

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

LAFCo MEETING MINUTES JUNE 3, 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
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.

5. Appointment of Chair and Chair Pro Tem to serve until May, 2016.

Executive Officer Fey reported that this item was pursuant to a policy amendment that the Commission adopted several months ago related to alternating the Chair and Chair Pro Tem of the Commission between the County members and the City members. Fey asked for clarification on whether the Commission's intent was for the Chair Pro Tem to automatically succeed as Chair the following year or would there be a new vote the following year for Chair and Chair Pro Tem. Commissioner Perea said that it was the Commission's intent for the Chair Pro Tem to automatically be Chair the following year, alternating between the City members and County members.

LAFCo Counsel Ken Price said he read the minutes and listened to the audio and it was not clear if the Chair Pro Tem was to succeed as Chairman the following year and this discussion was to clarify the Commission's intent.

Commissioner Pacheco nominated Commissioner Silva for Chairman. Commissioner Perea added the nomination of Commissioner Pacheco as Vice Chairman and Commissioner Parra seconded the motion. Commissioners Pacheco, Parra, Perea, Santoyo and Silva voted in favor of the motion and the motion passed 5-0.

CONSENT AGENDA

6. Consider Approval of Items A through C

- A. Consider Approval of the Minutes from the regular LAFCo Meeting of May 6, 2015**
- B. Select Commissioner to be Fresno LAFCo's Voting Delegate for the CALAFCO Board of Directors Elections, or Appoint Executive Officer to be Voting Delegate**
- C. Authorize Chair to sign resolution authorizing the execution of a Memorandum of Understanding (MOU) between LAFCo and the Special District Risk Management Authority (SDRMA); Authorize Chairman to sign MOU to allow LAFCo employees to participate in the SDRMA Life Insurance Plan**

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

PUBLIC HEARING

7. Municipal Service Review and Sphere of Influence Update prepared for the Raisin City Water District

LAFCo Analyst George Uc explained the purpose of an MSR and gave staff's report. Uc said that the District's MSR revealed that there were several issues that needed to be addressed. Uc said the District and its legal counsel informed staff that the District is aggressively trying to address the issues that the draft MSR identified and they were requesting additional time to fully comply with the issues. Uc said that staff was recommending continuing the item to October 14, 2015, to allow the District additional time to work with staff to update the MSR for the District. Fey said that staff has been in discussion with the District's legal counsel and that citizen Ted Miller has also been contacting staff and was present at the meeting.

Raisin City Water District Board President Gere Gunland thanked staff for their consideration and recommendation for continuance and said the District appreciated the additional time to rectify any issues that staff raised in the MSR. Mr. Gunland felt that it was important for farmers to have the District as an advocate for the upcoming water legislation.

Evangelina Urias a community member from Raisin City said that for all the years that the Raisin City Water District has existed they have never been able to contact the President. Ms. Urias said that she personally contacted Nancy Schwabenland several times asking when the board meetings were held and when the elections were held and that Ms. Schwabenland had never answered those questions. Ms. Urias said the community members had never heard of the District until she started asking questions. Ms. Urias said community members pay assessments and they have the right to know what the District is doing with the funds. Ms. Urias said that community members have been receiving letters from the District signed by Ms. Roberta Boren who has been deceased for over five years. Ms. Urias said that Raisin City was

a poor community and they needed the Commission's help to find solutions to disclose public information regarding the District's operation.

Commissioner Santoyo said that notices of meetings and agendas should be posted at the District office under the Brown Act and that financial information should be available to the public. Ms. Urias said the District office is at Nancy Schwabenland's home. Commissioner Santoyo asked if the District had a website where she could acquire any of the information. Ms. Urias said they have a website but they don't have the date or time of the meetings. Ms. Urias said that the only thing she saw on the website was about two years when the Board was going to elect board members. Ms. Urias again said that Raisin City is a very poor community and not all citizens have a computer or the knowledge to use a computer. Ms. Urias said the District could post their notices at the post office and at local stores.

Commissioner Santoyo said he assumed that the citizens within the District received assessments and if so, how much was it per year. Ms. Urias said it depends on how many parcels but it was \$2.00 per year per parcel. Commissioner Santoyo asked if they received a report of how the money was used and she responded that they have not.

Fey asked if Ms. Urias could show the letter that she referred to earlier to the Commission. Fey said the speaker was raising some issues that were observed in the MSR and the purpose of an MSR is to ask general questions of a local agency and if the response indicates there is an issue, those issues need to be addressed. Fey noted for the record that the Raisin City Water District is not a park and recreation district and does not have jurisdiction over the park in Raisin City.

