

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

“MINUTES”

REGULAR LAFCo MEETING – August 22, 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 II

1. **Pledge of Allegiance**
2. **Call to Order and Roll Call**
3. **Minutes from the Regular LAFCo Meeting of July 11, 2007.**

The minutes were unanimously approved as presented.

4. **Potential Conflicts of Interest – Commission members were asked to identify any known “conflicts of interest” and recuse themselves from discussing and voting on any agenda items where conflicts existed.**

Commissioner Rodriguez stated that he would excuse himself from Agenda Item No’s 14 and 18 involving the City of Kerman.

CONSENT AGENDA

5. **Request for a One-Year Extension to Complete Proceedings for the City of Fresno’s “Whitesbridge-Valentine Southwest Reorganization”. (LAFCo File No. RO-06-20).**
6. **Municipal Service Reviews and Sphere of Influence Updates for the Reclamation District No. 1606.**
7. **Municipal Service Reviews and Sphere of Influence Updates for the Kings River Conservation District.**
8. **Municipal Service Review and Sphere of Influence Update for the West Fresno County Red Scale Protective District.**

9. **Municipal Service Reviews and Sphere of Influence Updates for the Clovis and Riverdale Memorial Districts.**
10. **Municipal Service Review and Sphere of Influence Update for the Caruthers Community Service District.**
11. **Municipal Service Reviews and Sphere of Influence Updates for the Riverdale and Tranquillity Public Utilities Districts.**
12. **Municipal Service Reviews and Sphere of Influence Updates for the Broadview, Garfield, International, Kings River, Liberty, Mid-Valley, Panoche, Raisin City, Stinson, Tri-Valley, Westlands, and Widren Water Districts.**
13. **Municipal Service Review and Sphere of Influence Update for the Selma-Kingsburg-Fowler County Sanitation District.**

Deputy Executive Officer Darrel Schmidt requested that the Commission pull Consent Items 10 and 12 for discussion purposes. A motion to approve the remainder of the Consent Agenda was made, seconded and passed unanimously.

Municipal Service Review and Sphere of Influence Update for the Caruthers Community Service District (Agenda Item No. 10).

Deputy Executive Officer Schmidt brought to the Commission's attention that minor corrections to staff's report had been made and reviewed the minor changes. Public testimony was then entertained. With no comment from the public, a motion to approve was made, seconded, and passed unanimously.

Municipal Service Reviews and Sphere of Influence Updates for the Broadview, Garfield, International, Kings River, Liberty, Mid-Valley, Panoche, Raisin City, Stinson, Tri-Valley, Westlands, and Widren Water Districts (Agenda Item No. 12).

Dave Fey, representing the City of Clovis, offered comments pertaining to the Garfield Water District's MSR. Mr. Fey reviewed Clovis' adopted General Plan Policies related to provisions of a municipal water supply. Commissioner Anderson noted that staff had indicated issues related to the International and Widren Water and that would be brought back to the Commission for further consideration. Executive Officer Ballantyne assured the Commission that staff was keeping a log of all necessary future actions that resulted from the MSR Program and that the Commission would be kept informed concerning the progress of all recommended actions.

Commissioner Larson stated that Broadview and Widren are no longer operating as Districts. Deputy Executive Officer Schmidt indicated that staff had recommended dissolution of these Districts. With no public comment offered, a motion was made to approve the recommended actions. The motion was seconded and passed unanimously.

PUBLIC HEARINGS

14. Municipal Service Reviews and Sphere of Influence Updates for the Cities of Firebaugh, Kerman, Mendota, Reedley, and San Joaquin.

City of Firebaugh - Mr. Bob Braitman of Braitman and Associates presented the MSR report and recommended actions. Mr. Braitman indicated that the current SOI and City boundaries are not coterminous and that the SOI extends beyond the City to the east, west and north sides.

Commissioner Larson noted that the Sphere of Influence boundary appeared to extend into Madera County north of the San Joaquin River. Similar to a recent situation encountered during review of the City of Kingsburg MSR, Mr. Braitman reiterated State law that Cities cannot annex lands that are outside County boundaries.

A motion to affirm the current Sphere and direct staff to contact Madera County to address the situation was made, seconded and passed unanimously.

City of Mendota - Mr. Braitman presented his report indicating that the City of Mendota plans to update its General Plan very soon and that the City plans on expanding its current Sphere of Influence. Commissioner Larson questioned whether the City's Sphere also was located within the adjacent County.

With no comment from the public, a motion to approve current sphere was made, seconded and passed unanimously.

City of Reedley – Mr. Braitman presented the MSR. Ms. Dianne Guzman, Community Development Director for the City of Reedley spoke in favor of staff's recommendations. With no other public testimony, a motion to approve was made, seconded, and passed unanimously.

