
**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT**

AGENDA ITEM No. 7

DATE: April 9, 2008

TO: Fresno Local Agency Formation Commission

FROM: Rick Ballantyne, Executive Officer

SUBJECT: **Conducting Authority Proceedings - City of Fresno "Barstow-Grantland No. 3 Reorganization"**. A proposed reorganization consisting of the annexation of 72.5 acres to the City of Fresno and detachment from the North Central Fire Protection District and the Kings River Conservation District for territory located on the south side of W. Barstow Avenue between N. Garfield Avenue and N. Grantland Avenue (**LAFCo File No. RO-07-27**).

Background and Summary

- This protest hearing is being conducted pursuant to the California Government Code commencing with Section 57000 which requires LAFCo to carry out Conducting Authority Proceedings.
- At its February 6, 2008 meeting, the Commission conditionally approved the "Barstow-Grantland No. 3 Reorganization" by adopting Resolution No. RO-07-27, attached to this Report as Exhibit "A", and incorporated herein by this reference. This protest hearing is required because not all landowners had signed consent forms prior to the Commission's action.
- The approved reorganization consists of the annexation of 72.5 acres to the City of Fresno and detachment from the North Central Fire Protection District and the Kings River Conservation District for territory located on the south side of W. Barstow Avenue between N. Garfield Avenue and N. Grantland Avenue.
- At today's hearing, prior to consideration of protests, the Commission's resolution making determinations will be summarized. The Commission will then hear and receive any oral or written protests, objections, or evidence made, presented, or filed.
- All property owners in the affected territory were sent written notice of this hearing, instructions on how to protest, and an official protest form (see Exhibit "B"). At this writing, staff has not received any official written protests.
- At any time prior to the conclusion of this hearing any landowner within the affected territory may file a written protest against the annexation.
- Should insufficient valid protests be received and not withdrawn, the Commission's determination to conditionally approve the reorganization stands.¹

¹ Not longer than 30 days following this hearing in accordance with Government Code Sections 56100, 57075, and 57078.

Recommendation

Direct staff to determine the value of valid protests received and not withdrawn and report these results to the Commission within the time prescribed by State law. If feasible, report these results at this hearing.

Conducting Authority Proceedings

Executive Officer's Summary

The following is a summary of the Commission's Resolution making determinations, which must be presented at the hearing prior to the Commission's consideration of protests.

- At its February 6, 2008 meeting, having considered all relevant factors and heard all interested parties wishing to speak regarding the proposal, the Commission determined that the environmental effects of the project as shown in the CEQA documents submitted by the Lead Agency were legally adequate pursuant to the CEQA Guidelines and that the proposed reorganization was consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and LAFCo Policies, Standards and Procedures.
- The Commission, therefore, approved the proposed Reorganization subject to conditions as contained within the adopted Fresno LAFCo Commission Resolution (see Exhibit "A").
- Having determined that the affected territory is uninhabited but that not all landowners in the territory consented to the annexation in writing, the Commission directed staff to set a protest hearing pursuant to the requirements of California Government Code Section 57000.

Public Testimony

Prior to making its determination for this proposal the Commission must hear and receive any oral or written protests, objections, or evidence made, presented, or filed. The Chairman may call for any final protests to be filed or withdrawn prior to closing the public hearing. The annexation will be terminated if written protests filed with the Executive Officer (and not withdrawn) are sufficient to overturn the Commission's action. Protest procedures for uninhabited annexations are outlined below:

Commission Action

In the case of an uninhabited proposal for a City where a change of organization consists of an annexation and detachment, the Commission is required to make a finding regarding the value of written protests filed and not withdrawn, and take one of the following actions not more than 30 days after the conclusion of the hearing:

- (1) Terminate proceedings if a majority protest exists. A majority protest is deemed to exist and the proposed reorganization shall be abandoned if the Commission finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent landowners owning 50 percent or more of the assessed value of the land within the territory (Government Code Section 57078a).
- (2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

Annexation Ordered

The change of organization (annexation) will be ordered if the number of protests filed with the LAFCo Executive Officer (and not withdrawn) falls below the threshold numbers stated above, subject to the previously mentioned condition.

