, Victor Lopez, Phil Larson, 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

1. **Pledge of Allegiance**
2. **Call to Order and Roll Call**
3. **Minutes from the Regular LAFCo Meeting of June 13, 2007.**

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.**

LAFCo Counsel Ken Price stated for the public record that his firm (Baker, Manock and Jensen) in addition to representing the Commission also represents the Consolidated Irrigation District. To avoid potential conflicts, Special Counsel Mike Noland would serve as LAFCo Counsel for Agenda Item No. 6 and 11.

CONSENT AGENDA

5. **Request for a One-Year Extension to Complete Proceedings**
City of Sanger “California-Bethel No. 1 Reorganization”. (LAFCo File No. RO-06-18).
6. **Municipal Service Reviews and Sphere of Influence Updates for the Consolidated, Fresno, Orange Cove, Riverdale, and Tranquillity Irrigation Districts.**

7. **Municipal Service Reviews and Sphere of Influence Updates for the Big Creek, Biola, Del Rey, Easton, and Laton Community Service Districts.**
8. **Municipal Service Reviews and Sphere of Influence Updates for Waterworks District No. 37 and No. 40.**

Deputy Executive Officer Darrel Schmidt requested that Consent Agenda Item No. 6 and 7 should be pulled for discussion. He stated that the Consolidated Irrigation District had requested that their MSR (Agenda Item No. 6) be continued. Staff also recommended that this item be moved on the agenda to be considered prior to the City of Selma Reorganization (Agenda Item No. 11).

Deputy Executive Officer Schmidt stated that additional information should be considered for the Biola, Del Rey, and Laton Community Service Districts (Item No. 7).

A motion to approve Consent Agenda Item No. 5 and 8 was made, seconded and passed unanimously.

7. Municipal Service Review and Sphere of Influence Update for the Biola Community Services District.

Deputy Executive Officer Schmidt reported that the Biola Community Service District did not have a defined revenue source to maintain their drainage facilities. He reported that the approximate cost is estimated at \$5,000. The District reported that they are addressing this situation through a local Proposition 218 Ballot Initiative.

A motion to accept the Biola Community Services District MSR and Sphere of Influence Update was made, seconded and passed unanimously.

Municipal Service Review and Sphere of Influence Update for the Del Rey Community Services District

Deputy Executive Officer Schmidt reported that the County of Fresno had raised concern over the adopted District budget as included within the MSR. Larry Donaldson, District Counsel for the Del Rey Community Services District, acknowledged that the indicated budget deficit was in large part due to decreased recovery of wastewater fees. With the help of increased wastewater fees resulting from an approved Proposition 218 vote last year, Mr. Donaldson predicted a balanced budget for the year and a budget surplus for next year.

A motion to approve the Del Rey Community Services District MSR and Sphere of Influence Update was made, seconded and passed unanimously.

Municipal Service Review and Sphere of Influence Update for the Easton Community Services District

Mr. Carl Clark, General Manager for the Easton Community Service Districts, provided comments on the MSR. He stated that Easton was not going to follow the "Main Street USA" Plan, but a Community Improvement Plan. He stated that the only two services that Easton provides at this time are lighting and drainage services. Mr. Clark indicated

that the Easton CSD will seek expanded community services and improvements this next year.

A motion to approve the Easton Community Services District MSR and Sphere of Influence Update was made, seconded and passed unanimously.

PUBLIC HEARINGS

9. Consolidated Mosquito Abatement District “Eastern Fresno County Annexation”. (LAFCo File No. AD-06-3). (Continued from June 13, 2007)

Executive Officer, Rick Ballantyne stated that the protest hearing was continued from June 13th to insure that proper public notification in the “Mountain Press” and the “Orange Cove” newspapers took place. At the time of this hearing, LAFCo had received a total of 66 protests, equaling less than 1 percent of area voters and property owners. Commissioner Lopez then opened the public hearing.

Mr. John File, Mr. Thomas Hancock, Ms. Andrea Walsh, Ms. Bonnie Hancock, Mr. Mike Holt, and Mr. Gene Chance, all spoke in favor of a continuance. They indicated that not all property owners had received protest forms or ballots. The general consensus was that property owners desired to have informational meetings with the District in order to discuss their concerns.

The public hearing was then closed and a motion was made to continue the application to the August 15, 2007. The motion was seconded and passed unanimously.

10. City of Fresno “Request for Extension of Municipal Services Outside the City of Fresno’s Sphere of Influence”. (LAFCo File No. OS-07-1).

Executive Officer Ballantyne presented staff’s report. He noted that the affected territory was located adjacent to the Fresno City Limits but outside the City’s Sphere of Influence.

He reported that the subject request for outside services did not meet California Government Code Section 56133. (c)(1) and 56133. (c) (2) in that the applicant had not provided information justifying the extension of services. Executive Officer Ballantyne recommended that the application be continued to August 15, 2007 to allow the applicant to provide the information.

