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

AGENDA ITEM NO. 7

DATE: June 10, 2020

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, Executive Officer 

BY: Juan Lara, LAFCo Analyst II

SUBJECT: **Consider Approval - City of Fresno "Shields-Temperance No. 2 Reorganization."** A proposed reorganization consisting of the annexation of approximately 72 acres to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District for territory located east of North Temperance Avenue between East Shields and East Clinton Avenues. (LAFCo File No. RO-20-05)

Applicant: City of Fresno

Landowners/Parties of Real Interest: City of Fresno, Patrick Ricchiuti, Charlene R. Hagus, Justin R. & Leigh L. Matheson, Lynnette M Molloy, Tony & Yazmin Tran, Nathan & Megan Healy, Amber & Richard Hauschel, Mark & Leslie McAleenan, David & Denise Thomson.

RECOMMENDATION: Approve Alternative 1 (described on pages 3-5) by taking the following actions:

Action 1:

- A. Acting as Responsible Agency pursuant to California Environmental Quality Act ("CEQA") Guidelines, find that prior to approving the proposed annexation, the environmental effects of the proposal as shown in the CEQA documents prepared, adopted, and submitted by the Lead Agency, were reviewed and considered; and determine these documents to be adequate pursuant to CEQA Guidelines section 15096.

Action 2:

- A. Find that the proposed annexation is consistent with LAFCo Policies and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH).
- B. Find pursuant to CKH and information in the record that:
- a. The territory is uninhabited; no registered voters reside in the territory depicted in Alternative 1; and

- b. All landowners have consented to the reorganization.
 - C. Assign the distinctive short form designation "Shields-Temperance No. 2 Reorganization." and approve the annexation subject to the following conditions of approval:
 - a. Pursuant to Fresno LAFCo Policy 103-05, the Executive Officer shall record the approved application if all conditions have been satisfied and once, he or she has determined that the facts pertaining to the application during the time of recording are materially similar to those facts considered by the Commission when the application was approved. Facts, as used in the proceeding sentence, is defined to include, but is not limited to, whether or not the proposed project is materially similar to the project described in any application before the Commission.
 - b. Submittal of corrected legal description and map.
 - 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. Find that the notice mailed on May 20, 2020, was given to all landowners and registered voters within the affected territory, as well as within 300 feet of the affected territory, disclosed that there is potential for the extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency in the affected territory, and that the Commission intends to waive protest proceedings pursuant to section 56663(a)(b)(c) unless written opposition is received before the conclusion of the Commission proceedings.
 - E. Find that no written opposition to the proposal was received from Alternative 1 landowners prior to the conclusion of the hearing and approve the proposal subject to the requirements of the CKH, the 30-day reconsideration period, and compliance with all of the above conditions, and waive further conduction Authority Proceedings.
- or-
- F. If written opposition to the proposal was received prior to the conclusion of the hearing, approve the proposal subject to the requirements of the CKH, the 30-day reconsideration period, and compliance with all of the above conditions, and direct staff to set a protest hearing pursuant to the requirements of the CKH.

Executive Summary

On December 5, 2019, the City of Fresno adopted Resolution No. 2019-244 requesting the Commission to begin proceedings for the "Shields-Temperance No. 2 Reorganization," a proposed reorganization consisting of the annexation of 72 acres to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation

District for territory located east of North Temperance Avenue between East Shields and East Clinton Avenues.

In addition to the territory comprised of a tentative subdivision map, the proposed annexation also includes seven rural residential parcels near the Clinton/Temperance intersection. These parcels were included in the proposal to create logical boundaries.

LAFCo, City, and County staff have participated in three community meetings with the rural residents to answer questions and provide information for all affected parties. The rural residents have expressed their opposition to being annexed to the City of Fresno.

The proposal lies in the eastern—and developing—edge of the City of Fresno. As a consequence of both planned development and existing rural residential, classified streets in the vicinity of the proposal are a mix of rural roads and urban streets developed in part by new subdivisions. City and County staff has expressed support of the annexation of the existing or full Temperance Avenue right-of-way near Clinton Avenue to develop that street to its capacity and to provide safe routes to the nearby Boris Elementary School.

Temperance Avenue can be improved through annexation in either a short-term capacity by acquiring partial right-of-way sufficient for development of a safe route to school, or in a long-term capacity by acquiring full right-of-way. Either scenario would require that land be purchased from the three parcels lying on the east side of Temperance Avenue.

Should the three parcels on Temperance Avenue remain unincorporated, City and County staff have expressed their opinion that right-of-way must someday be obtained through the County and when acquired, will have to be annexed to the City.

