

# **FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)**

## **LAFCo MEETING MINUTES MAY 6, 2015**

**Members Present:** Commissioners Brian Pacheco, Daniel Parra, Henry Perea, Mario Santoyo and Robert Silva

**Members Absent:** None

**Staff Present:** David E. Fey, AICP, LAFCo Executive Officer  
Ken Price, LAFCo Counsel  
George Uc, LAFCo Analyst

### **1. Call to Order and Roll Call**

Chairman Silva called the meeting to order at 10:00 am.

### **2. Pledge of Allegiance**

Chairman Silva led the recital of the Pledge of Allegiance.

### **3. Comments from the Public**

There were no comments from the public.

### **4. Potential Conflicts of Interest**

There were no conflicts reported.

## **CONSENT AGENDA**

### **5A. Minutes from the regular LAFCo meeting of April 1, 2015**

### **5B. City of Clovis “Nees-Armstrong Northeast Reorganization.”**

Commissioner Perea made a motion to approve the Consent Agenda and Commissioner Parra seconded the motion. Commissioners Pacheco, Santoyo and Silva voted in favor of the motion. The motion to approve the Consent Agenda passed with a vote of 5-0.

## **PUBLIC HEARING**

### **6. Final FY 2015-2016 LAFCo Budget estimates and Work Plan.**

Executive Officer Fey presented staff's report and said that after some fine tuning, staff was ready to present the final budget and work plan for adoption. Fey said LAFCo's budget has been decreasing since 2007 or 2008 due to lower costs and higher anticipated fee revenue.

Fey said the proposed budget was for \$447,000 and some change and the Cities' and County's contribution is proposed to be \$186,206 respectively and recommended approval.

Chairman Silva noted that the budget recommended a Reserve Fund Balance in the amount of \$125,000 to fund the Commission's operations until the cities' and County's contributions are received. Commissioner Silva asked how long it takes to receive the funds. Fey responded that the contribution from the County is received rather quickly but it takes longer to receive payment from the smaller cities and that the \$125,000 is basically a buffer so that the Commission isn't starting the fiscal year with no money and allows time for revenue to trickle in. Chairman Silva asked if staff ever had difficulty receiving funds from the Cities and Fey responded that last year one city paid late not because it didn't want to pay but because their City Council was not ready to adopt their budget.

Chairman Silva asked what the \$100,000 operational reserve was for and Fey responded that the \$100,000 allows for some discretion to cover expenses that were not anticipated when the budget was adopted.

Commissioner Santoyo asked how high the priority was for establishing an ag preservation policy and Fey responded that the Commission directed staff to work on the policy a couple of months ago and that staff would be presenting the policy to the Commission before the end of the calendar year. Commissioner Santoyo said it has come to his attention that other agencies were also looking into establishing ag policies and wanted LAFCo's policy to take a lead so that other agencies don't establish conflicting policies.

Fey responded that he is currently involved in COG's ag mitigation program committee and would recommend that the Commission let that process finish before the Commission developed their ag process. Fey said he expected the Committee to conclude within a few months but if it was the Commission's direction to begin the development of the ag policies immediately, he would.

Commissioner Santoyo said that ag discussions had begun before Fey was EO and the concept was to have an ag preservation policy that made sense for areas much like the SEGA area by setting up a committee that included ag interests to provide input on a policy. Commissioner Santoyo felt that if COG's committee included adequate input by all of the stakeholders, then there may not be an issue. Fey said the COG committee is really focused on some language that was in the regional transportation plan EIR that took the idea of how to minimize the loss of farmland and apply that to the transportation projects that COG manages. Fey suggested that staff could bring back some working papers for the Commission to help determine what LAFCo's role should be in the ag preservation issue.

Commissioner Santoyo suggested that the Commission think about putting a sub-committee together to work with the EO to make sure the agencies are on the same path related to LAFCo's policy. Chairman Silva agreed that it is important for LAFCo to take a lead role in the valley's ag preservation policies and staff was directed to bring an ag policy back to the Commission as part of the Work Plan. Commissioner Santoyo said that if a sub-committee was formed he volunteered to be part of the sub-committee. Fey clarified that creating an ag preservation policy was already part of the Work Plan but that the Commission's direction was to make the plan a high priority.

Commissioner Pacheco asked why there was an \$80,000 difference from last year's personnel budget. Fey responded that last year's budget included three staff and \$10,000 for extra help and also anticipated paying out \$15,000 in benefits to a County employee that was contracted to LAFCo, as well other expenses that were included as employee benefits that were not expended.