Calculating the Value of Protests Received

At the close of the public hearing, staff may be directed to determine the value of valid protests received and not withdrawn. Should substantial valid protests be received and not withdrawn, staff may be directed to determine the value of all protests and issue written results to the Commission within 30 days. The reorganization will stand as approved if the number of protests filed with LAFCo (and not withdrawn) falls below the thresholds described above.

Exhibit "A"

RESOLUTION NO. RO-07-27

FRESNO LOCAL AGENCY FORMATION COMMISSION
FRESNO COUNTY, CALIFORNIA

In the Matter of:

LAFCo Determination

A REQUEST BY THE CITY OF FRESNO)
FOR APPROVAL OF THE "BARSTOW-)
GRANTLAND NO. 3 REORGANIZATION") APPROVED WITH CONDITIONS

WHEREAS, reorganization proceedings were initiated by the City of Fresno to, annex 72.5 acres to the City of Fresno and detach from the North Central Fire Protection District and the Kings River Conservation District for territory located on the south side of W. Barstow Avenue between N. Garfield Avenue and N. Grantland Avenues, said territory being described within Exhibit "A", attached hereto and by this reference incorporated herein; and

WHEREAS, an application was submitted to this Commission by the City of Fresno as required by State Law, and the application for said proposed reorganization was accepted for filing by the Executive Officer and set for hearing on the 6th day of February, 2008, at the hour of 1:30 p.m.; and

WHEREAS, notice of said hearing was given as required by State Law; and

WHEREAS, the North Central Fire Protection District and the City of Fresno have a transition agreement in full force and effect that applies to fire protection services within the affected territory on file with the Commission; and

WHEREAS, a Master Property Tax Sharing Agreement exists between the City of Fresno and the County of Fresno, the responsible local agencies for the exchange of property tax revenues covering this reorganization; and

WHEREAS, the County of Fresno submitted a letter to this Commission stating that the County has determined that the proposed annexation of the affected territory to the City of Fresno is consistent with the Master Property Tax Sharing Agreement; and

WHEREAS, the Executive Officer reviewed the application and prepared a report to this Commission, including a recommendation for approval upon certain conditions, said report having been mailed at least five days before the public hearing; and

WHEREAS, said report was duly considered by this Commission pursuant to State Law; and

WHEREAS, this Commission reviewed and considered the information in the Master Environmental Impact Report (MEIR) No. 10130, prepared and certified for the 2025 Fresno General Plan by the Lead Agency, the City of Fresno, which was included in the Executive Officer's report to this Commission; and

WHEREAS, this Commission considered all relevant factors and evidence and heard all interested parties wishing to speak on said application; and

WHEREAS, Commissioner Perea made a motion to approve the application with all staff recommended findings and conditions; and

WHEREAS, said motion failed due to a lack of a second; and

WHEREAS, Commissioner Fortune recommended approval of the proposal without recommended condition C-4 requiring that the Barstow-Garfield No. 1 Reorganization be recorded prior to recordation of this Proposal since it appeared that by doing so could create an unwarranted hardship to the applicant.

NOW, THEREFORE, BE IT RESOLVED that the Fresno Local Agency Formation Commission does HEREBY STATE, FIND, RESOLVE, DETERMINE, AND ORDER as follows:

Section #1. Acting as a Responsible Agency under CEQA Guidelines, this Commission considered the information in the Initial Study and the Finding of Conformity with the 2025 Fresno General Plan Master Environmental Impact Report (MEIR No. 10130) prepared for this Proposal by the City of Fresno prior to making its determination and finds as follows:

1. The subsequent Proposal is within the scope of the (overall) project covered by the MEIR prepared and certified for the 2025 Fresno General Plan.
2. The proposed reorganization will have no additional significant effect, as defined by subdivision (d) of Section 21158 of the Public Resources Code, on the environment that was not identified in the MEIR.
3. No new or additional mitigation measures or alternatives are required in order to avoid or mitigate a significant environmental effect (CEQA Section 15177).
4. The Lead Agency's Initial Study and "Finding of Conformity with the MEIR" were prepared in accordance with the requirements of CEQA Guidelines and are consistent with State law.
5. The City's environmental documents and findings prepared for this Proposal are determined to be legally adequate pursuant to CEQA Guidelines Section 15096.

