

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

ADDENDUM TO AGENDA ITEM NO. 7

DATE: April 13, 2016

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer 

SUBJECT: Consider Adoption: Municipal Service Review and Sphere of Influence Update Prepared for the City of Fresno; Commission Action to Conclude Activities of Ad Hoc Committee

RECOMMENDATION: continue to the Commission's May 11, 2016 meeting to permit the City of Fresno to produce a program for the southeast specific plan that conforms to the Commission's planning horizon policy.

Discussion

Sanger Unified School District (SUSD) COO Richard Sepulveda has sent a letter to the Commission requesting that Fresno LAFCo not modify the City of Fresno's southeast sphere of influence (SE SOI) or modify the "area east of DeWolf Avenue and south of Kings Canyon, which is an area of about 1,280 acres instead of the 2,560 acres proposed." (Letter attached)

Salvador Gonzales, COO of Lance-Kashian & Co. has also submitted a letter expressing his company's "vehement" opposition to removing the subject territory from the SE SOI. Mr. Gonzales summarizes Lance-Kashian & Co. plans for development in the SE SOI, noting, "We have relied on the planned Sphere of Influence and now under this proposed item there will be dramatic change." (Letter attached)

Fresno City Manager Bruce Rudd has also provided a letter opposing the recommended reduction of the SE SOI. (Letter attached)

The ad hoc committee's recommendation was based in part on a perceived lack of development interest in the subject territory and SUSD's earlier statements to staff that removal of the subject territory was not an issue to the District. Given the comments in the letters, the ad hoc committee may consider re-evaluating its recommendation.

In addition, it is staff's position that the product of several months' effort by the ad hoc committee collecting and assessing information, the question is not should the SE SOI boundaries be revised but whether the City of Fresno is as committed to specific planning of this area today as it was ten years ago.

The LAFCo's 2006 Resolution #144 amending the Fresno SOI to include what was then known as SEGA includes the following language:

This Commission's conditional approval of the proposed SOI revision is based on the

understanding and promise by the City that the preparation and adoption of a community or specific plan for the southeast growth area will be completed before the City of Fresno applies for any change of organization in this area...

Both the 2003 City/County Memorandum of Understanding (MOU) and the 2006 resolution contain similar conditions requiring specific planning, service planning, and complementary studies.

With the onset of the Recession and collapse of the housing market, the City shifted its planning focus, culminating with the 2014 Fresno General Plan that now focuses on infill development and growth west of SR 99. SEGA, now known as SEDA, moved to an indeterminate position in the General Plan.

It is noted that only annexation applications *by the City* are conditioned in the MOU and 2006 resolution on performance of a specific plan and other planning and service documents. This has significant implications to the vision of planned development in the SE SOI. For example, in 2015, a developer successfully processed a 20-acre tentative map in the SE SOI with the City, that was found exempt from the MOU by both the City and County, and was approved by LAFCo, without being subject to the conditions of the MOU or 2006 resolution.

Based on information received to date, the Clovis and Sanger Unified School Districts anticipate growth in their respective portions of the SE SOI. The CUSD has bonded for improvements and the SUSD anticipates growth but currently lacks the assessed valuation to pass bond measures. Both Districts now oppose any change to the SE SOI. In addition, Building Industry Association staff has informed LAFCo that their membership is focusing on territory north of McKinley Avenue and now staff understands that Lance-Kashian & Co. is also invested in the SE SOI.

The City's commitment to planning was the basis for the County's conditional agreement in the 2003 MOU, and LAFCo's approval of a SE SOI in 2006. Stakeholders, including school districts and builders, then based their own plans on LAFCo's 2006 amendment of the SE SOI.

For this reason, staff believes that the reaction of stakeholders to the notion of change of the City's SE SOI has been, if not timely, relatively consistent: don't change the SE SOI.

This presents two problems of interest to LAFCo. The SE SOI stakeholders have "bet their stakes" on a plan but may not completely understand the logistics that the City must complete in order to fulfill its promise for a specific plan. The tasks necessary include staffing, funding, timing, and coordination of plans with service delivery resources, in an environment where funding and staffing must compete with other city priorities. They saw only that LAFCo has approved the SE SOI and that the City has adopted a general plan, and they organized their operations to accommodate this anticipated growth. The problem is that aside from a general land use diagram, there is no specific plan as required by the MOU and 2006 resolution. *As a consequence, until there is a specific plan there will be no growth and development in the SE SOI.* As far as staff can determine, a specific plan for the SE SOI is not a priority for the City.

