

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

(Fresno County, California)

“MINUTES”

REGULAR LAFCo MEETING – SEPTEMBER 10, 2008

Call to Order: Chairman Lopez called the meeting to order at 1:35 p.m.

Members Present: Commissioners Susan Anderson, Larry Fortune, Victor Lopez, Henry Perea, and Trinidad Rodriguez

Members Absent: None

Staff Present: Rick Ballantyne, LAFCo Executive Officer
Darrel Schmidt, LAFCo Deputy Executive Officer
Kenneth J. Price, LAFCo Counsel
Mike Noland, LAFCo Special Counsel
Candie Fleming, Clerk to the Commission
Susan Pool, LAFCo Office Assistant II
Samantha Hendricks, LAFCo Technician II

1. **Call to Order and Roll Call**
2. **Pledge of Allegiance**
3. **Minutes from the regular LAFCo Meeting of August 13, 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 recuse themselves from discussing and voting on the matter.**

LAFCo Counsel Kenneth Price noted a conflict with Agenda Item # 6.

PUBLIC HEARINGS

5. **Request for a One-Year Extension of Time to Complete Proceedings for the City of Fresno “Dakota-Polk No. 4 Reorganization” (LAFCo File No. RO-06-30).**

Deputy Executive Officer Darrel Schmidt presented staff’s report indicating that this was the second request for an extension of time. He indicated that the proponent’s justification was based upon similar reasons cited during last year’s request. Deputy Executive Officer Schmidt stated that unless significant progress is made in the coming year, staff would not recommend a further time extension. Chairman Lopez then opened the public hearing.

Mr. Gary Gianetta, the project engineer, stated that the time extension was necessary due to a delay that was experienced in extending the City's sewer main to serve the property. He stated that additional extensions should not be necessary. Chairman Lopez then closed the public hearing and a motion to approve the one-year extension was made, seconded, and passed unanimously.

6. City of Fresno "McKinley-Hayes No. 3 Reorganization".

A. Validation Action - City of Fresno "McKinley-Hayes No. 3 Reorganization" (LAFCo File No. RO-08-10).

LAFCo Special Counsel Mike Noland replaced Ken Price as LAFCo Counsel for this item.

Executive Officer Rick Ballantyne reported that a clerical error had been made when this application had been conditionally approved by the Commission on July 9, 2008. He indicated that it had been discovered that legal notice for the July 9th hearing had not been sent to registered voters residing within the affected territory and the 300 foot buffer as per State law requirement. Based upon this error, Staff reported that it appeared that the Commission's prior action was not valid and that a new hearing should be required. Chairman Lopez then opened the public hearing.

Vince DiMaggio of New Urban Strategies spoke in support of a new hearing based upon the State law requirement. With no other testimony offered, Chairman Lopez closed the public hearing. A motion to rescind the prior approval of this reorganization was made, seconded, and passed unanimously.

B. Consider Approval: City of Fresno "McKinley-Hayes No. 3 Reorganization" (LAFCo File No. RO-08-10).

Executive Officer Ballantyne presented staff's report and indicated that this was a new hearing. After considering all information, Chairman Lopez opened the public hearing for public testimony.

Ms. Madelane Gartin, who owns property within the affected territory asked that her property be left in the County. Ms. Marie Ihde spoke in opposition to the proposal stating her concern is not about being in the City, but losing the value of her commercial property in addition to her commercial (C-6) zoning.

Vince DiMaggio representing New Urban Strategies spoke in support of the reorganization. He indicated that development of this area will result in thirty million dollars worth of new infrastructure being built within this area. Other supporters of the proposal included Carl Richardson, Robert Swantee, Heather Smith, Jack Slevkoff, and Bruce Barnes. Fresno City Council Member Cynthia Sterling indicated that the City supported the application and that the proposed development would help implement Fresno's 2025 General Plan.