Section #2. This Commission finds that the proposed reorganization is consistent with LAFCo Policies, Standards and Procedures Section 210 - Standards for Annexation to Cities and Urban Service Districts (01-10), and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Section #3. This Commission assigns the distinctive short form designation "Barstow-Grantland No. 3 Reorganization" and approves the reorganization (annexation and detachments) subject to the following conditions of approval:

- A. *The City of Fresno shall submit to the Executive Officer verification that a Right-to-Farm Covenant is required and made a part of the City's development agreement and that this legal covenant will be recorded with the final tract map approved by the City for the affected territory.*

- B. Satisfactory verification that the City has accepted a final tract map shall be submitted to the Executive Officer prior to completion (recordation) of the annexation.
- C. Ownership of land permitting, the reorganization shall include the full existing right-of-way width of adjacent streets.

Section #4. This Commission finds and determines pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that:

- 1. The territory is uninhabited.
- 2. All landowners have not consented to the Reorganization in writing.

Section #5. This Commission directs staff to set a protest hearing pursuant to the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 57000 et seq.).

Section #6. This Commission's actions approving this proposal shall expire one year from the date of this Resolution unless all proceedings are complete, including compliance with all conditions of approval, terms and conditions, and the issuance of a Certificate of Completion by the Executive Officer.

Section #7. The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution as provided in Government Code Section 56882 and to file, as appropriate, in the office of the Fresno County Clerk all environmental documents, if any, pertaining to the approval of this Proposal, as required by State law.

ADOPTED THIS 6TH DAY OF FEBRUARY, 2008, BY THE FOLLOWING VOTE:

