

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

“MINUTES”

LAFCo MEETING – SEPTEMBER 28, 2011

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

Members Present: Commissioners Susan Anderson, Larry Fortune, Armando Lopez, Henry Perea, and Robert Silva

Members Absent: None

Staff Present: Jeff Witte, LAFCo Executive Officer
Ken Price, LAFCo Counsel
Candie Fleming, Commission Clerk
Samantha Hendricks, LAFCo Technician

- 1. Call to Order and Roll Call**
- 2. Pledge of Allegiance**
- 3. Minutes from the regular LAFCo Meeting of August 24, 2011**

Commissioner Fortune made a motion to approve the Minutes for the August 24, 2011 hearing, and Commissioner Perea seconded the motion. The motion was unanimously approved.

- 4. Potential Conflicts of Interest**

Commissioner Perea reported that he had a conflict with Item No. 13.

- 5. Comments from the Public**

There were no comments from the public.

CLOSED SESSION

- 6. Conference with Legal Counsel – Anticipated Litigation**

There were no actions to report.

CONSENT AGENDA

- 7. LAFCO Financial Statement for August, 2011**
- 8. Update LAFCo Work Schedule Priority List**

9. **Authorize Chairman to Sign a Resolution Establishing a Single-Signature Bank Account with Specific Limitations**
10. **Request from the City of Mendota for Filing Fee Modification**
11. **Authorize Executive Officer to Enter Into an Agreement on LAFCo's Behalf with ICMARC for Deferred Compensation Plans**
12. **Request for a One-Year Extension to Complete Proceedings**
 - A. **City of Fresno "Kings Canyon-Minnewawa No. 3"**
 - B. **City of Fresno "California-Temperance No. 3 Reorganization"**
 - C. **City of Fresno "Shields-Polk No. 4E Reorganization"**

Commissioner Perea made a motion to approve Items 7 through 12C on the Consent Agenda and Commissioner Fortune seconded the motion that was unanimously approved by the Commission.

PUBLIC HEARING

13. **Conducting Authority Proceedings, City of Fresno "Willow-Copper No. 1 Reorganization"**

Chairman Lopez announced that Commissioner Perea wished to recuse himself from the hearing. Executive Officer Witte reported that staff had received protests from landowners that owned less than 2% of the total assessed value of land in the annexation area.

Jeff Roberts spoke on behalf of Granville Homes to support of the Commission's previous approval of the proposal and said they wished to move the project forward.

Ken Holden, a resident in the area, said they were not opposed to the proposal but asked to have his property removed from the reorganization. Mr. Holden said he has a small horse ranch that rescues horses and would like to continue his current lifestyle.

Executive Officer Witte responded that LAFCo's policy is to avoid creating small indentations in the boundaries and suggested Mr. Holden speak with the City of Fresno to see how the annexation would affect his property.

Chairman Lopez reported that a majority protest would be protests from landowners owning 50% or more of the total assessed value of land. Mr. Holden didn't feel that was fair because most of the land was uninhabited and the rest was occupied by small landowners. Mr. Holden asked if there was any way to remove his property from the annexation.

LAFCo Counsel Price responded that the proposal had already been approved by the Commission and that this hearing was for counting protests only. Mr. Price advised that it would take a separate application to LAFCo to remove any property from this reorganization.

A motion to direct the Executive Officer to determine the value of valid protests received and not withdrawn was made by Commissioner Silva and seconded by Commissioner Fortune. The motion

was unanimously approved with Commissioner Perea being absent. (This vote confirms Resolution No. RO-10-6 approving the reorganization since the value of protests was previously determined by the Executive Officer to not be enough to overturn the resolution of approval.)

14. Waterworks District #18

- A. “Municipal Service Review”**
- B. “Sphere of Influence Revision”**
- C. “Friant Ranch Annexation”**
- D. “Extension of Powers**

Executive Officer Witte reported that staff had provided the Commission with a substantial amount of additional material since the last hearing and that there were several components to Waterworks District No. 18’s proposal that the Commission would need to take separate action on. Mr. Witte then summarized the proposal that included a municipal service review amendment, sphere of influence revision, annexation, and extension of powers.

Dave Koehler, Executive Director of the San Joaquin River Parkway and Conservation Trust, said they were very concerned about the Friant Ranch project and that they had filed a lawsuit against the EIR that was prepared and approved by Fresno County for the the project. Mr. Koehler said the Trust submitted a letter to the Commission on September 27th that listed the reasons the Trust was opposed to the annexation and its related approvals. Executive Officer Witte reported that staff received the letter and had provided the Commissioners with a copy prior to the hearing. Mr. Koehler went on to say that in addition to the reasons stated in the September 27th letter, the Trust felt that the proposal sets a bad policy, violates the law, violates the CKH, and violates CEQA. Mr. Koehler said that the Trust felt that if the Commission approved the proposal, it would be relying on a fatally flawed EIR. Mr. Koehler then asked that the Commission deny the annexation and related approvals for the project.