A motion for continuance to August 15, 2007, was made, seconded and passed unanimously.

6. Municipal Service Reviews and Sphere of Influence Updates for the Consolidated, Fresno, Orange Cove, Riverdale, and Tranquillity Irrigation Districts.

LAFCo Counsel, Ken Price, due to a potential conflict (see Item 4 above) elected not to serve as LAFCo Counsel for this item. Special Counsel, Mike Noland, served as Counsel during this hearing.

Mr. Scott Brown, Special Counsel for the Consolidated Irrigation District (CID), provided comments related to the District's Municipal Service Review and Sphere of Influence Update. Mr. Brown indicated that the District maintained concerns related to regional ground water impacts associated with increases in development and anticipated population.

Mr. Mark Gilkey, General Manager of Consolidated Irrigation District, commented about the *Upper Kings Basin Intergraded Regional Water Management Plan*. The Plan addresses issues through its technical studies on ground and surface waters. Mr. Gilkey noted that an Engineering Report that was being prepared for the Consolidated Irrigation District was nearing completion. Such report would address area groundwater impacts.

Mr. Larry Croft, Vice President of the Consolidated Irrigation District, stated that the *Upper Kings Basin Intergraded Regional Water Management Plan* proves that there is an overdraft problem with the groundwater in the Consolidated Irrigation District Area as well as Fresno County.

Mr. Croft indicated that it would be appropriate for the Kings River Conservation District and CID to make a public presentation before the Commission that reviews the current groundwater overdraft situation.

Mr. Bob Braitman of Braitman & Associates stated the groundwater shortage is not a new problem. The Kings River Conservation District's MSR is scheduled to be heard during August. Mr. Braitman said, and it might be appropriate if the two items were heard together. It was also noted that CID is proposing no changes in their Sphere of Influence.

A motion to continue the Consolidated Irrigation District MSR to August 15, 2007, was made, seconded and passed unanimously. Commissioner Anderson added she wants staff to put an item on the agenda to bring back a report for a discussion.

A motion to approve the Municipal Service Reviews for Fresno, Orange Cove, Riverdale and Tranquility Irrigation Districts was made, seconded and passed unanimously.

11. City of Selma "Highland-Rose-Bratton 1 Reorganization". (LAFCo File No. RO-07-15).

Executive Officer Ballantyne reported that the Consolidated Irrigation District had requested a continuance of the item. The District believes if the reorganization is approved, that potential impacts to groundwater will not be mitigated as required by the California Environmental Quality Act.

Commissioner Lopez opened the public hearing to address the continuance request only.

Mr. Scott Browne, Special Counsel for the Consolidated Irrigation District, spoke in favor of a continuance. He stated that the District has attempted to work with the developer to provide acceptable mitigation to the District and District interests—but to no avail. He stated that the District desires to complete an AB1600 process for mitigation fees and requested a 60 day continuance.

Larry Croft, Vice President of the Consolidated Irrigation District, also was in favor of a continuance. He stated that District's main concern was the potential impact to ground-water—not a fee.

Tim Jones, representing the developer, spoke against the continuance. Mr. Jones indicated that he believed that the continuance was to address fees—not the loss of ground water. He stated that to provide such information would take upwards to two years to provide instead of 60 days.

A motion not to continue the item was made, seconded and passed on a vote of three to two.

Executive Officer Ballantyne presented staff's report. He stated that the reason for the public hearing was because not all property owners or affected agencies had consented in writing to the annexation. He recommended that the City of Selma be required as a condition of any approval to execute an indemnification agreement with the Commission.

Scott Browne stated that the Commission should encourage cities to work with CID to implement a mitigation program. Tim Jones responded that the Commission can't solve the Valley wide groundwater overdraft problem and that the request should be approved.

D-B Heusser, City Manager of Selma, spoke in support of the project. Mr. Heusser stated that the City of Selma has been a paying participant of the Upper Kings River Forum and that the City of Selma continues to pay groundwater recharge fees.

Mr. Mike Gaston, Selma Community Development Director also spoke in favor of the project.

Scott Browne stated that the primary concern of the District was that there was no assurance that the groundwater impacts will ever be mitigated. Larry Croft stated that CID is not opposed to this project but they are concerned about the groundwater.

The public hearing was then closed. A motion to conditionally approve the annexation as recommended by staff with the added condition that the City of Selma execute an indemnification agreement with the Commission was made, seconded, and passed unanimously. The Protest hearing set for September 12, 2007.

Commissioner Anderson made a motion for staff to bring an item back within the next two LAFCo meetings and come up with a plan to address groundwater impacts on a broader base. The motion was seconded by Commissioner Rodriguez and passed unanimously.

