

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

DRAFT MEETING MINUTES

APRIL 13, 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

Commissioner Perea said he would recuse himself from voting on Consent Agenda Item No. 5B.

CONSENT AGENDA

- 5A. Minutes from the March 9, 2016, Meeting
- 5C. City of Fresno "Church-East No. 1 Reorganization"

Item 5B was removed from the consent agenda for a separate vote. Commissioner Perea made a motion to approve Consent Agenda Items 5A and 5C. Commissioner Parra seconded the motion which was passed by a 5-0 vote.

- 5B. City of Clovis "Bullard-Leonard Southeast Reorganization"

Commissioner Perea recused himself from voting on this item. Commissioner Parra made a motion to approve Consent Agenda Item 5B and was seconded by Commissioner Santoyo. The motion passed with a vote of 4-0.

REGULAR AGENDA ITEMS

Commissioner Silva reported that he had received a request to move Agenda Item No. 7 up and through consensus, the Commission heard Item No. 7 next.

7. Consider Adoption: Municipal Service Review and Sphere of Influence Update Prepared for the City of Fresno

Executive Officer Fey reported that staff's initial recommendation was to remove the portion of land between Kings Canyon and Jensen Avenue from the SE SOI. Fey reported that staff has since received correspondence from the Sanger Unified School District, Lance Kashian & Co., and the City of Fresno opposing this recommendation. Fey said staff analyzed the content and context of the correspondence and prepared an addendum to the report which was placed on the dais for the Commission's review. Fey said the correspondence raised the question not whether the City's sphere of influence should be revised, but whether the City remains committed to specific planning of this area as it was ten years ago when the SE SOI was added to the City's sphere of influence. Fey said that the Commission's 2006 approval was conditioned upon the City adopting a specific plan. Since then no such plan has been done. Fey said that last year the Commission approved a proposal in the area based on a property-owner petition after finding that the proposal was not subject to the specific plan condition because that condition applied only to applications from the City. Fey said this is a significant issue that should be addressed by the Commission in a policy manner to clarify whether all annexation applications—those from the City as well as from property owners—in the SE SOI must be accompanied by a specific plan. Fey expressed, based on the interest for comprehensive planning in the SE SOI, that a specific plan should be a requirement for all development as a specific plan was the core of the Commission's 2006 SE SOI determination.

Fey said that since two school districts and several developers have identified that they have made investments of time, money, or property in SE SOI based on a specific plan and based on LAFCo's determination of the sphere; those parties have bet their stakes on a plan that the City may not complete; and that the parties understood that there was a general plan but didn't understand how long it would take the City to prepare a specific plan. Fey said staff was concerned whether or not the City was ready to prepare a specific plan which is the "underpinning" for the area in the first place.

Fey reported that the addendum to the report recommended continuance to the May hearing to allow the City time to reaffirm its commitment to specific planning in the southeast, and if not, the school districts and developers need to know.

Commissioner Perea asked staff what the Commission would require from the City to reaffirm their commitment.

Fey responded that on the last page of the staff report addendum staff listed some suggested specific plan program components. Fey said that the City not having a program to adopt a specific plan in the area could be the basis for reducing the SE SOI.

Chairman Silva couldn't understand why staff didn't hear from the parties opposing removal of the area until right before the hearing. Commissioner Perea said it was very unique for LAFCo to be moving in this direction and they didn't believe the Commission would consider reducing

the SE SOI. Commissioner Perea said that a lot of people in the State are watching to see what Fresno LAFCo is going to do.

Commissioner Santoyo noted that staff's specific plan program did not give a timeline for having the specific plan started or completed and recommended establishing a reasonable target date for the completion of a specific plan. Commissioner Santoyo wondered if there should be a condition that the City also reassesses the availability of the water supply when they prepare a specific plan for the area.

Commissioner Perea said he was agreeable to a 30-day extension but wondered if the City would be in a position to come back in 30 days with a definitive response to the Commission's direction. Commissioner Perea said that one of the actions would need to be taken by the City Council because it was very clear that the City had adopted a general plan update that was oriented on infill growth and growth west of highway 99. Commissioner Perea said that it seemed the City would have to open its General Plan to include the SE SOI or reaffirm that it was going to move development in a different direction. Commissioner Perea said he didn't think the City had any intent to develop any of the SE SOI but hoped the City would be able to respond within 30-days.

