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

AGENDA ITEM No. 19

DATE: **October 10, 2007**

TO: **Fresno Local Agency Formation Commission**

FROM: **Rick Ballantyne, Executive Officer**

SUBJECT: **Conducting Authority Proceedings - City of Selma "Highland-Rose-Bratton 1 Reorganization"**. A proposed reorganization to annex 89.94 acres to the City of Selma and the Selma-Kingsburg-Fowler County Sanitation District and detach from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District for territory located at the southwest corner of Rose and Highland Avenues (**LAFCo File No. RO-07-15**).

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 July 11, 2007 meeting, the Commission conditionally approved the "Highland-Rose-Bratton 1 Reorganization" by adopting Resolution No. RO-07-15, 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 89.94 acres to the City of Selma and the Selma-Kingsburg-Fowler County Sanitation District and detachment from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District for territory located at the southwest corner of Rose and Highland Avenues.
- 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- Should insufficient valid protests be received and not withdrawn, the Commission's determination to conditionally approve the reorganization stands.¹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 July 11, 2007 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-07-15

**FRESNO LOCAL AGENCY FORMATION COMMISSION
FRESNO COUNTY, CALIFORNIA**

**A REQUEST BY THE CITY OF SELMA) APPROVED WITH CONDITIONS
FOR APPROVAL OF THE "HIGHLAND-)
ROSE-BRATTON 1 REORGANIZATION")**

WHEREAS, reorganization proceedings were initiated by the City of Selma to annex 89.94 acres to the City of Selma and the Selma-Kingsburg-Fowler County Sanitation District and detach from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District for territory located at the southwest corner of Rose and Highland 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 Selma 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 11th day of July, 2007, at the hour of 1:30 p.m.; and

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

WHEREAS, the Fresno County Fire Protection District and the City of Selma 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 Selma 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 Selma 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 Mitigated Negative Declaration prepared by the Lead Agency, the City of Selma, 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.

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 Responsible Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, this Commission finds that prior to approving the proposed reorganization the environmental effects of the project as shown in the CEQA documents prepared, adopted, and submitted by the Lead Agency were reviewed and considered, and determine these documents 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 (01-13), and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Section #3. This Commission assigns the distinctive short form designation " Highland-Rose-Bratton 1 Reorganization" and approves the reorganization (annexations and detachments) subject to the following conditions of approval:

- A. The City of Selma 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. Ownership of land permitting, the annexation shall include the full existing right-of-way width of adjacent roadways.
- C. Satisfactory verification that the City has accepted a final map shall be submitted to the Executive Officer prior to completion (recordation) of the annexation.
- D. Required fees shall be paid to the Selma-Kingsburg-Fowler County Sanitation District in accordance with District regulations. The City of Selma shall submit satisfactory verification to the Executive Officer that said fees have been paid prior to the completion of the annexation.
- E. The "North of Nebraska-East of Highland Reorganization" shall have been recorded prior to recordation of this Reorganization.
- F. The City of Selma shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions, costs, or damages arising out of or in connection with the Commission's actions related to this matter. The agreement must conform to LAFCo's standard indemnification agreement.

Note: A fee for preparing this agreement is required and must be paid prior to preparation.

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

- A. The territory is uninhabited.
- B. All landowners have not consented to the annexation.

Section #5. This Commission hereby 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 11th DAY OF JULY, 2007, BY THE FOLLOWING VOTE:

AYES: Commissioners Rodriguez, Lopez, Fortune

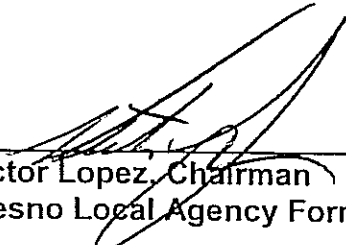
NOES Commissioners Anderson, Larson

ABSENT: None

STATE OF CALIFORNIA)
COUNTY OF FRESNO)

