

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

MEETING MINUTES

JUNE 10, 2020

Members Present: Commissioners Mendes, Santoyo, Parra

Members Absent: Commissioner Pacheco

Staff Present: David E. Fey, LAFCo Executive Officer
Amanda Olivas, Clerk to the Commission
George Uc, Senior LAFCo Analyst
Juan Lara, LAFCo Analyst II
Kenneth Price, LAFCo Counsel
Nicholas Martinez, Intern

1. Call to Order and Roll Call

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

The Clerk to the Commission presented the news that Commissioner Lander had stepped down from his role as Commissioner. Scott Robertson, the alternate, was contacted but was unavailable for this hearing. Commissioner Pacheco will not be in attendance this hearing.

2. Pledge of Allegiance

Chair Parra asked Commissioner Mendes to lead 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 of interest.

CONSENT AGENDA

5-A. Minutes from the LAFCo Meeting of April 8, 2020.

5-B. Minutes from the LAFCo Meeting of May 13, 2020.

5-C. A Request from the City of Kingsburg for an Extension of Time to Complete Proceedings for the Kamm-Academy Northwest No. 2 Reorganization.

5-D. Amendment of the Fresno LAFCo Financial and Accounting Procedures.

Commissioner Mendes made a motion to approve consent agenda items 5-A through 5-D

seconded by Commissioner Santoyo. The Commission approved consent agenda items 5-A through 5-D by a vote of 3-0-1-0.

REGULAR AGENDA ITEMS

6. City of Fresno “McKinley-Armstrong No. 2 Reorganization.” (LAFCo File No. RO-20-6)

LAFCo Analyst Juan Lara presented staff's report: there are 124 acres proposed to be annexed to the City of Fresno. The proposed reorganization is within Fresno's SOI and is contiguous with city limits. It is an uninhabited reorganization and staff has received one landowner protest form. The proposal is consistent with the Cortese-Knox-Hertzberg Act (“CKH”) as well as LAFCo policies. Staff recommended the Commission adopt the proposal by entertaining two separate actions presented in staff's report.

Commissioner Santoyo made a motion to approve the CEQA, Commissioner Mendes seconded. The Commission approved the motion a vote of 3-0-0-1

Commissioner Santoyo made a motion to approve the proposal, Commissioner Mendes seconded the motion. The Commission approved the motion by a vote of 3-0-0-1.

7. City of Fresno “Shields-Temperance No. 2 Reorganization.” (LAFCo File No. RO-20-05)

LAFCo Analyst Juan Lara presented staff's report. Lara commented on the uniqueness of the project because staff's recommendation differs from the original project submission.

The proposal as submitted received significant registered voter protest which would terminate proceedings as originally submitted. In light of the number of protests and upon further review, staff developed a number of alternatives for the Commission's consideration.

Alternative 1 is staff's recommendation and only includes the area proposed for development and omits the rural residential parcels to the south.

Lara observed that the County and City staff requested that the Temperance right-of-way be annexed in order for the City to make improvements to this street for capacity and safety. As a result, Alternative 2 includes the area proposed for development, omits the rural residential parcels and includes the Temperance Avenue ultimate right of way but not the balance of land from the three parcels fronting on Temperance Avenue, creating an unincorporated island.

Alternative 3 is similar to Alternative 2 but includes the three parcels fronting on Temperance Avenue. This alternative is supported by the City of Fresno, but creates an unincorporated island. Lara observed that creation of the island can be deemed appropriate if the Commission considered the annexation and improvement of Temperance Avenue is a necessary public benefit. In comparison to the project as originally proposed, Alternatives 2 and 3 make the area an uninhabited and 100% consent annexation.

Chair Parra opened the floor for initial Commissioner comments. Commissioner Mendes asked for clarification on Alternative 1 in regard to whether or not an unincorporated island would be created. Lara clarified that this alternative does not create an unincorporated island but instead only annexes the area proposed for development. Commissioner Mendes asked for clarification about Alternatives 2 and 3 which would waive the protest hearing but result in the creation of an unincorporated island.

Legal Counsel Ken Price clarified that through CKH a protest hearing for an unincorporated island can be waived if the property is less than 150 acres. Commissioner Mendes asked if the City or County had issues with any of alternatives. Lara responded stating the City's support of Alternative 3.

Commissioner Santoyo asked to be reminded of the position of the City and the County in regard to Alternative 1. Lara responded that Alternative 1e was LAFCo staff's recommendation and was unsure of the City or County's position on any of the alternatives other than Alternative 3. Executive Officer Fey offered clarification and context to the project in response to Commissioner Santoyo's question. Chair Parra opened the item for public discussion.