The City has submitted a letter requesting approval of Alternative 3 (Attachment D). A similar letter explaining the County's reason for the right-of-way's annexation has been requested from the County.

With these factors in mind, staff has developed several alternatives for the Commission's consideration.

Alternatives for Commission Action

Approve the proposal as originally submitted by the City of Fresno (Approximately 72 acres). (Figure 1)

If proposal is approved as submitted, 100% of the registered voters within the affected territory have submitted sufficient protest to terminate proceedings.

Alternative 1 (staff's recommendation): Approve the proposal without the rural residential parcels or the adjacent portion of the Temperance Avenue right-of-way (Approximately 60 acres). (Figure 2)

This alternative would only annex parcels associated with the approved tentative map and would omit the rural residential parcels south to Clinton Avenue as well as the adjacent rights-of-way of Temperance Avenue. The resulting reorganization would be uninhabited and 100% consent.

Alternative 2: Approve the proposal and the ultimate Temperance Avenue right-of-way south to the Clinton/Temperance intersection and include only a portion of the rural residential parcels fronting the Temperance Avenue right-of-way; make associated finding of the necessity to create an unincorporated island and waive island restrictions pursuant to CKH sec. 56375(m) (Approximately 61 acres). (Figure 3)

If this alternative is approved, the Commission would find that the creation of an unincorporated island within the City of Fresno is necessary to permit the City to improve Temperance Avenue and the Temperance/Clinton intersection. The resulting reorganization would be uninhabited (less than 12 registered voters) but without the consent of all of the landowners. Protests submitted at the time of the hearing would lead to a Conducting Authority Proceeding under CKH sec. 57000, though, at this time, it does not appear that there would be sufficient protest based on land value to terminate the proposal.

Alternative 2 facilitates the full improvement of Temperance Avenue. The City will work with the three affected rural residential property owners to purchase a portion of their property needed for the ultimate Temperance Avenue right-of-way. The remainder of these properties will remain unincorporated.

Though this is a viable alternative, staff does not support approval of this alternative because it creates unusual circumstances that may impact the timing of completion for the reorganization. At this time, the negotiations with the three property owners are not complete so the ultimate right-of-way is not defined as of the writing of this report. Further, the resulting boundaries may not be conducive to timely emergency response.

Alternative 3: Approve the proposal as described in Alternative 2 plus the rural residences along Temperance Avenue to eventually secure the ultimate right-of-way for this street (Approximately 64 acres). (Figure 4)

This alternative includes the Temperance Avenue right-of-way south to the Clinton/Temperance intersection and the three residential parcels adjacent to Temperance Avenue in order for the *full and complete* rights of way to be acquired and developed. Like Alternative 2, protests submitted would lead to a Conducting Authority Proceeding but likely be insufficient to terminate the proposal.

It should be noted for either alternative 2 or 3 that pursuant to GC sec. 56375.3 at some point in the future the City of Fresno may initiate an annexation of the unincorporated island and, after

notice and hearing, LAFCo “shall approve the...reorganization and waive protest proceedings entirely.”

Alternative 4: continue the hearing to continue dialog with the rural residential property owners.

This alternative is not recommended. In response to the rural residents’ concerns about the impact of annexation, namely, the mandatory sewer hook-up provisions common to both City and County ordinances, the City of Fresno amended its ordinance to permit up to 15 years to connect to the available city sewer system. Rural opposition to annexation continued.

Alternative 5: Deny the proposal.

This alternative is not recommended.

Proposal/Land Use

- The proposal consists of the annexation of 72 acres to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District.
- Information related to the proposal's affected territory, land use, proposed development, special districts, surrounding areas, and existing/proposed services can be found on **Attachment A**.
- The affected territory is within the City of Fresno sphere of influence (**Attachment B**) and is contiguous to city limits (**Attachment C**).
- The proposal is currently zoned AE-20 (Exclusive Agricultural) and has been rezoned to the Fresno RS-3/ANX/EA/UGM (Residential Single Family, Low Density/Annexed Rural Residential Transitional/Expressway Area/Urban growth Management)(11.85 acres), 4/EA/UGM (Residential Single Family, Medium Low Density/Expressway Area/Urban Growth Management)(23 acres), and RS-5/EA/UGM (Residential Single Family, Medium Density/Express Area/Urban Growth Management)(34.3 acres) zone districts by Pre-zone Bill No. 51, City Ordinance No. 2019-047.
- The territory as originally submitted is inhabited with 15 registered voters residing in seven rural residential parcels south of the approved tentative map.