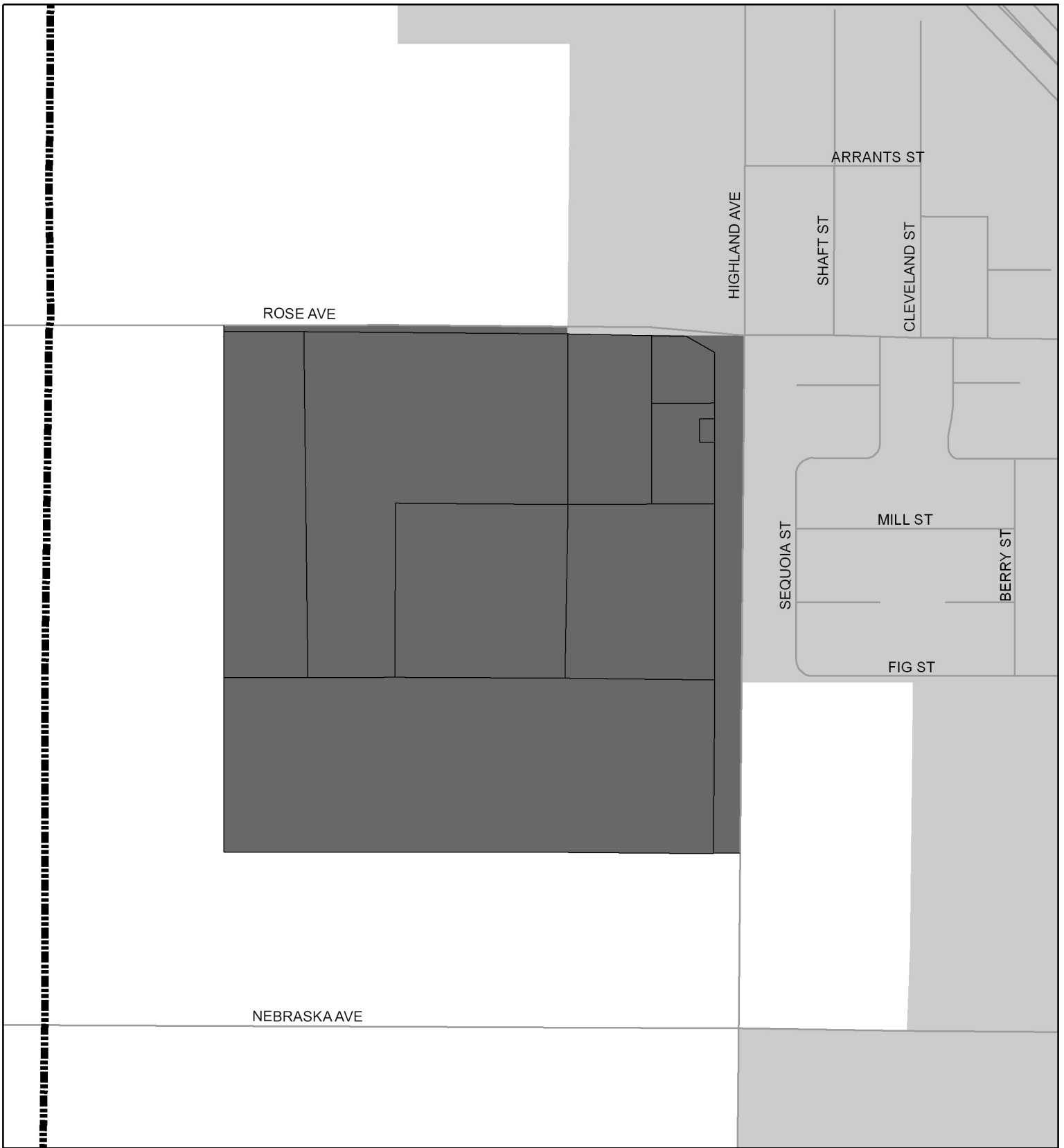
CERTIFICATION

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 11th day of July, 2007.






Victor Lopez, Chairman
Fresno Local Agency Formation Commission

EXHIBIT "A"



Legend

-  Sphere of Influence
-  City Limits
-  Affected Territory

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

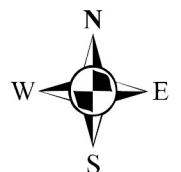


EXHIBIT "B"

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 October 10, 2007, 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:

A reorganization application initiated by the Selma City Council proposing to annex 89.94 acres to the City of Selma and the Selma-Kingsburg-Fowler County Sanitation District and detach from the Fresno County Fire Protection District, the Kings River Conservation District, and the Consolidated Irrigation District. This reorganization will allow the City of Selma to provide municipal services to a future 219-lot single-family residential subdivision located at the southwest corner of Rose and Highland Avenues ("**Highland-Rose-Bratton 1 Reorganization**", LAFCo File No. RO-07-15).

At its July 11, 2007 hearing, the Fresno Local Agency Formation Commission approved this reorganization (annexation and detachments). Because your property is located within the affected territory, you have the right to protest this decision. 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 reorganization. Protests may be mailed or delivered to Fresno LAFCo, 2115 Kern Street, Suite 310, Fresno, CA 93721, or presented to the LAFCo 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 Selma will occur.

For additional **information** please contact the Commission Office, 2115 Kern Street, Suite 310, Fresno, CA 93721. Please direct any questions or comments to Rick Ballantyne, AICP, LAFCo Executive Officer at **(559) 495-0604** or e-mail Mr. Ballantyne at rballantyne@co.fresno.ca.us.

Rick Ballantyne, AICP
Fresno LAFCo Executive Officer

DATED: September 17, 2007
LAFCo File No.: RO-07-15

THIS IS A LEGAL NOTICE

OFFICIAL LAFCo PROTEST FORM
“HIGHLAND-ROSE-BRATTON 1 REORGANIZATION”

Each of the undersigned is the landowner of the property located within the proposal area described below. The undersigned hereby protests the proposed “Highland-Rose-Bratton No. 1 Reorganization” as provided for in Section 57051 of the California Government Code.

NAME OF PROPOSAL “Highland-Rose-Bratton 1 Reorganization” (RO-07-15)

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 “Highland-Rose-Bratton Reorganization” (RO-07-15)

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 “Highland-Rose-Bratton Reorganization” (RO-07-15)

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. **Please mail protest forms to: LAFCo, 2115 Kern Street, Suite 310, Fresno, CA 93721 or fax to (559) 495-0655.**