Commissioner Santoyo made a motion for approval and Commissioner Parra seconded the motion. Commissioners Pacheco, Perea, and Silva voted in favor of the motion and the motion passed with a vote of 5-0.

## **OTHER MATTERS**

### **7. Amendment to Employee Handbook related to additional employee benefits.**

Fey reported the Commission established an Employee Benefits Committee that was comprised of Commissioners Perea and Santoyo. Fey said staff met with the Committee and that the Committee concurred with staff's recommendations to recommend approval of a qualified contribution plan where the Commission would contribute 10% of an employee's gross salary to a deferred compensation plan subject to a three-year vesting period to start when an employee begins employment. Fey said the Committee also concurred with recommending a \$15,000 life insurance policy. Fey said these benefits would be for the two LAFCo employees but not the EO as the EO's benefits were separate and were negotiated through an employment agreement.

Commissioner Perea asked for clarification regarding the three-year vesting period and Fey responded that the vesting period only would be retroactive to when an employee began. Commissioner Pacheco asked what the impetus was for LAFCo to break away from the County and Fey responded that it was a long story but in short, in 2000, legislation changed that allowed LAFCos to be independent from the County. LAFCo Counsel Price explained that even though the CKH facilitated and encouraged the change, today only about two-thirds of LAFCos are independent agencies. Commissioner Perea added that there was a conflict with the City and County members of a previous Commission so it was a goal of the Cities to remove LAFCo from the "County's control" and create an independent agency that was accomplished a few years ago. Commissioner Perea said the Commission allowed staff to continue as County employees so that they could retain their benefits through the County but LAFCo was to transition to having LAFCo-only employees. Commissioner Perea said the employee benefits are the last steps to the transition. Commissioner Pacheco asked for clarification of the Commission's contribution to social security for its employees because in the private sector an employer didn't contribute to an employee's social security. Counsel Price explained that LAFCo would be using the same formula that is used by the private sector and further explained that LAFCo had decided to participate in a defined benefit program rather than a public employee retirement program.

Fey said the Committee was recommending offering these benefits to its employees in order to recruit and maintain high quality employees. Commissioner Pacheco asked if these benefits were equal to what the private sector offered and Fey responded that they were and are competitive with benefits offered by the public sector. Commissioner Pacheco asked why there was only a three-year vesting period and that he preferred to have a five-year vesting period. Fey said that staff was recommending three years but if the Commission wanted five years that would be their option. Commissioner Santoyo said they asked staff to conduct a survey of other

agencies to see what was being offered to come up with reasonable and adequate benefits to recommend to the Commission. Commissioner Santoyo noted that his organization offers a three-year vesting period which has worked out well. Commissioner Pacheco said that based on the Committee's research and Commissioner Santoyo's explanation he would support the Committee's recommendations.

Commissioner Santoyo made a motion to approve the recommended benefits and Commissioner Perea seconded the motion. Commissioners Pacheco, Parra and Silva voted in favor of the motion which passed 5-0.

#### **8. Request from Commissioner Santoyo to amend the Commission's 2015 Hearing Calendar.**

Commissioner Santoyo explained he was requesting the amendment because he was appointed to the Water Commission Advisory Committee as it relates to water storage and the advisory committee. Commissioner Santoyo said the Committee is going to either ensure that there is a pathway to build a dam or not and his absence would mean a significant risk to that effort. Commissioner Santoyo said that as important as LAFCo is, he has to keep his activity in Sacramento and was looking for consideration to accomplish both. Commissioner Pacheco said that he supports Commissioner Santoyo's dual role and does not have an issue with the changes to the dates and time. Commissioner Perea said the only date that didn't work for him was moving the June 3<sup>rd</sup> meeting to June 24<sup>th</sup>. Chairman Silva said he was flexible and the dates and new time would work for him. Commissioner Parra said that he would not be able to attend a meeting on June 24<sup>th</sup> either.

Commissioner Pacheco made a motion to keep the June 3<sup>rd</sup> meeting, cancel the July meeting a move the September and October meeting dates, and change all meeting time to 1:30 p.m. Commissioner Parra seconded the motion and Commissioners Perea, Santoyo and Silva voted in favor of the motion. The motion passed by a 5-0 vote.