The Commission's interest in orderly, logical, and efficient growth of cities is in conflict with the tension resulting from public and private capital investments that rely on an uncertain delivery of the SE specific plan. In fact, the City's testimony at the listening session indicates that the City

is at least 20 years out from needing to expand into the SE SOI. A rhetorical question for the stakeholders is whether they understood the implications of this uncertainty.

The second problem of interest to LAFCo is that the lack of attention in the 2003 MOU and 2006 resolution to property-owner petitions for annexation in the SE SOI. The potential result could be annexation resulting in piecemeal development approved without a specific plan—a plan that was the very core of the County and LAFCo support for the SE SOI. This exception was not fully appreciated at the time and runs contrary to the Commission's interest in orderly, logical, and efficient growth of cities.

The comments by SUSD and Lance-Kashian & Co. reinforce a larger issue for the Commission to consider: the gap between the promises made by the City and the investments made by stakeholders based on those promises. In staff's opinion that gap must be in some way resolved before the Commission acts on the MSR and SOI.

Staff therefore recommends that this item be continued to the Commission's May 11th meeting and direction given to the City to demonstrate its fidelity to a specific plan for the SE SOI by producing a plan development schedule that conforms to the Commission's planning horizon policy. The parties who made investments in the vision of SEGA looked upon the efforts of the City, County, and LAFCo as good faith commitments. By establishing a specific plan program, the City of Fresno has the opportunity to revitalize a unique vision for metropolitan growth in the San Joaquin Valley. The program for a specific plan should contain, at a minimum:

1. Schedule of tasks and the necessary staff and consultant resources;
2. Funding source(s);
3. Projected series of actions to be taken to demonstrate the City's good faith efforts to fulfill its commitment to the vision of the SE SOI.

Fulfillment of this direction to the Commission's satisfaction may serve to support the SE SOI as it stands today.

Nonfulfillment may result in a Commission determination to remove the SE SOI in its entirety. While such a determination does not preclude future amendments of the SOI, it would recognize that the circumstances of SE growth underlying the 2003 MOU and the 2006 LAFCo resolution have significantly changed and may no longer be feasible.



SANGER UNIFIED SCHOOL DISTRICT

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MATTHEW J. NAVO, SUPERINTENDENT

April 11, 2016

Received

APR 13 2016

Fresno LAFCo

David Fey, AICP
Executive Officer
Fresno LAFCo
2607 Fresno Street, Suite B
Fresno, CA 93721

Subject: Commission Agenda Item No. 7--City of Fresno Sphere of Influence Update

Dear Mr. Fey:

The purpose of this letter is to provide the Sanger Unified School District's position on the proposed reduction of the City of Fresno Sphere of Influence (SOI) in the Southeast Development Area (SEDA). The proposed action would reduce the area within the Fresno SEDA SOI by 2,560 acres bounded by Kings Canyon, Temperance, Jensen and the Highland alignment. All of this territory is within Sanger Unified School District.

We would like the current Fresno SOI to remain as it now exists with no reduction in territory. We believe the area proposed for removal is a viable development area that will be beneficial to the District and the City of Fresno. The area has excellent access to Freeway 180 and a planned bus rapid transit line. Preliminary plans for this area include nine school sites, as well as substantial regional business park and regional commercial areas. The business park and commercial development will provide needed jobs and tax base for the community and will result in an increase in assessed valuation. Sanger Unified is lacking in assessed valuation, which hinders the ability of the District to pass bond measures in sufficient amounts to fund needed facilities. And once bond measures are approved, increases in valuation help the District to issue bonds within a reasonable period of time.

Page 6 of the staff report under item 3 indicates that the District "has no pending plans to expand its services to this area; already has enough on its plate within the pre-2006 SOI." While it may be true that the District currently has a "lot on its plate", this does not mean that the District is supportive of removing its territory from the existing SOI.

In conclusion, the District urges LAFCo to keep the SOI as it now exists. If a reduction in the SOI is deemed necessary, we would suggest a smaller reduction, such as the area east of DeWolf Avenue and south of Kings Canyon, which is an area of about 1,280 acres instead of the 2,560 acres proposed.

Thank you for the opportunity to comment on the proposal. Please contact me if you have any questions.