Consistency with LAFCO Policies, Standards and Procedures

- The County has determined that the proposal is consistent with the Memorandum of Understanding (Master Tax Sharing Agreement) and the Standards for Annexation between the City of Fresno and County of Fresno. (See letter from Mr. Jean Rousseau.)
- The City of Fresno and the Fresno County Fire Protection District have a transition agreement in place to provide fire protection services to the affected territory. The proposal is subject to the 10-year property tax allocation agreement between the City of Fresno and the Fresno County Fire Protection District effective August 19, 2015.
- The proposal is consistent with the CKH and LAFCo Policies, Standards, and Procedures, including, but not limited to, sections 100 and 200.

- All properties within the proposal have been rezoned to the City of Fresno RS-3/ANX/EA/UGM (Residential Single Family, Low Density/Annexed Rural Residential Transitional/Expressway Area/Urban growth Management, 11.85 acres), 4/EA/UGM (Residential Single Family, Medium Low Density/Expressway Area/Urban Growth Management, 23 acres), and RS-5/EA/UGM (Residential Single Family, Medium Density/Express Area/Urban Growth Management, 34.3 acres) zone districts by Pre-zone Bill No. 51, City Ordinance No. 2019-047.

Relationship to Regional Housing Goals and Policies

This proposal will assist the City of Fresno in achieving its fair share of regional housing needs because the proposal is a single-family residential project that is anticipated to add 394 housing units to the City's housing inventory. Residential development consistent with the densities designated by the Fresno General Plan contributes to meeting the projected population and housing element goals of the adopted Fresno General Plan Housing Element.

Sustainable Groundwater Management Act

Former Governor Edmund G. Brown Jr. signed California's Sustainable Groundwater Management Act ("SGMA") into law on September 16, 2014. This three-part legislation requires local agencies to develop groundwater sustainability plans that are compatible with their regional economic and environmental needs. SGMA creates a framework for sustainable local groundwater management for the first time in California's history.

SGMA requires local agencies to form Groundwater Sustainability Agencies ("GSAs") in local groundwater basins by June 2017 and requires the adoption of Groundwater Sustainability Plans ("GSPs") for groundwater basins deemed high priority by year 2020. The North Kings GSA will represent the City of Fresno.

The affected territory is within the Fresno Irrigation District service area. After annexation, the surface water entitlement within the area will be managed by the City of Fresno.

Environmental Determination

The City of Fresno, acting as "Lead Agency" under CEQA, adopted a Mitigated Negative Declaration for Prezone Application No. P18-03443, Planned Development Permit Application No. P18-03739, Annexation Application No. P18-03263, and Vesting Tentative Tract Map No.6224 (P18-03724) filed with the Fresno County Clerk Office on January 1, 2019 consistent with the requirements of CEQA. The Mitigated Negative Declaration determined the project would not have a significant impact on the environment including impact on matters such as air quality, water consumption, loss of agricultural and city service/infrastructure therefore the preparation of an Environmental Impact Report is not required.

As a "Responsible Agency," the Commission is required to review and consider the City's environmental documents prior to taking its action. If the Commission determines that these

documents are adequate, pursuant to CEQA, it may make the required findings provided under "Recommendations" above.

Costs and Other Changes Affecting Residents or Landowners

Rural residential landowners will be required to connect to city sewer services within 15 years of the service being available.

Landowners will be permitted to retain existing water wells for domestic or agricultural purposes as long as the well does not require further drilling, well casing replacement, or well replacement.

Agencies and Individuals Submitting Comments

- Jean Rousseau, County Administrative Officer
- Chufeng Vang, IT Analyst, Fresno County Elections Department
- Kevin Tsuda, Environmental Health Specialist II, Fresno County Environmental Health Division
- Fresno County Public Library
- Bryant VanderVelde, Cadastral Tech II, Fresno County Assessor-Recorder Office
- Caitlin Juarez, Engineer, State Water Resource Control Board

Territory Boundaries

The boundaries of the proposed annexation **are** definite and certain and the County Assessor has determined that the map and legal description **are adequate** to file with the State Board of Equalization.

Registered Voter Data

The County of Fresno Elections Office reported that there were **15** registered voters in the affected territory.

Compliance with the Requirements of CEQA

Lead Agency: City of Fresno

Level of Analysis: Initial Study

Finding: Mitigated Negative Declaration. (See Environmental Documents at www.fresnolafco.org under the Hearing and Workshops tab in the June 10, 2020 file).

Individuals and Agencies Receiving this Report

- Ken Price, LAFCo Counsel
- Bernard Jimenez, Deputy Director of Fresno Co. Public Works and Planning
- Andrew Benelli, Assistant Public Works Director/City Engineer
- Will Tackett, Planner, City of Fresno
- Jose Valenzuela, Planner, City of Fresno

- Sonja Thiede, GISP, Kings River Conservation District
- Chief Mark Johnson, Fresno County Fire Protection District

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