City of San Joaquin – It was reported that the MSR that had been previously been presented for the Fresno West Side Mosquito Abatement District indicated that while the Sphere of the District surrounded the City, that a portion of the City was not within the District. Mr. Braitman stated that the City and District are discussing expanding the District to include the entire City of San Joaquin. The Commission concurred with staff in that efforts should be made to accommodate this annexation and that LAFCo fees should be waived.

With no public testimony offered, a motion to affirm the current Sphere line and encourage the City and District to cooperate in providing extended mosquito abatement services through a District expansion was made, seconded and passed unanimously.

City of Kerman - Commissioner Rodriguez left the meeting room due to a conflict of interest. Mr. Braitman presented the MSR report. Mr. Ron Manfredi, City Manager of Kerman, informed the Commission that the City of Kerman had just completed a twenty year General Plan Update. He stated that the City would be requesting a revision of the City's current Sphere of Influence within the next few. With no other public testimony, a motion to approve the MSR and affirm the current SOI was made, seconded and passed unanimously.

15. City of Fresno “Dakota-Cornelia No. 2 Reorganization”. (LAFCo File No. RO-07-7)

Executive Officer Ballantyne reported that this item had been continued from the June 13, 2007 hearing at the request of the City of Fresno and Lafferty Homes. It was reported that the project developer (Lafferty Homes) had originally agreed to pay public utility hook ups for area residences in order to gain their support. It was also reported that Lafferty Homes had subsequently withdrawn its development proposal and had requested time to meet with neighbors to explain why the agreements could not be honored.

Michael Govinetti spoke before the Commission and indicated that he was represented the neighborhood. He indicated that since Lafferty Homes was no longer involved with the development and could not honor the prior agreement that the neighbors were no longer willing to consent to the annexation. Carol Warnke (4625 W. Dakota) also testified in opposition to the request.

Mr. Dave Braun, representing the City of Fresno, informed the Commission that although Lafferty Homes is no longer planning on continuing with their project, that the approved tentative tract was still valid and ran with the land. He also stated that the City of Fresno was in favor of annexation and was willing to meet with area residents to discuss their concerns regarding annexation prior to the protest hearing.

Mr. Scott Mommer, representing Bobby and Margaret Dominguez, spoke in favor of annexation proposal.

A motion to approve the Reorganization was made, seconded and passed unanimously. It was indicated that the protest hearing would be held on October 10, 2007.

16. City of Clovis “Clovis Sewage Treatment/Water Reuse Facility Reorganization”. (LAFCo File No. RO-07-14)

Executive Officer Ballantyne presented staff’s report and indicated that the City of Clovis had obtained the property in May 2005, and that the property was under a Williamson Act contract at this time. Also, that the City of Clovis had also prepared an Environmental Impact Report for the sewer plant and water reuse facility. It was reported by the Executive Officer that the staff believed that the City had properly addressed issues related to the Williamson Act Contract and that procedures of law were adequately met. It was also recommended that due to concerns expressed by the State Department of Conservation, that an indemnification agreement be required as a condition of approval.

Mr. Dave Fey Deputy, representing the City of Clovis, spoke in favor of the application and concurred with staffs’ recommendations and requested that the indemnification agreement be approved by the Clovis City attorney. LAFCo Counsel, Mr. Ken Price, stated that the indemnification agreement would be reviewed and signed by both the City and LAFCo.

The public hearing was closed and a motion was made to approve the proposal as recommended by staff (with indemnification agreement). It was seconded and passed unanimously.

17. City of Clovis “Clovis Pump Station “E” Reorganization”. (LAFCo File No. RO-07-13).

Executive Officer Ballantyne presented the staff report and indicated that the subject territory also contained a Williamson Act Contract when the City obtained it for their Pump Station “E” project, and that similar concerns had been expressed by the State Department of Conservation.

David Fey, representing the City of Clovis concurred with staff’s report and recommended conditions and recommended actions.

No other public testimony was offered and the public hearing was closed. A motion to approve the proposal with recommended findings and conditions was made, seconded and passed unanimously.

18. City of Kerman “Northeast Kerman Annexation”. (LAFCo File No. RO-07-16).

Commissioner Rodriguez excused himself from consideration of this item due to a conflict of interest and left the meeting room. Executive Officer Ballantyne presented staff’s report and indicated that a portion of the affected territory was under an Agricultural Land Conservation Contract and that the City intended not to succeed to the contract. Executive Officer Ballantyne recommended approval with the condition that the City of Kerman enter into an indemnification agreement to protect the Commission.

Mr. Ron Manfredi, City Manager for the City of Kerman spoke in favor of the proposal stating the project was consistent with adopted City Plans and Policies and that it was considered previously at City Council hearings. Mitch Covington, the project developer indicated support of the staff recommendation and recommended conditions.