12. Municipal Service Reviews and Sphere of Influence Updates for the Cities of Fowler, Selma, and Kingsburg.

LAFCo Special Counsel, Mike Noland, noted for the record that his firm represents the City of Kingsburg, but since the MSR is a document of the Commission, and Mr. Noland's firm did not prepare the MSR, he believed that a conflict of interest did not exist.

Deputy Executive Officer, Darrel Schmidt, presented staff's report indicating that the Cities of Fowler, Selma, and Kingsburg were being considered together because of their close proximity and commonalities.

Mr. Bob Briatman, Fresno LAFCo's consultant, reported that even though the Spheres of Influence for the Cities of Fowler, Selma and Kingsburg are next to each other, the Cities' boundaries are still a distance apart. Mr. Braitman recommended that the Commission affirm the current spheres, but give consideration to establishing a "green belt" in the future.

City of Fowler:

Mr. Bruce O'Neal, representing the City of Fowler, supported staff's recommendations related to Fowler, but indicated concern related to creation of a joint water agency. Dave Elias, Fowler City Manager, stated that the City has a "growth ordinance" in place to limit residential development. Also, that a developer fee for groundwater recharge is required to help maintain the groundwater table.

City of Kingsburg:

Mr. Braitman presented the MSR for the City of Kingsburg. He indicated that a special issue revolves around Government Code Section 56471 that states that territory may not be annexed to a City unless it is in the same County and, therefore, city boundaries must be located within the same County. Mr. Braitman said that while in the past a part of Tulare County was shown to be within the City of Kingsburg's Sphere of Influence, that such action was not appropriate since it legally could not be annexed to the City of Kingsburg.

Mr. Braitman recommended the Commission authorize staff to confer with the City of Kingsburg, Tulare County, and Tulare LAFCo regarding the possibility of restricting the City's Sphere of Influence to lands within Fresno County, while maintaining the City's ability to review and comment on land use and other issues within the nearby portion of Tulare County.

Commissioner Anderson asked about the possibility of moving the County line. Terry Schmal, Planning and Development Director for the City of Kingsburg, stated that the City of Kingsburg and Tulare did exchange some land during the mid-1990s but not in recent years. Mr. Schmal said there has been an interest over many decades of having the line moved to nearer the Kings River. He stated that the City does own property on the river.

Mr. Schmal said that creating any buffer between Selma and Kingsburg would be difficult since development already exists within the area bounded by Mt. View Avenue, Bethel Avenue, and Golden State Boulevard. This land includes approximately 250 acres where Sun Maid Raisin, Vie Del grape processing facility, and the Guardian Industries glass plant presently are all located.

He also said the area in Tulare County where the original sphere line was established was a joint effort between Tulare and Fresno LAFCos. The Tulare LAFCo adopted the

triangular piece on its side and Fresno LAFCo adopted the current sphere. He said that some kind of similar effort to readdress the sphere boundary would be in order. Don Pauley, Kingsburg City Manager, stated that the City has participated on the Council of Government's *Land Buffer Task Force* and supports that effort. He said the main challenge is the definition of the word "buffer". He said in some jurisdictions the buffer may be the protection of the identity of a community. In other jurisdictions it may be that three-mile buffer zone.

Mr. Pauley said that it is important that the City maintains some control over lands that are adjacent to the City even if they are within Tulare County. He said that the City recognizes that they cannot annex it, but that development be discouraged from occurring that is inconsistent with Kingsburg's values and plans.

Mr. Pauley said the City of Kingsburg (like the City of Selma) has been a founding member of the Water Forum and been involved in the drafting of *the Integrated Regional Water Management Plan*. He said they have also cooperated with CID and recharge efforts.

City of Selma:

Bob Braitman presented the City of Selma MSR report. He said the City indicated that they desired to expand there Sphere significantly to include a new specific plan area and provide for extensive development. He said there is currently no application to expand the Sphere but recommends the Commission affirm the current location of the Sphere of Influence and adopt the MSR determinations and authorize staff to work with the Cities and County regarding the question of buffers or separation between the communities.

Mike Gaston, Director of Community Development for the City of Selma, stated that the Selma and Kingsburg possessed very little open space that could be utilized as a buffer because of the growth that has already occurred. He said the situation is similar with the City of Fowler.

Mr. Gaston said they were concerned with one of the recommendations regarding the consideration of the Valley Blueprint prior to approving any Sphere of Influence update. He said the City had several projects that are on the fast track for approval and don't want to have any Sphere of Influence update constrained by awaiting those planning recommendations. Mr. Gaston requested that the Commission approve their MSR without requiring the consideration of the Valley Blueprint recommendations.