Dave Braun from the City of Fresno confirmed that the Ihde Family's property would be zoned Single-Family Residential. He further stated that once the Reorganization is completed that the City of Fresno would initiate a Plan Amendment to reflect the current commercial use of the property.

Chairman Lopez closed the public hearing. A motion to conditionally approve the Reorganization was made and seconded. The motion was approved on a four to one vote with Commissioner Anderson voting no. The protest hearing was set for November 5, 2008.

C. Conducting Authority Proceedings: City of Fresno "McKinley-Hayes No. 3 Reorganization" (LAFCo File No. RO-08-10).

A motion to remove this item from the Agenda was made, seconded, and passed unanimously.

7. City of Fresno "McKinley-Brawley No. 5 Reorganization" (LAFCo File No. RO-08-11).

A. Request to Waive One-Year Time Requirement.

Executive Officer Ballantyne presented a request to waive the one-year time requirement in order to allow consideration of the McKinley-Brawley No. 5 Reorganization (an identical proposal to the McKinley-Brawley No. 4 Reorganization that was terminated at the protest hearing on April 9, 2008). Staff supported the applicant's justification that not to consider the new application would be detrimental to the public interest based upon groundwater contamination concerns. Chairman Lopez then opened the public hearing.

Dirk Poeschal of Land Development Services spoke in support of the waiver on behalf of David Dyck. Fran Doos also spoke in support of the proposal. Chairman Lopez then closed the public hearing where a motion to approve the one-year time waiver was made, seconded, and passed unanimously.

B. City of Fresno "McKinley-Brawley No. 5 Reorganization" (LAFCo File No. RO-08-11).

Executive Officer Ballantyne presented Staff's report explaining that the "McKinley-Brawley No. 4 Reorganization" had previously been processed as an "inhabited" annexation consisting of 12 registered voters residing within the affected territory, and that said annexation proposal had been terminated on April 9th as a result of a majority protest of the registered voters. He reported, however, that the current application was being processed as an "uninhabited annexation" since the numbers of registered voters as per the County Registrar of Voters was determined to be 11. Chairman Lopez then opened the public hearing.

Dirk Poeschel spoke in support of the proposal and concurred with the Staff report and recommendation. The public hearing was then closed and a motion to conditionally approve the reorganization was made, seconded, and passed unanimously.

C. Consider Request: To Waive Filing Fee for “McKinley-Brawley No. 5 Reorganization”.

Executive Officer Ballantyne presented the fee waiver request and advised that the Commission could take action on a four-fifths vote to waive the filing fee if the imposition of such fee would be detrimental to the public interest. Mr. Ballantyne indicated that Staff did not believe that imposing said fee would be detrimental to the public interest. He indicated that while the new proposal was similar to the previous application, that substantial processing costs still existed.

Emory Wishon, the applicant’s attorney, spoke in support of the \$7,500.00 fee waiver. The public hearing was then closed where a motion to deny the request to waive the filing fees was made, seconded, and passed unanimously. The proponent, David Dyck, thanked the Commission for their consideration and support of his project.

8. Consider Approval: City of Fresno “Dakota-Maple No. 2 Reorganization (Island Annexation)” (LAFCo File No. RO-08-13).

Deputy Executive Officer Schmidt presented Staff’s report indicating that the Reorganization was the first of twelve indentified County Island Annexations. Mr. Schmidt reported that State Law allows cities to annex “County Islands” that are 150 acres or less without formal protest from either landowners or registered voters. Mr. Schmidt said that the affected territory already receives community water and sanitary sewer collection services from the City of Fresno. Chairman Lopez then opened the public hearing.

Three area residents spoke against the annexation. Rory Ekern recommended that the proposal be referred back to the City Council. Jerry Russell and James Marshall saw no advantage in being annexed to the City of Fresno.