Dennis Bacopulos, Ranch Manager for Friant Ranch, spoke in favor of the proposals and presented a power point presentation which gave an overview of the Friant Ranch Project. Mr. Bacopulos asked the Commission to approve the project.

Radley Reep, a citizen, objected to the shape of the proposed sphere of influence boundary for WWD #18 and the timing of the action. Mr. Reep wondered why the proposed boundary did not include the property on the west side of Friant road that was the site for the new wastewater treatment plant. Mr. Reep also wondered why the Friant Ranch project was not included in the February, 2011, MSR that updated WWD #18’s boundary at that time. Mr. Reep concluded by asking the Commission to produce the engineering designs for the project and to make findings that they were environmentally sound.

Jeff Roberts, a citizen, spoke in favor of the project. Mr. Roberts said that the proponents have been working on the project for a long time and he felt they had addressed every eventuality, environmental issue, and every type of land issue that could possibly be addressed, and felt the project was very well thought-out and would be an asset to Fresno County.

Commissioner Fortune asked if there was a sewer system currently in Friant and Mr. Roberts responded that there was a secondary sewer system that is 24 or 25 years old that only serves a 99-unit mobile home village and does not serve or have the capacity to serve anything else and

everyone else uses private septic tanks. Commissioner Fortune said that the septic then goes into the ground and ends up in the river eventually. Mr. Roberts responded that Friant basically drains to the river. There were no further comments from the public.

Commissioner Fortune made a motion to approve the CEQA findings in Exhibit "E" in staff's report and was seconded by Commissioner Silva. The motion was unanimously approved.

Commissioner Fortune made a motion to approve the Municipal Service Review Amendment for WWD #18 and Commissioner Perea seconded the motion. The motion was unanimously approved.

Commissioner Perea made a motion to approve the sphere of influence revision for WWD #18 and was seconded by Commissioner Fortune. The motion was unanimously approved.

Commissioner Perea made a motion to approve the Friant Ranch Annexation and was seconded by Commissioner Silva. The motion was unanimously approved.

Commissioner Fortune made a motion to active WWD #18's latent powers that would allow the District to provide sewer service to the Community and Commissioner Perea seconded the motion. The motion was unanimously approved.

15. Municipal Service Reviews and Sphere of Influence Updates for the Big Creek, Bluffs, Caruthers, Easton, Laton, and Sierra Cedars Community Services Districts

Executive Officer Witte reported that staff reviewed the updated information provided by the Districts for their MSR's and found the information to be adequate and recommended approval of the MSR's.

There were no comments from the public and Commissioner Perea made a motion to approve the MSR's and Commissioner Fortune seconded the motion. The motion was unanimously approved.

16. Municipal Service Reviews and Sphere of Influence Updates for the Biola and Lanare Community Services Districts

Executive Officer Witte asked the Commission to continue the Biola MSR to a date uncertain to allow the District time to hire a new manager to work with their staff so that they could provide LAFCo with updated information. Mr. Witte also suggested moving the Lanare MSR to the December 7th meeting, so staff could facilitate a meeting between the Lanare Community Service District and Riverdale Public Utility District to see if there is any potential that the two Districts could work together to resolve some of Lanare's issues.

Commissioner Anderson made a motion to continue the Biola CSD MSR to a date uncertain and to continue the Lanare CSD to the December 7th meeting. Commissioner Perea seconded the motion that was unanimously approved.

17. Municipal Service Review and Sphere of Influence Update for County Service Area Nos. 1, 7, 10, 14, 30, 31, 32, 33, 34, 43, 44, 47, 49, and 51

Executive Officer Witte reported that it would be appropriate to continue CSA #44's MSR to a date uncertain because CSA #44 overlapped with WWD #18 and that staff needed to further review the issues related to the approval of the sewer plant in Friant.

Commissioner Perea made a motion to approve the MSRs for CSA No. 1, 7, 10, 14, 30, 31, 32, 33, 34, 43, 47, 49, and 51 and to continue the MSR for CSA No. 44 to a date uncertain. Commissioner Fortune seconded the motion that was unanimously approved.

18. Municipal Service Review and Sphere of Influence Update for the Clovis Veterans Memorial and Riverdale Memorial Districts

Executive Officer Witte reported that staff reviewed the materials provided by the two memorial districts and felt the information was adequate. Mr. Witte noted that the functions of the Riverdale Memorial District were different from the functions of the Riverdale Public Utility District that provides water to the community.

Commissioner Silva made a motion to approve the Clovis and Riverdale Memorial Districts' MSRs and Commissioner Fortune seconded the motion. The motion was unanimously approved.

19. Request to Waive LAFCo's Requirement for a Signed Indemnity Agreement.

Executive Officer Witte reported that both the applicant and LAFCo's legal counsel had discussed the issue and would like to have the issue continued to the November 2nd meeting.

Commissioner Fortune made a motion to continue the item to the November 2nd meeting and Commissioner Silva seconded the motion. The motion was unanimously approved.

The meeting was adjourned at 2:35 p.m.