#### **9. Correspondence from Leadership Counsel for Justice and Accountability regarding LAFCo action on the Lanare CSD.**

Fey reported that staff received correspondence requesting the Commission take certain action at its next meeting. Fey said that he and Counsel Price met with Veronica Garibay and members of her team to discuss the scope of what their request was and what LAFCo's operational requirements would be along with other issues that they mutually determined would not need Commission action at this point. Fey said staff will begin the MSR process for the Lanare CSD in the next fiscal year and would begin to work on some of the outlying questions and organizational issues. Fey recommend that the Commission not take action today but for Counsel to provide appropriate direction after receiving public testimony.

Veronica Garibay spoke to the Lanare CSD's issues and said that the District was looking to expand its boundaries to include territory that was already being served by the District, extend the powers of the District to include park and recreation, and to clean up some of the District's other issues. Ms. Garibay said that in 2011, there was an update the District's MSR but was not adopted. Ms. Garibay asked to have the LCSD issues examined and brought back to the Commission in two months.

Commissioner Santoyo asked if the District was going to go through the process of expanding its boundaries to include the territory being served, then why not look at including more territory for future growth. Ms. Garibay responded that she supported looking at long-term planning but one of the issues is that the County's community plan for the area has not been updated in over 30 years. She observed that the Lanare community is trying to seat a full board and noted that the water system is currently in receivership and the State will not give control of the water system back to the community until the community can demonstrate that it has the ability to maintain the water system.

Commissioner Santoyo said there was money available to disadvantaged communities through Proposition 1 and asked if they were looking in to getting some of those funds. Ms. Garibay said they were and were working with the State water board who was writing guidelines for allocation of those funds and have been talking to the State Water Resource Control Board about how they are going to spend the money and making sure that the guidelines for the program benefit communities like Lanare to access funding for drinking water and wastewater.

Counsel Price said that under state law when a special district provides service to an area outside of its boundaries it has to obtain LAFCo authorization. Price said that this would be an opportunity to clean up the boundaries.

Commissioner Pacheco said he assumed it was up to the District to update its community plan and that it wasn't LAFCo's issue. Fey responded that the Lanare Community Plan was the County's plan and the County needed to be included in discussions to integrate the County's land use plan with the service area and sphere of the District. Commissioner Perea said that finding the funding to update all of the community plans was an issue for the County. Commissioner Pacheco said that he and Commissioner Perea would work on the County to get the Lanare Community Plan updated. Commissioner Santoyo suggested the Commission direct staff to look at not limiting the District's boundaries to the existing homes outside its boundaries but to look at setting the boundaries to allow for growth. Staff clarified the direction that would be for staff to scope out the responsibilities of LAFCo and the issues in Lanare and brief the Commission in June to make sure they are kept abreast of the developments that are occurring in Lanare and to begin the MSR process based on the update in June.

## **10. Executive Officer Comments/Reports**

Fey reported that he attended the first meeting of the Sustainable Groundwater Management Act (SGMA) working group that Supervisors Pacheco and Mendes were chairing and was assigned to see what other LAFCos were doing as far as the sustainable groundwater management act was concerned. Fey said he would provide a briefing to that group and will keep the Commission apprised on developments as well. Fey reported that the CALAFCO is calling for Board nominations and will provide nomination materials to the Commission if any of the Commission members were interested in serving on the CALAFCO Board. Fey also said he participated in a conference call at the Health Department with some members of the State Department of Health and OPR to scope some action requested by the Governor related to human rights to water. Fey said that members of Public Works and Planning were also present.

## **11. Commission Member Comments/Reports**

Perea acknowledged the CDF fire fighters in the audience. Chairman Silva asked Jeff Roberts who was in attendance, what he thought about the recent "One-Voice" conference that was held

in Washington D.C. Jeff Roberts, Vice-President for Granville Homes, said he appreciated the opportunity to give his impression of the "One-Voice" conference. Mr. Roberts said this was his 11<sup>th</sup> trip to Washington D.C. and in the old days there were earmarks where there was actually money you could chase for specific projects and ask for certain dollar amounts, but obviously those days are gone. Mr. Roberts said this was probably one of the most frustrating times in terms of the issues with water being at the very top of the list. Mr. Roberts said it was also a time when the group got together very quickly and rallied and got some good attention for Fresno and the San Joaquin Valley.

There were no other comments from the Commission.

## **12. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

**Title: Executive Officer**

Counsel Price said that there was no action to report

### **ADJOURNMENT**

Commissioner Parra made a motion to adjourn the meeting and Commissioner Perea seconded the motion. Commissioners Pacheco, Santoyo and Silva voted in favor of adjourning the meeting and the meeting adjourned at 11:45 am.