Brian Speece with the State Center Community College District said the District purchased 120 acres on the northwest corner of Clovis and North Avenues about 10 years ago to develop its southeast campus. Mr. Speece said the District was encouraged to include this area in its 2002 bond and worked with the City on its infrastructure and still has \$30 million in the 2002 bond that hasn't been used. Mr. Speece said schools work with the State to develop their campuses and it has a project at the State right now asking for about a \$54 million match to the District's \$30 million. Mr. Speece noted that because of the recession, the State hasn't passed a higher education bond since 2006. Mr. Speece said that the SCCCD was currently trying for another bond "Measure C" that will be before the voters on June 7th which would commit another \$60 million to the campus for a total of \$90 million for the first phase of southeast campus if it passes.

Commissioner Pacheco questioned whether removing the territory from the City's SOI would impact the District. Mr. Speece responded saying it did because the District has to work with the City for infrastructure and at this point the City is not willing to work with the District because it is focused on infill on the west side. Mr. Speece said the District's options are to continue to work with the City or work with the County and develop its own infrastructure. Commissioner Pacheco said he was previously a school board member and led the board into land acquisitions and both were not only outside a city's limits, but outside of its sphere of influence and therefore, knew first-hand that a local agency could purchase property for a school outside a city's sphere of influence. Commissioner Pacheco said what he was hearing from the District was that their problem was with the City, not the lines on the paper. Mr. Speece said that was correct, however the District would prefer to work with the City because the infrastructure was already there. Commissioner Pacheco said that as a supervisor, he would wholeheartedly support the District's plans for the campus in the area and the District could move forward with construction of its campus, regardless if the sphere was reduced.

Commissioner Perea wanted to make clear that the impacts of reducing the SE SOI may not be what they appear to be. Mr. Speece said the District could move the site but had already worked to get "center status" for the site. Mr. Speece said it would take a lot of time and work

with the state to get the “center status” (or commitment from the state) moved from the existing location on Annadale to another, new site.

Commissioner Santoyo said it sounded like investments made by lots of people early on relative to SEGA were based on the commitment by the City that it would adopt a specific plan. But though the investments have been made the specific plan hasn't yet been adopted. Mr. Santoyo asked the school districts and developers if they had relayed their concerns regarding the City's lack of a specific plan to the City and if they were continuing to invest in the area on the hopes that things would work out.

Mr. Speece said the District started working on a bond before 2002 and once the City became aware of the plan, the District was strongly encouraged to make a commitment to the southeast, which is why the District selected the present sight. Mr. Speece said the City is aware of the District's plans and concerns but that's as far as it has gone. Commissioner Santoyo said it sounded like the District has done everything it could and would be happy to see the City put together a specific plan sooner rather than later; Mr. Speece agreed with this statement.

Don Ulrich spoke on behalf of the Clovis Unified School District and summarized the District's commitments to the SE area which were stated during the Listening Session with the Ad Hoc Committee held on February 5th. Mr. Ulrich said the agencies can deal with the question of “when” the City will adopt a specific plan, but not “if.” Mr. Ulrich said the District is concerned that the taxpayers, who are the District's constituents, have already made a major investment in a bond measure and planning that was supposed to work in conjunction with the City. Commissioner Pacheco wondered why Mr. Ulrich was speaking on behalf of CUSD when the initial staff recommendation to remove a portion of the SE SOI south of Kings Canyon Avenue would not directly affect his District. Mr. Ulrich responded that he was there to support the other school districts because he knew they would speak in support of Clovis Unified if it were the other way around.

Commissioner Perea said he thought that the parties and the Commission were owed the opportunity of being told “when” but a specific plan for the entire area may be too much to bite off in terms of time and cost. The Commission should give the City clear direction that a specific plan should be programmed in the SE SOI's remaining area so that the school districts could move forward with their plans. Mr. Ulrich said the District would appreciate knowing when and look forward to working with the City.