AYES: Commissioners Fortune, Rodriguez, Anderson, Lopez

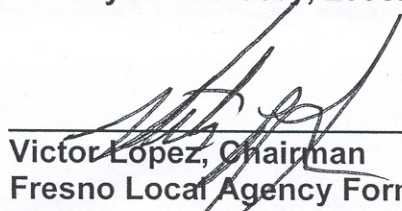
NOES Commissioner Perea

ABSENT: None

**STATE OF CALIFORNIA)
COUNTY OF FRESNO)**

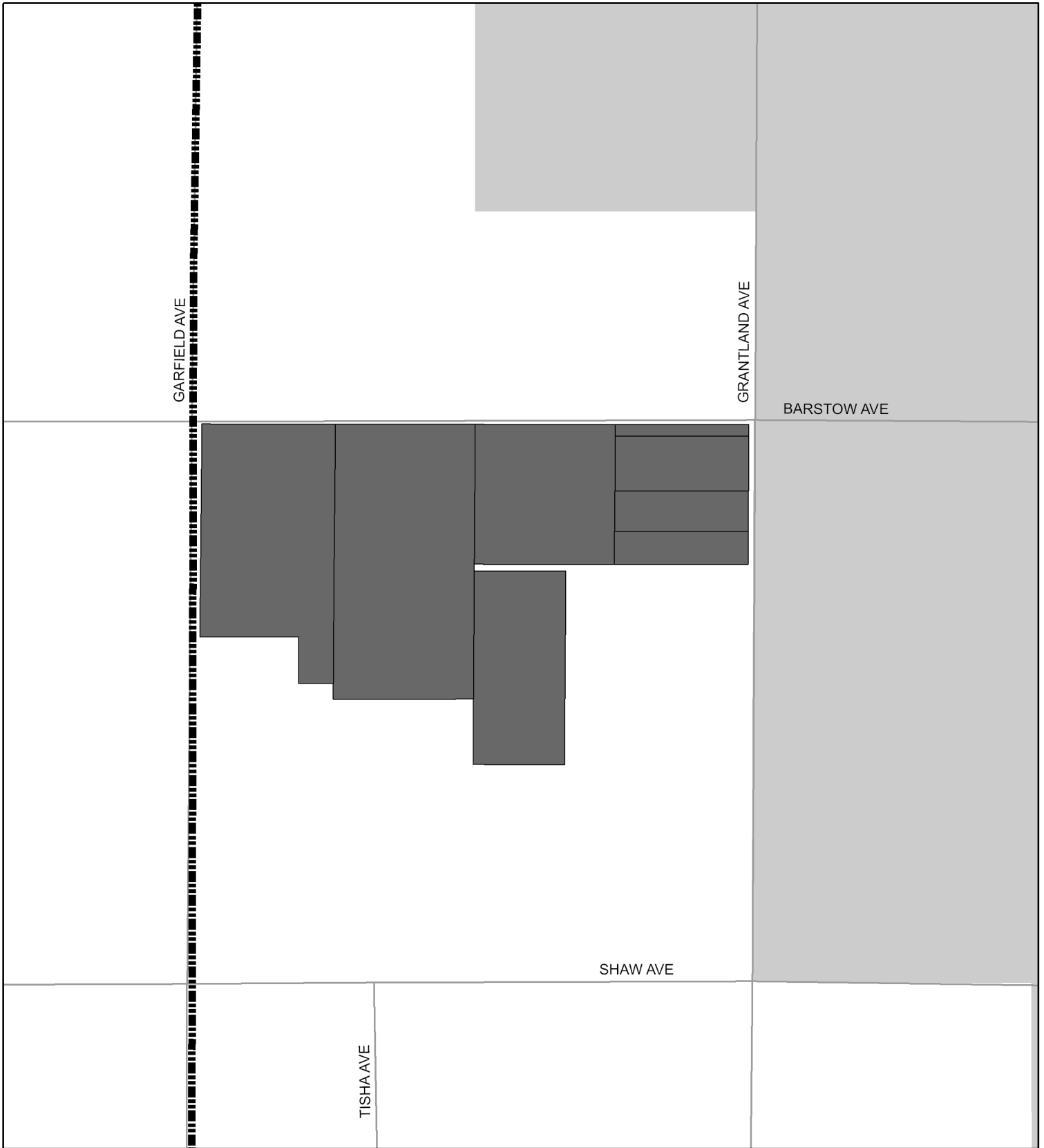
CERTIFICATION

I, Victor Lopez, Chairman of the Fresno Local Agency Formation Commission (LAFCo), Fresno County, State of California, hereby certify that the foregoing resolution was adopted by the Commission on the 6th day of February, 2008.




**Victor Lopez, Chairman
 Fresno Local Agency Formation Commission**

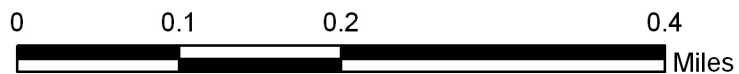
EXHIBIT "A"



Legend

-  Sphere of Influence
-  Fresno City Limits
-  Affected Territory

City of Fresno "Barstow-Grantland
No. 3 Reorganization"
LAFCo File No. RO-07-27



FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO)

NOTICE OF PROTEST HEARING

PLEASE BE ADVISED THAT A PROTEST HEARING will be held by the Fresno Local Agency Formation Commission (LAFCo) **on Wednesday, April 9, 2008, at 1:30 p.m., or as soon thereafter as possible**, in Room 301, Hall of Records, Tulare and "M" Streets, in downtown Fresno concerning the following:

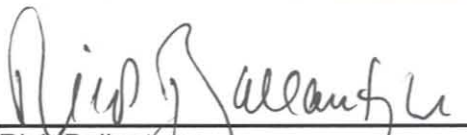
City of Fresno "Barstow-Grantland No. 3 Reorganization". A proposed reorganization consisting of the annexation of 72.5 acres to the City of Fresno and detachment from the North Central Fire Protection District and the Kings River Conservation District for territory located on the south side of W. Barstow Avenue between N. Garfield and N. Grantland Avenues (**LAFCo File No. RO-07-27**).

