

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

DRAFT MEETING MINUTES FEBRUARY 10, 2016

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
Candie Fleming, Clerk to the Commission

1. Call to Order and Roll Call

Chairman Silva called the meeting to order at 1:30 p.m.

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

5. Consider Approval of Items A and B.

A. Minutes from the January 13, 2016 LAFCo Meeting

B. Request authorization for the destruction of Fresno LAFCo public records.

Commissioner Perea made a motion to approve the Consent Agenda and Commissioner Parra seconded the motion. The motion passed by a 5-0 vote.

REGULAR AGENDA ITEMS

6. Municipal Service Review and Sphere of Influence Update for the Firebaugh Canal Water District

LAFCo Analyst George Uc presented staff's report and Municipal Service Review. Uc recommended approval by taking separate actions to approve the environmental document and to approve the Municipal Service Review.

Commissioner Santoyo noted that the Firebaugh Canal Water District is one of four districts that comprise the San Joaquin River Exchange Contractors. Commissioner Santoyo said that it is important to understand because for the past two years, there has been zero water allocation on the east side of the valley because the District was obligated to send its water to these four entities. Mr. Santoyo said since these Districts hold the water rights, which are very key in terms of water agencies and are probably the most senior water rights holders in California. Commissioner Silva asked how much water the District received and Uc responded 85,000 acre-feet of water from the USBR.

Commissioner Santoyo made a motion to accept staff's recommendations and Commissioner Parra seconded the motion. The motion passed 5-0.

7. Consider Adoption and Approval of the Following Actions Associated with the Sierra Resource Conservation District (RCD)

- A. Municipal Service Review**
- B. Sierra RCD Detachment**
- C. Sphere of Influence Revision**

Uc presented staff's report and Municipal Service Review and walked the Commission through the sequence of actions necessary for approval of the projects.

Municipal Service Review

Commissioner Perea made a motion to find the MSR Categorically Exempt from the provisions of CEQA under Section 15306 and Commissioner Parra seconded the motion. The motion passed 5-0.

Commissioner Perea made a motion to take actions per staff's recommendations and adopt the MSR for the Sierra Resource Conservation District. Commissioner Parra seconded the motion and the motion passed 5-0.

Sierra RCD Detachment

Commissioner Parra made a motion to find the Sierra Resource Conservation District Detachment Exempt from CEQA pursuant to Guidelines section 15061(b)(3) and Commissioner Perea seconded the motion and the motion passed 5-0.

Commissioner Perea made a motion to take actions per staff's recommendations, approve the detachment, and waive further conducting authority proceedings. Commissioner Parra seconded the motion and the motion passed 5-1.

Sphere of Influence Revision

Commissioner Parra made a motion to find that the sphere of influence revision is Exempt from CEQA pursuant to Guidelines section 15061(b)(3) and Commissioner Perea seconded the motion. The motion passed 5-0.

Commissioner Perea made a motion to take actions per staff's recommendations and approve the sphere of revision. Commissioner Parra seconded the motion and the motion passed 5-0.

8. LAFCo Support of "One Voice D.C."

Executive Officer Fey presented staff's report. Commissioner Silva said the Commission briefly discussed the issue at January's hearing and felt it was a good idea to send someone to represent the Commission and its interests and asked who would like to attend. Commissioner Santoyo said he would like to attend because over the last three years he has taken the lead on Fresno County's No. 1 issue which is water at the "One Voice" trip to Washington D.C. Commissioner Santoyo said it would be a good idea for LAFCo to be engaged in the water issue since water is something they now have to take into consideration. Commissioner Santoyo said this year he has been working with COG to develop a water policy.

Commissioner Pacheco said that from the County's point of view, at least he and Supervisor Perea are limited in going because only two members of the Board could go and those spots have already been allotted. Commissioner Pacheco said that when he read the item, other than the water issue, he questioned why LAFCo felt the need to send someone because there were already other members of the County and Cities going. Commissioner Pacheco asked if it was correct that LAFCo had not sent members in the past. Commissioner Silva said he didn't think anyone from LAFCo had attended in the past but felt that because LAFCo has to also take water into consideration before approving projects, he felt it would be a good idea.

Commissioner Perea made a motion to approve reimbursement of Commissioner Santoyo's expenses up to \$2,525 and Commissioner Parra seconded the motion. The motion passed 4-1 with Commissioner Pacheco voting no.

9. Information Item Regarding Commission Leadership and Composition (new chair and public members)

Fey said this is an informational item only and wanted to bring it to the Commission's attention that the Chair's position will vacate in May. Fey said that per the recently amended Policies and Procedures, Commissioner Pacheco will become Chairman and a new Vice Chairman will need to be selected from the City members. Fey also noted that both Public Members' terms will expire in May. Fey said that by April staff will have applications for the Public Members and hold interviews during the public session in May or the Commission could direct staff to work with a selection committee which will then make a recommendation to the Commission.