Commissioner Perea said that if the Commission gave the City a 30-day extension to come back with a timeline for a specific plan, then, based on that data, he would expect the District would know what the timeline would be for implementing a specific plan in the area.

Scott Odell spoke representing the Sanger Unified School District and said Commissioner Perea was correct that it didn't have any property within the SE SOI but the District has purchased most of a 120-acre site at the northeast corner of Fowler and Jensen Avenues, which is planned for a major educational center that will eventually serve 4,000 students. Mr. Odell said that even though the District was not relying entirely on students from the area, it was relying on a significant number of students coming from homes in the SE SOI.

Commissioner Santoyo asked if the District has been in communication with the City about development in the SE SOI. Mr. Odell said he doesn't know the extent of those conversations,

but a specific plan is something that does need to happen for the SUSD to get the benefit of the students. Mr. Odell said another aspect to consider is that the SUSD currently lacks the assessed valuation needed for bonding capacity to support the facilities.

Ashley Warner, representing Leadership Council, opposed the removal of part of the SE SOI from the City's SOI because she believes that the current SOI reflected a very extensive and prolonged community engagement process that culminated in the City's 2014 General Plan. Ms. Warner said the public has an expectation that this area is ultimately in the trajectory of the City's development in the next 20 years and that removing the SE SOI would run counter to the expectations of the public, as well as the investments that were made with taxpayer dollars to move forward in that area.

Sandra Celedon-Castro representing Fresno Building Healthy Communities and speaking as a member of Friends of Calwa requested that the Commission maintain the current SOI for the City because removing a portion of the City's SOI would have a detrimental impact to the Calwa community and small businesses, particularly on Jensen Avenue.

Commissioner Santoyo said that both she and the prior speaker sounded as if something will be happening in the near future and the fact is that nothing has happened in ten years and there doesn't seem to be any plans toward a specific plan. Mr. Santoyo suggested that they may want to encourage the City to adopt a specific plan so they could plan for the future. Ms. Celedon-Castro said that removing the SE SOI would absolutely ensure that no investments in Calwa would happen for the next 20 years.

Commissioner Perea expressed his position that the City of Fresno has no intention to do anything in the SE SOI for the next 20 years and asked how would that benefit anybody? Ms. Celedon-Castro said that the SE SOI does impact Calwa because it gave residents the opportunity for access to jobs, grocery stores, etc. that were to be developed and what's good for their neighbors benefits Calwa. Ms. Celedon-Castro said that leaving the SOI as it is means there is still a glimmer of hope, but removing the area would ensure that nothing would happen.

Mike Prandini representing the Building Industry Association said his organization would be very concerned if the Commission were to remove all of the SE SOI from the City's SOI because there is a significant interest in that area. Mr. Prandini said that because of the lack of a specific plan, builders have not been able to move forward with their development plans. Mr. Prandini said that they could live with the Ad Hoc Committee's recommendation to pull back one area to Temperance Avenue because most of the interest is north of McKinley Avenue. Mr. Prandini said that although the Mayor and City Council have said the SE SOI is not their top priority, it would be a major mistake to remove the whole SE SOI since the dynamics of the City's administration will be changing in January and the new administration may have a different idea for the area. Commissioner Perea said he didn't think the Commission would remove the whole SE SOI and Mr. Prandini said that was reassuring. Mr. Prandini said the Building Industry's preference would be to phase the area rather than remove it.

Leland Parnagian with Fowler Packing Company said his company is actively farming several areas in the SE SOI and wanted to echo comments previously made, but specifically for the area south of Jensen Avenue. Mr. Parnagian said his company has worked for many years to begin the master planning process in that area to develop compatible and consistent uses with the proposed State Center Community College and wanted to reinforce that he thought that the

SE SOI is an area of importance for the City of Fresno in the years to come. Mr. Parnagian said the SE SOI is a prime area for future job creating uses such as light manufacturing, business parks, fulfillment centers, etc. Mr. Parnagian said that in addition to farming, his family develops business parks and would like to do that in this area in the future.