D.B. Heusser, Selma City Manager, supported staff's recommendation and concurred with the issues raised by Mr. Gaston. Mr. Heusser said they are also participating in the Buffer Taskforce. He indicated that the current SOI along Golden State and 99 were established in 1974 at the direction of the County and consideration of extension of sewer services by SKF along those lines. Mr. Heusser said that groundwater is an issue and that the City continues to work with CID.

Scott Brown, representing Consolidated Irrigation District, spoke on the groundwater issue and said that the *Integrated Water Management Plan* should be integrated into the MSRs. He said it was not clear if there is adequate water to serve the buildout of all

of the Spheres. He said now is the time to deal with the issue of groundwater recharge and management.

Bob Braitman stated that LAFCo could adopt the Municipal Services Reviews and determinations and that a City could consider the question of adequacy of water and the affect on groundwater at the time a city requested a Sphere amendment.

A motion to approve the Municipal Service Reviews for the Cities of Selma, Kingsburg, and Fowler was made, seconded and passed unanimously.

13. Municipal Service Review and Sphere of Influence Update Prepared for the City of Parlier.

Bob Braitman presented the MSR. He indicated that the City had not submitted a Sphere amendment application yet and that staff recommended the Commission affirm the current Sphere of Influence. Commissioner Anderson said that there was an MOU agreement with the City of Parlier that was approved by the Board of Supervisors for a proposed Sphere line which would allow expansion on the west and the south sides and reduce the Sphere on the east side where the Agricultural Center is located.

Mr. Braitman said the County had submitted a letter suggesting that the City of Parlier consider phasing out its sewer treatment plant and join SKF in treating its sewage.

Bruce O'Neal, Planning Consultant for the City of Parlier, reported that the City supports staff recommendation, including the buffer issues between the City of Selma and Parlier. Mr. O'Neal said the City is aware of their existing sewer problems and is considering partnering with SKF.

A motion to approve the Municipal Service Review for the City of Parlier was made, seconded, and passed unanimously.

14. Municipal Service Reviews and Sphere of Influence Updates prepared for the Navelencia and Sierra Resource Conservation Districts.

Staff recommended that the Commission adopt a single Sphere of Influence for the two Resource Conservation Districts. Staff also recommended waiving processing fees for consolidation of the two districts.

David Durham, representing the USDA Natural Resource Conservation Service, explained what a "resource conservation" district does and why they were formed. Mr. Durham indicated that both districts would like to consolidate if the filing fees could be waived.

A motion to approve the Municipal Service Reviews for the Navelencia and Sierra Resource Conservation District and to waive the LAFCo Consolidation Fee was made, seconded and passed unanimously.

15. Municipal Service Review and Sphere of Influence Prepared for the Bluffs Community Service District

Daniel Hamilton (Pacific Municipal Consultants), LAFCo's consultant, presented the staff report. Mr. Hamilton stated that it might be appropriate for the City of Fresno to

annex this area, dissolve the district, and continue to provide street lighting and landscaping services. A motion to approve the Municipal Service Review for the Bluffs Community Service District was made, seconded and passed unanimously.

16. Municipal Service Reviews and Sphere of Influence Updates Prepared for Waterworks District No. 18 (Friant) and Waterworks District No. 38

Daniel Hamilton presented the staff report. He indicated that the District is contemplating an annexation to provide water services to the proposed "Friant Ranch" development which would increase the present service area by 2,700 additional connections. The District would also like to enact its latent powers to provide waste water treatment services.

Mr. Hamilton reported that the County has recommended that consideration be given to consolidating Waterworks District No. 18 and 38, as well as five to six CSA servicing the area around Millerton Lake.

A motion to approve the Municipal Service Reviews for Waterworks District No. 18 and Waterworks District No. 38 was made, seconded and passed unanimously.

17. LAFCO Counsel's Report

Ken Price, LAFCo Counsel, reported that the County Board of Supervisors had approved a 90 day extension of the *Professional Services Agreement* and that he and staff will be meeting with County representatives to discuss a longer-term agreement to bring back to the Commission for review and approval.

18. Municipal Service Review and Sphere of Influence Update Program

Darrel Schmidt reported that MSRs and Spheres Updates had been approved for four Cities and 41 Districts. He indicated that 11 more cities and 90 districts still remain to be considered and approved prior to January 1st deadline.

19. Executive Officer's Report: *Delegation of Authority to Executive Officer to Conduct Protest Hearings.*

Executive Officer Ballantyne reported that many LAFCos are delegating their authority to the Executive Officers to hold the protest hearings in order to reduce the length of public hearings. He indicated that this may be appropriate since the action is strictly a matter of counting votes.

Commissioner Anderson stated that she believed the protest hearing could be viewed by the public as a matter of perception and didn't want to change the current procedures by delegating the authority to the Executive Officer to hold the protest hearings. The Commission's consensus was for the Commission to retain protest hearing authority.

Comments from the Public

There were no comments from the public

A motion for adjournment was made, seconded and passed unanimously.