Nathan Healy addressed the Commission and expressed his disapproval of the project. He looked for clarification as to what impacts would be felt for him and his neighbors. Healy noted the financial impact of sewer and water connections that would occur if annexed. Mr. Healy questioned what the benefit would be for him and his family if his property were to go through the process of annexing into the City.

David Thompson expressed his discomfort with the financial burden that would be incurred if his property were to connect to city services. He mentioned lowering property values and the inability for his horse boarding business to continue sustainably. Mr. Thomson asked that the Commission recognize the financial burden of annexation.

Arakel Arisian representing Lennar Homes addressed the Commission. Mr. Arisian expressed his appreciation and thanked LAFCo staff for their help in the steps involved in this project. Mr. Arisian gave his support for Alternatives 1 and 2.

City of Fresno engineer Andrew Benelli the addressed the Commission. He mentioned the City's objection to Alternative 1 citing the need to widen Temperance Avenue to accommodate future traffic. Mr. Benelli commented on the sewer and water connection issues raised by the residents in the affected territory and mentioned there is no requirement for the residents to connect to city services, it is their choice. However, there are limitations on drilling for new wells. According to city code there was a requirement for the residents to connect to city sewer service within three years. This requirement was waived due to a resolution approved by the City Council. Mr. Benelli stated that these residents can stay on their septic tanks for 15+ years unless they develop their property.

Speaking on behalf of the City Mr. Benelli supported annexation of the three parcels on Temperance in support of the widening of the street to avoid a traffic bottleneck as well as to

provide a safe route to school for children attending the school in the area.

Chair Parra asked Mr. Benelli for clarification on the issue of the residents being required to connect to city services.

Commissioner Santoyo asked Mr. Benelli for clarification on what kinds of developments could be allowed to avoid the breach of the 15 year extension. Mr. Benelli stated that the 15+ year extension will be voided only if the residents subdivide their property for development.

Chair Parra asked Mr. Benelli if there was written communication about the city ordinance to the residents in the area. Mr. Benelli stated that he believed LAFCo handled the communication, but that the city did not. Lara addressed the question and stated that he attended a community meeting at Mr. Thompson's residence and notified those in attendance of the action that was to be taken by the City Council.

Commissioner Santoyo expressed his disappointment that more wasn't done in the effort to communicate with residents.

County of Fresno Assistant Public Works and Planning Director Bernard Jimenez addressed the Commission. Mr. Jimenez expressed his department's support of Alternative 2. Commissioner Mendes asked for clarification on the zoning of the property's in question currently. Mr. Jimenez responded that the properties were zoned Rural Residential.

Commissioner Santoyo acknowledged the importance of getting Temperance widened and noted the improved safety for children. He asked Mr. Jimenez for clarification on how long it would take for the Temperance improvement to occur if the project wasn't approved. Mr. Jimenez stated that negotiations would take place between the city and the residents.

Lynnette Molloy addressed the Commission citing the widening of Temperance Avenue. Ms. Molloy was concerned about the loss in property values due to the loss of land required for the road improvements. She asked the Commission if there would ever be a time that the City would buy the three lots along Temperance at market-value. Mrs. Molloy stated that if not, her and her neighbors would not be able to recover their investment.

Justin Matheson addressed the Commission and seconded the comments about the decrease in property values that would be felt if Temperance were to be widened.

Leleigh Matheson addressed the Commission citing the decrease in property values and the danger that having a road as wide as Temperance could have on the safety of the children in her home.

Chair Parra permitted Nathan Healy to return to the lectern. He addressed the Commission stating that he and his neighbors did not receive written communication about the City's resolution granting a 15 year grace period for hooking up to city services.

Commissioner Santoyo asked Mr. Healy if a notice was sent to him and his neighbors about the

City council's action to which Mr. Healy said no. Following up, Santoyo asked Mr. Healy if his position on the project would change if a notice were sent about the resolution and its grace period. Mr. Healy stated that it would not have changed.

Commissioner Santoyo asked Mr. Fey for clarification on the City ordinance in question. Fey asked City staff to respond to the question. Mr. Benelli stated that according to the City code, no new wells could be drilled if a city water main was located in front of their home and the well on the property fails. Mr. Benelli also stated that all of the parcels in question would be grandfathered in and would continue to be allowed to raise horses and livestock under the ANX zoning.

Commissioner Santoyo asked Mr. Benelli if the city could provide a copy of the resolution to the residents. Mr. Benelli stated that the resolution is on the City's website and that a copy could be provided.

Mark McAleenan addressed the Commission. Citing the resolution in question, Mr. McAleenan stated his disapproval of the project because it would decrease property values.

Fey asked city staff for clarification between the ANX-overlay and the service deferral resolution.

Will Tackett from the City of Fresno addressed the Commission and stated that the resolution allows for any permissible county use to remain in perpetuity unless the land re-develops. Mr. Tackett stated that the residents would be able to keep livestock and that there would be no sunset to these uses in the case that the property changes hands. The 15 year service deferral is only void if the property owner decides to re-develop.

