

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

LAFCo MEETING MINUTES SEPTEMBER 9TH, 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
Doug Jensen, LAFCo Counsel
George Uc, LAFCo Analyst
Candie Fleming, Clerk to the Commission
Christin Holford, Intern

1. Call to Order and Roll Call

Chairman Silva called the meeting to order at 1:30 p.m. (Commissioner Parra was absent at the time the roll was called but arrived at the beginning of the Public Hearing items.)

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

Commissioner Perea recused himself from Item No. 11.

CONSENT AGENDA

5. Consider Approval of Items A through D

- A. Minutes from the August 12, 2015 LAFCo meeting**
- B. City of Sanger “Indianola-North Reorganization”**
- C. Authorization for the Destruction of Fresno LAFCo Public Records**
- D. Amendment of the Fresno LAFCo employee handbook to comply with “Healthy Workplace Healthy Family Act of 2014”**

Commissioner Perea made a motion to approve the Consent Agenda and Commissioner Santoyo seconded the motion. The motion passed by a 4-0 vote.

PUBLIC HEARING

6. Request from the City of Orange Cove for an extension of time for the “Jacobs-South Reorganization (Del Rey Villas, LLC.)”

Executive Officer Fey reported that this was the sixth request for an extension due in part because of violation letters from the State of California. The City requested the extension of time and reported that the City and engineer are making progress in addressing the issues and has provided the information to support staff's recommendation to approve the extension to November 1, 2017, when the tentative map is set to expire. Fey said that under the Commission's new policy this would be the last extension available to the City.

Commissioner Santoyo made a motion to approve the extension request and Commissioner Parra seconded the motion. The motion passed with a 5-0 vote.

Chairman Silva moved Item 11 to be heard before Item No. 7.

Commissioner Perea recused himself from the hearing at this point.

11. City of Fresno “Locan-Fedora Northeast Reorganization”

Commissioner Pacheco declared that had met with the applicant at the applicant's request prior to the hearing.

Fey reported that the proposal had been continued twice because there was no fire transition agreement between the City and the Fresno County Fire Protection District. Fey said that he was told by both the City and the District that an agreement had been signed but staff has not seen the signed agreement yet and recommended adding a condition that evidence would have to be submitted that there was an agreement before the proposal could be recorded. Fey said the proposal is consistent with LAFCo's policy except for the SEGA sphere of influence conditions and the applicant has said those conditions place a disproportional burden on fulfillment of his proposal. Fey said the City has agreed and approved the territory's planning application and has requested and received the County's concurrence that this proposal should be exempt from the terms of the Memorandum of Understanding. Fey said the question is to either deny the application because it is not consistent with the SEGA SOI conditions or to consider the actions of the City and County and give great weight to that agreement and use that as the basis for the Commission's support of this proposal.

Commissioner Parra asked if the applicant was aware of the risk to his proposal of having the fire transition agreement condition added to the proposal.

John Bonadelle of Bonadelle Homes, said he was aware of the risk.

Commissioner Santoyo asked why LAFCo was not provided a copy of the agreement. Fey responded that he talked to City Manager Bruce Rudd who said the City had signed the agreement and sent it to the District for signature. Fey said he then contacted Chief Mark Johnson who said that he was aware that the District had signed the agreement and that it was on its way back to the City. Fey said that after talking to the City and District he is confident that the agreement has been signed but does not yet have proof of the agreement.

Chairman Silva asked if the proposal was exempt from the SEGA conditions and Fey responded that the Commission has the option to find the proposal exempt based on the actions and support of both the City and County. Commissioner Santoyo asked if there may be other similar proposals that may be coming to the Commission or is this proposal unique. Fey said the proposal is not necessarily unusual and gave an example of another plan's conditions. Fey said it was within the Commission's discretion to decide how to evaluate this project and make a recommendation.

Chairman Silva asked which law enforcement agency was presently patrolling the area. Mr. Bonadelle responded that at the present time, the territory is in the County and the Sheriff is responsible but as soon as it is recorded all of the services once provided by the County would become the responsibility of the City. Mr. Bonadelle supported Option No. 2 and urged the Commission to approve Option No. 2 which would approve the proposal and exempt it from the SEGA SOI conditions.

Commissioner Santoyo made a motion to approve Option No. 2 and Recommendation 2A and Commissioner Parra seconded the motion. The motion passed 4-0 with Commissioner Perea absent.

Commissioner Parra made a motion to approve Recommendations 2B through 2F including the fire transition agreement condition. Commissioner Santoyo seconded the motion and the motion passed 4-0 with Commissioner Perea being absent.

Commissioner Perea returned to the hearing at this point.

7. Request for extension of time for the "Kings Canyon-Minnewawa No. 3 Reorganization"

Fey reported that this is the ninth request for extension and staff was evaluating the request pursuant to the Commission's Policy 315-03. Fey said that the request is not supported by the City of Fresno but has been requested by the applicant and that staff was recommending extension of the proposal to July 20, 2016.

Commissioner Santoyo made a motion to approve the request for extension and Commissioner Perea seconded the motion. The motion passed by a vote of 5-0.

8. Request for extension of time for the "Shields-Polk No. 4E Reorganization"

Fey reported that this is the ninth request for extension and staff was evaluating the request pursuant to the Commission's Policy 315-03. Fey said that the request is not supported by the City of Fresno but has been requested by the applicant and that staff was recommending extension of the proposal to March 29, 2017.

Eric Zweig, Director of Planning for Edenbridge Homes, said they own the territory and have been involved with the proposal for ten years. Mr. Zweig said they are very much interested in completing the annexation in the time that is remaining on their tentative map.