Sincerely,

Richard Sepulveda
Chief Operations Officer

----- "A Tradition of Excellence" -----

Trustees: Peter R. Filippi Ismael (Mike) Hernandez James D. Karle Kenneth R. Marcantonio
Marcy Masumoto Jesse Vasquez Tammy Wolfe

Lance-Kashian & Co.

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Received

April 12, 2016

APR 13 2016
Fresno LAFCo

Honorable Robert Silva, Chairman
Fresno LAFCo
2607 Fresno Street
Fresno, CA 93721

RE: Letter of Opposition to Agenda Item Number 7, on April 13, 2016 Agenda

Dear Mr. Chairman Silva,

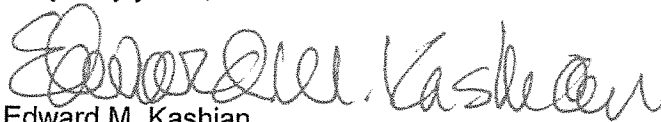
The purpose of this letter is to convey our vehement opposition to removing 2,560 acres from the Sphere of Influence in item number 7, on the April 13, 2016 LAFCo agenda. Our great city and community for decades have needed private equity investment to produce true economic development.

Moreover, for many years we have been planning, developing and have invested over \$20 million in the south east quadrant of Fresno. With this action you will critically impair our investment. We have relied on the planned Sphere of Influence and now under this proposed item there will be dramatic change. When our efforts are completed, we will have invested over \$200 million. What is before you will not only significantly impair our investment, it will change the direction of Fresno after many years of planning. Additionally, it will destabilize an already difficult environment with investors and institutional lenders. We are greatly disappointed in what is being proposed.

Furthermore, the smart growth planning principals and new urbanist goals that have been planned in the SEGA will be impacted.

In closing, we request your **"NO"** vote on this item.

Very truly yours,



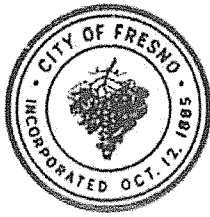
Edward M. Kashian
Chief Executive Officer



Salvador Gonzales
Chief Operating Officer

cc: Honorable Brian Pacheco
Honorable Daniel Parra
Honorable Henry Perea
Honorable Buddy Mendes
Mario Santoyo
Michael Lopez
Honorable Scott Robertson
David E. Fey

Honorable Mayor Ashley Swearengin
Honorable Sal Quintero
Bruce Rudd
Jennifer Clark
Danny Kuniyoshi



BRUCE RUDD
City Manager

Received
APR 12 2016
Fresno LAFCo

April 11, 2016

David Fey, Executive Officer
Fresno Local Agency Formation Commission (LAFCo)
2607 Fresno Street, Suite B
Fresno, CA 93721

RE: April 13, 2016 LAFCo Meeting, Agenda Item No. 7

Dear Mr. Fey:

On Wednesday, April 13, 2016, the Fresno LAFCo will take action on the City of Fresno's Municipal Service Review (MSR) and the City of Fresno's Sphere of Influence. It is important to note that the consultant hired to prepare the new MSR began work in 2013 but a draft was not completed until 2015; in addition to the extraordinary length of time it took to complete the MSR, this document represented an extreme departure from prior reviews prepared by the Fresno LAFCo (as noted in my August 19, 2015 letter). Despite the length of the document, it was apparent that the first draft of the MSR was deficient, resulting in a two month delay while our staff collectively worked to present a corrected document for review. On October 26, 2015, the City sent a letter with the final review draft which concurred with all the recommendations, including staff's recommendation to maintain the existing Sphere of Influence (SOI).

On November 4, 2015, the LAFCo Board heard a presentation on the MSR at a workshop with subsequent action continued to December 9, 2015. Development Area 4-East, as defined in the Fresno General Plan, formerly known as SEGA, was discussed and an Ad Hoc Committee formed to review only this area. As noted in the staff report, there were other areas of the SOI that were recommended for modification, including the addition of the Regional Wastewater Treatment Facility and the trail area between Friant Road and the San Joaquin River in North Fresno which were not evaluated by the Ad Hoc Committee.

On February 5, 2016, the City of Fresno was invited to a listening session hosted by the Ad Hoc Committee. During this session, the City of Fresno presented its current status of development including the progress toward meeting the Memorandum of Understanding (MOU) with Fresno County, otherwise known as the Tax Sharing Agreement. During this meeting the City demonstrated that it was more than half-way toward its infill development goal of 60% per the MOU - achieved within the first 10 years after adoption.