Bruce Barnes, representing the City of Fresno, informed the Commission that the City had conducted a neighborhood public information meeting and that the City had held pre-zoning meetings with their Planning Commission and City Council. In response to a point related to noise impacts associated with the Fresno Air Terminal, Mr. Barnes discussed the City’s SMART Program intended to provide noise insulation improvements to local residents. Commissioner Perea noted that residents who enter into an agreement with the City would be giving up their air rights.

Ken Price, LAFCo Counsel, informed the Commission that if the proposal met the mandatory State law criteria for Island Annexations, that a protest hearing would not be held. Mr. Barnes also noted that the Bluffs and Belmont-Sunnyside County Islands would be coming to the Commission soon. The public hearing was then closed where a motion to approve the Island Annexation was made, seconded and passed unanimously.

9. Consider Approval: City of Kingsburg “Extension of Municipal Services” (LAFCo File No. OS-08-1).

Deputy Executive Officer Schmidt presented staff’s report. He reported that the proponents wished to have the City’s water line extended and completed by December 1st. Chairman Lopez then opened the public hearing.

Terry Schmal, Kingsburg’s City Planner, explained that the subject site is within an area designated by the Kingsburg General Plan as an Industrial Corridor. Chairman Lopez then closed the public hearing where a motion to conditionally approve the extension of service was made, seconded and passed unanimously.

OTHER ITEMS:

10. Deputy Executive Officer’s Report:

Fresno LAFCo Work Program Quarterly Report: Report on Annual Work Program Accomplishments.

Deputy Executive Officer Schmidt reported that the City of Fresno’s Island Annexation Program has been initiated and that staff was heavily engaged in providing support. Mr. Schmidt reported that some Resource Conservation Districts (RCD’S) and Hospital Districts have decided not to pursue consolidation as had been recommended by their respective Municipal Service Reviews. Discussions on Agricultural Preservation Policies will be presented at the Commission’s regular meeting in October. Lastly, the North Central and Fresno County Fire Protection Districts’ Reorganizations were completed.

Commissioner Perea indicated his interest in pursuing a discussion concerning LAFCO’s role as it relates to any future nuclear power plant being located within Fresno County and such facility’s relationship to “environmental justice” as set forth in LAFCo law. LAFCo Counsel Price stated that if an application regarding the power plant should come before LAFCo that he would have to recuse himself due to a potential conflict of interest.

Chairman Lopez requested that an item be placed on the next agenda regarding “LAFCo Independence”. He shared with the Commission that it was evident during his participation at the recent CALAFCo Conference held in Los Angeles that most LAFCOs were “independent”. LAFCo Counsel Price reported that a Draft Agreement between the County of Fresno and LAFCo has already been prepared and at the October hearing a Subcommittee could be appointed to help facilitate future discussions.

11. Executive Officer’s Report: CALAFCo State Conference Report

Executive Officer Ballantyne briefly commented on the CALAFCo Conference that was held September 3rd thru 5th noting that next year’s Conference will be hosted by Fresno LAFCo in Yosemite. He indicated that the San Joaquin Valley LAFCOs would be invited to help support this Conference. Ken Price and Darrel Schmidt offered their observations of the conference.

12. LAFCo Counsel's Report:

Kingsburg City Manager, Mr. Don Pauley, and City Attorney Mike Noland, reported that four out of five Cities have been granted extensions of their "cooperative agreements" with the Consolidated Irrigation District (CID) and that one of the cities (Selma) had not contributed to either the second installment of fees to continue negotiations nor have they signed a Mitigation Measure Agreement. The negotiation meetings were reported to have been cooperative and constructive. Mr. Pauley extended an invitation to LAFCo Commissioners and staff to attend the next facilitation meeting scheduled for September 17th.

COMMENTS FROM THE PUBLIC:

No public comments were offered

ADJOURNMENT

The Commission adjourned the meeting and announced its next meeting to be held on October 8, 2008, at 1:30 p.m. in the Board of Supervisors' Chamber - Hall of Records, Room 301, Fresno, California.