The public hearing was then closed. A motion to approve was made, seconded and passed with Commissioner Rodriguez abstaining.

19. Consolidated Mosquito Abatement District “Eastern Fresno County Annexation”. (LAFCo File No. AD-06-3). (Continued from June 13 and July 11, 2007)

Executive Officer Ballantyne reported to the Commission that the item had continued twice—once for further noticing, and second, at the request of area representatives in order to provide additional information concerning the proposal.

The public hearing was then opened. Mr. Steve Mulligan, Consolidated Mosquito Abatement District Manager, read a prepared letter written by the President of the Consolidated Mosquito Abatement District’s Board of Trustees. The letter stated that due to failure of the Proposition 218 vote that the District would not have necessary funding available to provide mosquito abatement services to the area. The letter also requested LAFCo deny the District’s annexation application.

LAFCo Counsel, Ken Price, noted that at its April 18, 2007 meeting, the Commission conditionally approved the Eastern Fresno County Annexation and the deadline for

reconsideration had past so the application could not be recorded since the condition related to the Proposition 218 vote could not be met.

The public hearing was then closed with no action taken by the Commission

20. City of Fresno “Request for Extension of Municipal Services Outside the City of Fresno’s Sphere of Influence”. (LAFCo File No. OS-07-1). (Continued from July 11, 2007)

Executive Officer Ballantyne stated that the Aquarius Aquarium Institute had requested approval of an extension of municipal services for a parcel located outside the City of Fresno’s Sphere of influence. After consulting with LAFCo Counsel, Mr. Ballantyne expressed concern that the application did not meet the necessary legal requirements for allowing extension of municipal services. Extension of services could only be granted if it could be proven that they were necessary to avoid a threat to the health and safety of the public or the affected residents.

The public hearing was opened. Mr. Tom Lang, Executive Director of the Aquarius Aquarium spoke in favor of the request. Mr. Lang provided background information concerning the project and provided additional information attempting to address the required findings.

Dave Braun of the City of Fresno stated the City of Fresno would entertain annexing the property, but that a Sphere of Influence Revision would first be necessary.

After consideration of public testimony and justification it was determined by the Commission that the necessary findings as required by State law and LAFCo adopted polices could not be met and denied the application. The Commission encouraged the City of Fresno to expand their Sphere of Influence to include this property. The motion to deny was made, seconded and passed unanimously.

OTHER ITEMS:

21. Public Presentations:

“Upper Kings River Basin Integrated Regional Water Management Plan” – David Orth, District Manager, Kings River Conservation District; and

“Consolidated Irrigation District Groundwater Technical Study and Engineering Report”-Mark Gilkey, District Manager, Consolidated Irrigation District

Power point presentations were made by representatives of each agency. Commissioner Anderson recommended that staff bring back discussion related to Groundwater issues.

22. LAFCo Counsel’s Report: Professional Services Agreement Update

Ken Price informed the Commission that he had received a draft of the “Professional Services Agreement’ with Fresno County and that he and Executive Officer Ballantyne would be meeting with the County. A report would be presented at the Commission’s September hearing.

23. Deputy Executive Officer's Report: *Municipal Service Review (MSR) and Sphere of Influence (SOI) Update Program Report.*

Deputy Executive Officer Schmidt reported that staff had completed MSRs for nine cities and sixty-four special districts with six cities and sixty-nine special districts remaining. It was noted that fourteen districts had not responded to LAFCo's request for information. It was recommended that LAFCo Counsel draft a letter encouraging agencies to comply with staff's request for information. It was also reported that MSR's for the City of Clovis as well as the Consolidated Irrigation District that had been scheduled of next month's agenda would be rescheduled for October.

COMMENTS FROM THE PUBLIC

City of Fresno Fire Department representative, Joel Arnez, requested that the MSRs recently adopted for the Fresno County Fire Protection District, North Central Fire Protection District and the Fig Garden Fire Protection District be modified. He reported that due to Proposition 218 considerations, the Fig Garden Fire Protection District did not desire to annex two island areas as recommended in their MSR. Mr. Arnez indicated that the North Central Fire Protection District, however, would entertain such change given their location to these territories.

Commissioner Anderson stated no formal action could be taken at this time. It was recommended that the North Central Fire Protection District submit formal Sphere of Influence Amendment and annexation applications to allow these two County islands to be served by the North Central Fire Protection District. The Commission indicated that the filing fees would be waived.

ADJOURNMENT

A motion for adjournment was made, seconded and passed.

THE NEXT LAFCO MEETING will be held on September 12, 2007, at 1:30 p.m. in the Board of Supervisors' Chamber - Hall of Records, Room 301, Fresno, California