Commissioner Perea said that it may be time for the City Council to make a decision if it is willing to pivot from its original general plan, which included in-fill and development to the west, and be open to development in the SE SOI. Commissioner Perea then asked staff for comments. Fey said that was a constructive observation to give clear direction to the City's legislative body the understanding of what the Commission expects.

Commissioner Perea made a motion to continue the hearing on the Municipal Service Review and sphere of influence update for 30 days and direct staff to get confirmation from the City Council that they would take formal action as to whether they would reconfirm their general plan or pivot to being more active in the development of the SE SOI.

Counsel Price confirmed with Commissioner Perea that the motion was to direct staff to seek an expression by the City Council with respect to its plans for the SE SOI, in addition to providing specific timing, as to when the City anticipates preparing and adopting a specific plan for the area. Commissioner Perea said that if they didn't plan on changing their decision about the SE SOI, that would be considered land banking the area for another 40-50 years and the City needed to let the Commission and the people know. Commissioner Santoyo seconded the motion as clarified and the motion passed with a 5-0 vote.

Fey made a few observations from Mr. Prandini's testimony regarding phasing. Fey said that one of the constraints that this Commission is facing is that both the City/County MOU and the LAFCo resolution have similar but different conditions so whatever happens in either retaining the SOI or removing territory; it needs to be done in context with the MOU conditions, as well. Fey said the Commission could amend its resolution but there may be an impediment if the MOU conditions don't allow the City to move further or commit it to certain actions.

6. Consider Adoption: Municipal service Reviews and Sphere of Influence Updates for the Garfield Water District, Pleasant Valley Water District, and the Tri-Valley Water District

LAFCo Analyst George Uc presented staff's report and PowerPoint presentation. Uc said the report covered MSRs for three water districts and that all three districts participated in the MSR process. UC said staff was recommending that the Commission reaffirm the Districts' present boundaries.

Brad Gleason, President of the Pleasant Valley Water District said he was available for any questions and said he enjoyed working with staff.

Commissioner Parra made a motion to approve Item A for the three water districts and Commissioner Santoyo seconded the motion. The motion passed by a vote of 4-0 with Commissioner Perea being absent. Commissioner Santoyo made a motion to approve Items B through D and Commissioner Parra seconded the motion and the motion passed with a 5-0 vote.

8. Consider Approval: Proposed Budget and Work Plan for Fiscal Year 2016-17

Fey gave staff's report. Fey said he received two e-mails, one from the city manager of Kerman expressing concern about the 25% increase in the operating budget of the Commission. Fey responded though the budget may appear to be larger, the proposed allocation from the Cities and the County will be proportionately smaller because staff proposes to use surplus revenue from the current fiscal year to reduce expenses and also to use money available from the fund balance totaling about \$170,000 that would come off the top of the gross operating budget. Fey said that would reduce the County and cities' allocation from approximately \$290,000 to \$204,000. Fey said he also heard from the Mendota City Manager with essentially the same concern.

Chairman Silva said that there will be a PAC meeting this Friday and asked Fey if he could get on the agenda to explain what LAFCo does and what LAFCo is faced with this year. Fey said he would attend and speak for LAFCo under public comment if he couldn't get some time on the agenda because it is important for the cities and county to understand what they are getting for their money.

Chairman Silva said he found out from a conversation with Fey that some cities passed on the cost of their LAFCo allocation to the developers and some pay out of their general funds. Chairman Silva suggested that Fey also offer some options to the cities for offsetting their allocation to LAFCo. Fey said there is also an opportunity for special districts to get a seat on LAFCo which would change the County's and cities' allocation from half each to a third each; County, cities, and special districts.

Commissioner Santoyo asked if staff was looking for more office space other than where the office is currently located. Fey responded that there is office space available next to LAFCo's current office that is being offered at \$1.45/sq. ft. which is very reasonable for the area. Commissioner Santoyo said he knew there was less expensive office space available and wondered if there was a reason to keep the office downtown. Fey responded that staying downtown is convenient for staff because it is closer to other governmental offices. Fey also said that the current lease isn't up until 2019, so LAFCo had a commitment until then.