Commissioner Perea made a motion to approve the extension of time and Commissioner Parra seconded the motion. The motion passed by a vote of 5-0.

9. **Municipal Service Review and Sphere of Influence Updated prepared for the City of Fresno; and**
10. **City of Fresno “Sphere of Influence Revision”**

Fey reported that staff was recommending both Items 9 and 10 be continued to a date uncertain. Fey said staff met with the City of Fresno management team to present the draft municipal service review and based on staff's expectations that the City could provide factual information; this hearing was noticed in anticipation of a timely response from the City of Fresno. Fey said the City has since asked for additional time in order to review and amend the factual component of the MSR and because any amendment to the sphere of influence is dependent upon an MSR, staff was recommending continuing the sphere of influence revision for the City of Fresno until the MSR could be adopted by the Commission.

Commissioner Perea said that the Commission has been dealing with this for a while and staff last reported that the Commission would have the MSR by now and felt that someone was delaying the MSR and asked why.

Fey said that when the MSR was started two years ago, the consultant sat down with the department heads and worked out a communication plan and expectations. Fey said since that time, some department heads left the City of Fresno and lines of communication were broken and not reestablished by their predecessors. Fey said that the consultant was told that the information on the City's web was correct so that in the event they were unable to make contact with city staff, they could use the information from the web. When the first draft was presented to City staff they observed that the document had incomplete and out of date data. Fey said City staff provided him with their comments and the consultant went back and made those changes. Fey said this will be the City's third opportunity to provide input into the MSR. Fey said staff felt that to some degree, the City was a little reluctant to submit itself to LAFCo's inspection and that may have contributed to the delay.

Commissioner Perea expressed concern about continuing the MSR to a date uncertain because that meant putting the item on the shelf. Commissioner Perea asked if it would be reasonable to give the City 30 days to comply, and if staff is looking at a date uncertain, could the Commission act on the SEGA portion of the MSR. Fey responded that City staff and the consultant are working on the MSR and he is optimistic that the Commission could consider the MSR soon but didn't have a date. Fey agreed that the SEGA is of concern and it would be appropriate to take up the discussion on SEGA at the time the MSR is being considered. Commissioner Perea asked if the Commission gave the City 30 days to respond could the Commission legally act on the MSR? Fey responded that staff would need a document that the Commission could rely on to make its determinations and was not in the position to say if 30 days would be enough time, however, Fey said he could contact the city manager and express to him the Commission's interest in getting the MSR completed and find out when they think they would be finished with their review. Fey said if the Commission feels the time the City thinks it will need is excessive, staff could again express the Commission's interest and provide some support. Fey again said that the document needs to be something the Commission can rely on based on facts and the City has said they can provide that information to the consultant.

Commissioner Perea said the Commission should consider giving the City 30 days to provide the information or come before the Commission and explain why they haven't.

Chairman Silva pointed out that city manager Bruce Rudd's letter asked that the hearing for the MSR be continued to the November hearing.

Commissioner Santoyo said he understood staff to say that the continuance would be so that the City could verify the information in the document which shouldn't take a lot of work. Commissioner Santoyo agreed that the Commission shouldn't continue to a date uncertain but establish a deadline for the MSR. Commissioner Santoyo said the Commission needed to make some decisions on the SEGA because as long as the SEGA is out there, it's going to create some more situations where the Commission will have to do something outside the box because SEGA is kind of a broken wheel that needs to be fixed so they don't have to deal with exemptions.

Chairman Silva asked Commissioner Perea to clarify what his direction. Commissioner Perea responded that he was suggesting that the Commission give the City 30 days to verify the data, and if at the end of the 30 days it needed another 30 days, then fine but he felt that if the Commission continued the item to November the City could have not finished the verification and but could then ask for more time.

Commissioner Perea made a motion to direct the City to comply with the Commission's request to verify the information in the MSR within 30 days and come back to the Commission in October. Fey clarified an administrative point that once the information is verified, Commission policy calls for a 21-day public review period. The motion was seconded by Commissioner Parra and the motion passed by a 5-0 vote.

OTHER MATTERS

12. Executive Officer Comments/Reports

Fey reported that per the Commission's policy the Executive Officer approved a request for extension of services under CKH Section 56133 for a project at the northeast corner of Temperance and Belmont Avenue which lies within SEGA. Fey said that the Commission has also received two more requests for extension of services, one from the Malaga County Water District and one from the Laton Community Service District. Fey said staff was aware of at least one more pending in the City of Kerman.

Fey noted that the bi-annual audit has begun staff is working with the auditors so they can complete the audit. Fey reported that staff and Commissioner Parra attended the annual CALAFCO conference and that the Commission was provided with a copy of the CALAFCO Newsletter called "The Sphere." Fey also reported that he attended a conference session on SIGMA and thought that the San Luis Obispo Executive Officer's presentation was most succinct and asked if he could make a presentation to the Fresno Commission and he agreed. Fey also said the Commission was provided with the Local Government Committee's update on legislation. Fey said the Commission doesn't currently have a legislative policy that would allow staff and the Commission or subcommittee to work on pending bills and establish positions. Fey said staff would like some discussion and bring the item back for the Commission's consideration as a policy or matter of practice to integrate the Commission into development and comment on pending bills. Fey said that CALAFCO has a boilerplate legislative position and staff could provide that to the Commission.

Commissioner Santoyo concurred that the Commission should have a policy especially since CALAFCO takes positions on bills that Fresno LAFCo may or may not support. Commissioner Santoyo felt that a policy would be a good thing for staff to bring back to the Commission.

13. Commission Member Comments/Reports

Commissioner Parra apologized for being late as he had a doctor's appointment that ran late.

ADJOURNMENT

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