At its February 6, 2008 hearing, the Fresno Local Agency Formation Commission approved this reorganization (annexation and detachments). Because your property is located in the affected territory, you have the right to protest this decision should you disagree with it. For a complete description of the proposed reorganization, including its boundaries, terms, and conditions, you may request a copy of LAFCo's Resolution approving the proposal at the address below.

HOW TO FILE A PROTEST: Owners of land within the boundaries of the affected territory may file written protests in opposition to the proposed annexation. Protests may either be mailed or delivered to Fresno LAFCo, 2115 Kern Street, Suite 310, Fresno, CA 93721, or presented to the Commission before the end of the protest hearing. You need not attend the hearing to file a protest, but each protest form must state that you are a landowner and must include your name, mailing address and street address (if different) or an Assessor Parcel Number (APN) identifying the location of your property within the affected territory. Written protests must be filed and received no later than the conclusion of the hearing to be considered valid. Each protest filed will be counted separately. An **Official LAFCo Protest Form** is attached if you wish to file a protest. This form may be copied. The results of protests received will be determined within 30 days following the hearing in accordance with California Government Code Sections 57075 and 57078.

EFFECT OF PROTEST: Proceedings will be terminated if the Commission finds that valid written protests filed and not withdrawn prior to the conclusion of the Protest Hearing represent landowners owning 50 percent or more of the assessed value of the land within the affected territory. Otherwise, annexation of your property to the City of Fresno will occur.

The staff report for this item will be available five days before the hearing on our Website at www.fresnolafco.org, or for additional information, contact the Commission Office at 2115 Kern Street, Suite 310, Fresno, CA 93721. Please direct any questions or comments to Rick Ballantyne, LAFCo Executive Officer at (559) 495-0604 or e-mail Mr. Ballantyne at rballantyne@co.fresno.ca.us.


Rick Ballantyne
Fresno LAFCo Executive Officer

DATED: March 17, 2008
LAFCo File No.: RO-07-27

OFFICIAL LAFCo PROTEST FORM

CITY OF FRESNO "BARSTOW-GRANTLAND NO. 3 REORGANIZATION"

Each of the undersigned is the landowner of the property located within the proposal area described below. The undersigned hereby protests the proposed "Barstow-Grantland No. 3 Reorganization" as provided for in Section 57051 of the California Government Code.

NAME OF PROPOSAL "BARSTOW-GRANTLAND NO. 3 REORGANIZATION", RO-07-27

Land Owner

Date _____ **Name** _____
(Please type or print)

Full Legal Signature _____

Address _____
Number Street City or town

Description of affected property if not at above address _____
Assessor's Parcel Number if known

Address or other description

NAME OF PROPOSAL "BARSTOW-GRANTLAND NO. 3 REORGANIZATION", RO-07-27

Land Owner

Date _____ **Name** _____
(Please type or print)

Full Legal Signature _____

Address _____
Number Street City or town

Description of affected property if not at above address _____
Assessor's Parcel Number if known

Address or other description

NAME OF PROPOSAL "BARSTOW-GRANTLAND NO. 3 REORGANIZATION", RO-07-27

Land Owner

Date _____ **Name** _____
(Please type or print)

Full Legal Signature _____

Address _____
Number Street City or town

Description of affected property if not at above address _____
Assessor's Parcel Number if known

Address or other description

PLEASE NOTE - This official protest form must be utilized to submit a valid protest. The use of any other form will invalidate your protest. It is understood that for landowner protests involving a parcel with more than one owner listed on the County's Assessment Roll, only the signer's proportionate share of the value of the property will be credited in the protest.