Sue Ruiz, representing Self-Help Enterprises, addressed the Commission saying she was President of the Easton Communities Service District and an employee of SHE that works a lot with small districts. Ms. Ruiz said she came to support the Commission's budget and work plan. Ms. Ruiz said she appreciated the way staff has been making LAFCo more effective and felt that the MSR approach is a good idea that gives a special district a tool to work with. Ms. Ruiz said that some districts might think the MSRs become punitive but after talking to staff, the MSRs actually provide guidance, direction, and assistance which takes more staff time. Ms. Ruiz wondered about having special districts on the Commission but contributing to LAFCo's support was a concern for the small districts. Ms. Ruiz said that Self-Help has been working with some districts in Kings County to try and get a seat on their LAFCo. Ms. Ruiz asked if the LAFCo budget would create a financial burden to the small districts by adding staff.

Fey responded that since the districts do not have a seat on LAFCo they are not charged anything for the budget. Fey said that if Fresno LAFCo added two special district members to the Commission, the districts would have to contribute per the procedures in the Cortese-Knox.

Ms. Ruiz asked if the Commission could explore adding special districts to the Commission in the future.

The Commission did not ask for any changes to the Proposed Budget and directed staff to bring the Final Budget back to the Commission for consideration in May.

9. Consider Biannual Financial Audit for Fiscal Year 2013-2014

Fey gave staff's report and said a bi-annual audit was performed in accordance with LAFCo's policies. Fey said the Audit expressed that the financial statements that were evaluated in all material respects found the financial position of LAFCo as of June 30, 2014, and the respective changes to LAFCo's financial position for the year ended, were in conformance with accounting principles generally excepted in the USA, which is a nice way of saying things look good.

Fey said that the Audit offered some recommendations that have already been addressed through a previous revision and update to the LAFCo Financial Procedures. Fey recommended the Commission accept the audit and that no formal action was required.

The Commission expressed its consensus to accept the Biannual Financial Audit for Fiscal Year 2013-2014.

10. Authorize Request: Authorize the Executive Officer to revise existing lease agreement with the Milner Klein Realty Company (dba Physicians' Building Partners) for additional office space

Fey gave staff's report and wanted to make clear that staff was asking for authorization to spend money on an expanded lease prior to approval of next year's budget.

Commissioner Perea made a motion to authorize the Executive Officer to sign a revised lease for additional office space and Commissioner Santoyo seconded the motion that passed by a vote of 5-0.

11. Consider Approval: Raisin City Water District Progress Report

George Uc gave staff's report saying that on October 14, 2015, the Commission approved the District's MSR with conditions and recommendations that included a six-month action item list. Uc said that as of March 29, 2016, the District has satisfied the conditions in the MSR and that the District's report to the Commission was attached to staff's report

Steven Heintz, the District Administrator for the Raisin City Water District said that their report explains to the Commission what actions the District has taken since the MSR was conditionally approved. Mr. Heintz said there have been a lot of positive changes in the District and was available to answer any questions.

Commissioner Perea made a motion to approve the District's Progress Report and Commissioner Pacheco seconded the motion. The motion passed 5-0.

12. Consider Approval: Proposed Fresno LAFCo Legislative Process Practice

Fey gave staff's report and said he met with legislative subcommittee member Santoyo to discuss the Commission's legislative policy. Fey said that typically there is a need to comment publically and staff would bring this to the Commission for formal action; however, with the speed of activity in the Capitol that is sometimes not possible. Fey said staff was looking for a legislative process practice that would allow staff to work with the Commission and Counsel to come up with a position that would be transmitted to the appropriate legislative bodies in a timely manner. Staff recommended that the Executive Officer in consultation with the Chair or the Vice Chair and LAFCo Counsel essentially be the team that is approved to develop legislative positions.

Commissioner Parra asked if that would be the practice if time was of the essence and Fey responded that was correct.

Commissioner Parra made a motion to approve the Legislative Process Practice and Commissioner Santoyo seconded the motion. The motion passed by a 5-0 vote.

13. Executive Officer Comments/Reports

Fey reported that they had received two applications for the Public Member and Alternate Public Member positions and that the Commission would be making a selection at the May 11th hearing.

Chairman Silva asked if the Chair rotation started next month and Fey responded that was correct.

14. 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 3:26 p.m.