At this rate of growth, the City will be positioned to move into Growth Area 2 both west and east in less than 10 years. This rate of housing development occurred during a severe housing recession and the City continues to see demand for a balance of infill investment and new growth development. One of the most significant challenges to reaching the 60% requirement of the MOU is the over-parcelization and lack of infrastructure that has been allowed to occur in

the City's west growth area within the SOI. This is due to a lack of consistency in adherence to the requirements of directing urbanized development to the cities.

LAFCo stated that approving the change in SOI was predicated on development occurring within 20 years of inclusion in the new planning area. Since the SOI was updated by LAFCo in 2006, and again in 2007, there are more than ten years left to reach the expected development goal. At the current rate of development, it is anticipated that the City will reach the 60% development requirement by 2025, several years before the planning horizon.

Additionally, the City has initiated or completed many of the requirements for orderly development and growth including initiating a Southeast Growth Area Specific Plan which was rolled into the City's recently adopted General Plan, Master Environmental Impact Report, and associated studies. While there is work left to be done, the City's efforts have already led other governmental entities such as the Sanger Unified School District (SUSD) and the Clovis Unified School District (CUSD) to make plans for future school sites and project student demand based on geographic concentration of housing units.

At this juncture, LAFCo must make four determinations regarding the future of the City of Fresno's Sphere of Influence.

- **Growth and population projections for the affected area**

The Fresno General Plan calls for growth to begin occurring in Development Area-4 East within the next 10 years accommodating nearly 9,000 housing units before 2035. Following the first 10 years, which would include significant planning for orderly growth, there are an anticipated 26,000 housing units projected to be developed in this area alone. Removing Development Area 4-East from the Fresno Sphere places additional growth pressure on other unincorporated areas within Fresno County or pushes housing units to cities that have not prepared for this type of growth through their General Plans or possess the resources needed to support additional growth (e.g., water).

- **Present and probable need for public facilities and services**

As presented during the listening session, both CUSD and SUSD stated that their jurisdictions have made significant investments based upon the projected Development Area 4-East in the Fresno General Plan. These include the acquisition of land needed to support future campuses and the anticipated demand of growth. In fact, SUSD is already prepared to begin financing and construction on a complete middle-high school campus to serve the current demand for students. Upon opening, the district anticipates reaching full capacity in a few short years. The district is also evaluating where its next school site will be located within Development Area 4-East. The school has a present need for facilities and services. This is true for the CUSD campus in the northern section of Development Area 4-East. The City of Fresno is the most appropriate jurisdiction to provide utilities and supporting resources to these two school districts as provided in the General Plan MEIR.

- **Present and future capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide**

The MSR clearly indicates that the City of Fresno has the capacity to provide the necessary infrastructure for orderly growth and development. This includes the City's

ability to access potable water supplies well beyond the capacity of neighboring cities or the unincorporated County.

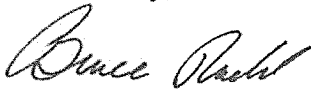
- **The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency**
As provided in the MSR, there are no communities of interest in this area.

Based on the findings contained in the MSR and the responses provided during the Ad Hoc listening sessions, there is not a compelling reason to amend staff's original recommendation and to remove the area bounded by Kings Canyon Road and Jensen Avenue. In fact, there are a number of reasons to support staff's original recommendation including:

- Mitigating the impacts of over-parcelization that has occurred in other unincorporated areas of the County
- SUSD believes this area is necessary for imminent school growth planning. If it is removed from the City's SOI, SUSD will not be able to access utilities for its school sites.
- Any housing units in the City's General Plan assigned to this area will need to be absorbed into the County's General Plan or reassigned to other incorporated communities; either scenario requires extensive study by these agencies and amendments to their existing General Plans and Environmental Impact Reports.

Therefore, it does not appear that LAFCo can objectively justify the removal of the approximately 2,560 acres in Development Area 4-East from Fresno's SOI given the historical rate of development patterns, growth rates, capacity to provide infrastructure, and the imminent demand of other governmental jurisdictions.

Sincerely,



Bruce Rudd
City Manager

cc: Ashley Swearingen, Mayor
Fresno City Councilmembers
Renena Smith, Assistant City Manager
Jennifer Clark, Director of Development and Resource Management