Commissioner Santoyo asked for clarification on the resolution. Mr. Tackett stated that current uses could still be enjoyed even if the property changes hands.

Chair Parra permitted Mr. Thompson to return to the lectern. He addressed the Commission stating his distaste with the handling of an annexation that occurred with his neighbors down the street and explained his rationale for being skeptical about a project like this.

Commissioner Parra brought the discussion back to the Commission.

Commissioner Santoyo asked staff for the logic behind selecting Alternative 2 as the recommendation. Fey replied stating that staff approached the issue from the perspective of the Commission's policies and the perspective of efficient development. Commissioner Santoyo asked if there was any correspondence received from school officials in support of any of the alternatives. Fey responded that staff did reach out via routine noticing but that no communication was received from the school district.

Commissioner Mendes stated that he believed Alternative 1 was a compromise position. He followed up stating that no development could occur without Temperance Avenue's improvement. So, either nothing be done and Temperance sits as is or the Commission moves forward. Commissioner Mendes asked Lennar Homes representative Jeff Calloway for

clarification.

Mr. Calloway expressed his support of annexing Temperance as it is the simplest way forward.

Chair Parra asked staff for clarification on Alternative 2; Fey provided clarification.

Commissioner Santoyo made a motion to approve the project's CEQA component. Commissioner Mendes seconded the motion. The Commission approved the motion by a vote of 3-0-0-1.

Commissioner Santoyo made a motion to approve Alternative 3 and to direct staff to work with the city to provide the residents with documentation of the guarantees provided by alternatives and other protections discussed at the hearing. Commissioner Parra seconded the motion. The Commission approved the motion seven by a vote of 3-0-0-1.

8. Final Budget and Work Plan for Fiscal Year 2020-2021

Executive Officer Fey presented the staff report. The budgetary impact of AB 5 in relation to the addition of a bookkeeper as a part-time employee were the only big items of interest according to Fey.

There were no comments from the Commission.

There were no comments from the public.

Commissioner Mendes made a motion to approve the final budget as presented in staff's report. Commissioner Santoyo seconded the motion. The Commission approved the motion by a vote of 3-0-0-1.

9. Workshop: Response by Executive Officer to Matters Raised by the Fresno County Fire Protection District and the City of Parlier

Executive Officer Fey addressed the Commission. Fey contextualized the issue for the Commission and stated that LAFCo staff missed an important part of the dialogue over the tax-sharing agreement between Fresno County Fire Protection District and the City of Parlier. LAFCo staff forgot to notice the County tax assessor. Fey mentioned that the Fire District is present to provide comment. No action is needed by the Commission.

Commissioner Mendes expressed his frustration with the process.

Legal Counsel Ken Price stated the rules and regulations required for this process.

Fresno County Fire Protection District Chief Mark Johnson the thanked Commissioner Mendes and Executive Officer Fey for their work to date on this issue. Chief Johnson contextualized the issue for the Commission explaining the struggle that the District has endured over the last five years in getting a tax-sharing agreement agreed upon.

District Counsel Bill Ross addressed the Commission. Mr. Ross pointed out the uniqueness of this tax-sharing agreement reorganization and stated the nature of the loss incurred by the District as a result of LAFCo's mistake.

Mike Del Puppo board president of the District addressed the Commission. Mr. Del Puppo expressed his frustration with the entire process and asked the Commission for the help with resolving the issue.

Chair Parra brought it back to the Commission.

Legal Counsel Ken Price cleared up a couple of questions around government codes for the Commission and the District. Price stated that LAFCo may not be able to correct the mistake in its entirety at this point but suggested actions that the Commission could take to start the process. Price proposed the Commission provide direction to staff to come up with a plan to address the tax-sharing agreement.

Commissioner Mendes expressed his preference to seeing the previous Commission action regarding the old agreement be voided. Price expressed caution to the Commission if this route were to be pursued.

Commissioner Santoyo asked staff if there was any communication from the City of Parlier in regard to the situation. Fey responded that there was nothing staff received.

10. Executive Officer Comments

Executive Officer Fey mentioned that he sent the Silva family a plant and condolence card as requested by the Commission. There is also a notice from the Pinedale Public Utility District. Fey mentioned that Commissioner Santoyo's term expired in May and staff will notice the opening in the paper and bring back a text amendment next hearing.

11. Commission Comments/Reports

There were no comments from the Commission.

12. Closed Session: Public Employee Performance Evaluation

No closed session was held.

13. Adjournment

Commissioner Santoyo made a motion to adjourn the hearing. Commissioner Mendes seconded the motion. The hearing was adjourned at 3:10 p.m.