Commissioner Pacheco said that the terms are for four years and asked if the current members would be eligible for another term. Fey responded that the policy reads that no public member or alternate public member may serve more than two consecutive terms and this is the first term for both Commissioner Santoyo and Alternate Commissioner Lopez, so it is possible for them to serve an additional term. Commissioner Pacheco asked if the public members had to reapply or is it automatically assumed that they will serve a second term. Counsel Price said that based on the way the policy is drafted that there would be a reapplication process; however, if the Commission fails to act the law reads that the public member shall serve until replacement. Counsel Price said the Commission had two options: 1) not replace or 2) have the public member reapply and then ratify that application. Commissioner Silva asked if the Commission were to take no action, would the public members continue serving. Price said that was correct and that was what happened with the last public member who continued to serve for many

years. Commissioner Pacheco said that since both public members are eligible for another term and if they didn't reapply, that position would be deemed vacant and anyone could apply and then the Commission would then appointment the members. Commissioner Pacheco said it seemed simpler to have the public members reapply then the issue would be put to bed for the next four years. Commissioner Silva said then they will leave it as is and asked Commissioner Santoyo if he was interested in reapplying. Commissioner Santoyo said he would work with the EO on the application process.

10. Fresno MSR/SOI Committee Progress Report

Fey said the Committee held a listening session last Friday that was attended by approximately 20 people and included representatives from the State Center Community College District, Clovis and Sanger Unified School Districts, the BIA, Nisei Farmers League, Cities of Fresno and Sanger, as well as some members of the public. Fey said that as a follow-up to the listening session he has requested a meeting with the City of Fresno to get some more elaboration on the materials that were provided. Fey said Don Ulrich from Clovis Unified said he would also like to provide some additional information. Fey said he received a letter from Mr. Radley Reap who asked it to be entered into the record for the Committee's consideration. Fey said the Committee will need to meet and develop a recommendation based on the information that was provided and the Municipal Service Review will be rescheduled for the Commission's final review.

Commissioner Santoyo said he was particularly interested in what the City's water status was and that he talked to Gary Serrato from the Fresno Irrigation District. Commissioner Santoyo said that the information the City of Fresno provided regarding water was not correct because he knew they didn't have water rights but entitlements from two contracts: one from Kings River and one from the CVP. Commissioner Santoyo said he would like to have FID's comments because they are the principal rechargers of groundwater in this area and have been managing Fresno's water for years. Commissioner Santoyo asked staff to contact FID and ask them to provide their comments.

Commissioner Perea said the Committee received some good comments and felt they would be able to bring their recommendation to the Commission in March or April.

Commissioner Pacheco asked LAFCo Counsel if another Commission member could have sat in the audience and listen since two Commission members were already present. Counsel Price responded yes, that a Commissioner could participate in a public meeting but could not deliberate and comments must be restricted to audience participation. Commissioner Pacheco said he didn't want to attend and violate any rules but was disappointed that he was not at a place where he could listen to the session. Commissioner Pacheco was concerned that the other three members did not get to hear the testimony presented at the session.

Staff was directed to provide minutes from the session to the Commissioners as soon as possible along with a recording of the session. Commissioner Santoyo felt it would be a good idea to get some additional input from the Commissioners.

11. Executive Officer Comments/Reports

Fey said that at last month's hearing the Commission asked if there were any districts that the Commission could take prompt action on if they needed to be dissolved and at that time no

districts came to mind. Fey said that upon further reflection there are many districts on the "threatened and endangered" list: Lanare CSD and the Parlier Cemetery District to name a few. Fey said that in the event the Commission has enough evidence and wishes to dissolve a district, that dissolution is still subject to due process and that if enough protest is received, the process would be terminated. Fey said that the Commission may consider creating a zero sphere which is what other LAFCOs around the State do. Fey said this would eliminate a sphere of influence around a local agency along with the district's ability to add land, extend services, etc. which broadcasts the Commission's intention to wind down the district.

Fey said that staff has been researching information about the formation of a veterans district. Fey said he has met with various groups in the past and gave them a "road map" of the procedures and information necessary for LAFCo to form a district but hasn't heard back from them.

Fey said that he thought the Board of Supervisors was going to discuss the next generation of Fresno's MOU but he didn't see it on the agenda. Commissioner Perea said it was and there was a lot of discussion. Commissioner Perea said the Board gave direction for Bernard Jimenez to meet with Fey to see if there were any issues of conflict or paralleling.

Fey said that LAFCo would like to work with the County and cities to introduce the concept of what LAFCOs are so that MOUs don't mimic what LAFCo does. Fey said that he wasn't suggesting that LAFCo be part of negotiating an MOU, but to work with staff to avoid duplications.

Counsel Price wanted to clarify his answer to Commissioner Pacheco's question about Commissioner's attending the listening session. Counsel Price said there is an exception under the Brown Act which allows for the majority of the members to appear at an open and noticed standing committee meeting. Price said this is an ad hoc committee meeting so he would think that the key is that the meeting be open and noticed so that if the committee went ahead and posted an agenda 72 hours in advance, that would be compliant with the Brown Act. Counsel Price said that Commission members could attend, but attendance would be limited to only being an observer and not as a participant because then there could be collective concurrence.

12. Commission Member Comments/Reports

There were no comments from the Commission.

ADJOURNMENT

Commissioner Perea made a motion to adjourn the meeting and Commissioner Santoyo seconded the motion. The motion passed 5-0 and the meeting was adjourned at 2:14 p.m.