Commissioner Santoyo said there appears to be a disconnect between the public and the District as to what services the District provides and asked if the MSR identified what the mission of the District was and if they were performing those services. Uc responded that the MSR was initiated in 2014 and staff was unable to contact the District after several attempts. Uc said that it is a challenge to try to work with unresponsive districts who do not comply with the findings and recommendations of the 2007 MSRs. Uc said that staff sent a questionnaire to the District for the fourth time in November and was finally able to meet with Nancy Schwabenland regarding the questionnaire. Uc said staff saw some red flags and felt that there were more issues that could be revealed that were outside of LAFCo's scope of review. Uc said that when the MSR was prepared, staff identified those issues and made it clear that, if LAFCo had a difficult time working with the District the public might have a hard time getting in touch with the District.

Sophia Lopez (through Uc acting as interpreter) said that she has resided within the District since 1975 and she has an annual tax assessment on her property. Ms. Lopez said she received a notice that said if she did not pay the fees on her property that it may be sold because of a \$10 delinquency fee. Commissioner Parra added that Ms. Lopez also said because she doesn't understand English, she didn't respond to the notice. Ms. Lopez said her son saw a notice in the newspaper that her property was for sale. Ms. Lopez said she had to go to the bank and refinance her property in order to get the property back in her name. Commissioner Perea noted that Ms. Lopez was referencing something that happened in 1989.

After reviewing the notice, Counsel Price said that apparently there were delinquent taxes in the amount of \$10.32 and the District attempted to take title at that time and the taxes were paid. Commissioner Santoyo asked if there had been any more recent letters to other people and she responded that she didn't know.

Maria Galindo, a resident of Raisin City said through interpreter Uc that she has tried to contact the County on several occasions asking questions about the \$2.00 assessment fees and what they were used for but has not received a response. Ms. Galindo said that the only thing she has heard was that at some time the District was planning to build the infrastructure for some recharge basins and that the fees were to pay for the infrastructure. Ms. Galindo said she has been a resident of Raisin City for 30 years and has never heard of what the assessment is used for and it is not fair. Ms. Galindo said she would like to at least get some type response or explanation as to what the fees are used toward, although it's only a \$2.00 annual assessment that is the residents' money that is collected by the District for no service being provided. Ms. Galindo said she just recently found out that there was a board of directors for the District. Ms. Galindo said that since the District's existence it may have occurred several times where the District put liens on properties for not paying tax assessments. Commissioner Santoyo said that Ms. Galindo also said that the District has been around for over 50 years and they are frustrated that there hasn't been anything done by the District. Ms. Galindo said that all they know is that they are being charged money and they don't know why. Ms. Galindo said that Ms. Schwabenland, the former secretary of the District, was very close to her mother Sophia Lopez (previous speaker), and that Ms. Schwabenland had never given her mother any indication that she was the person sending out the assessment fees that led to her mother almost losing her home due to minimal delinquent fees. Ms. Galindo said that one of the primary issues may be the language barrier because when the District sends out notices, the notices are not in Spanish and they may not understand what the notice is for and this needs to change.

Commissioner Santoyo asked if the notice she was talking about was in terms of assessment bills or were there also notices in terms of what the District is doing. Commissioner Santoyo said he heard earlier that the District was not providing any information and that they only received assessment bills. Uc responded that Ms. Galindo was talking about the agency bills and the lack of disclosure of when they hold their public meetings which is an issue because it's within an area that is primarily Hispanic and they may not fully understand when they received an assessment notice or when the meetings are held.

Commissioner Parra asked if the notices could also be sent in Spanish and that he assumed these were some of the issues that would be mitigated by October. Commissioner Perea said that he understood that this is a new board and that between now and October the District will be working to correct deficiencies such as notification of meeting to communicating with the public that were identified in the MSR. Commissioner Perea asked if the District was going to bring a plan to the Commission showing all the things that they are going to be correcting. Uc responded that was correct. Uc said that staff drafted an MSR that identified all of the issues and the District responded that they were going to be correcting the issues that the MSR addressed. Uc said staff feels that there would be adequate time from now until the meeting on October 14th to address the concerns that were identified in the MSR.

John Kinsey, legal counsel for the Raisin City Water District, said he was new to the District as well as some of the board members. Mr. Kinsey said that the District has reviewed the MSR and listened to staff and has done a lot of work over the last couple of months to set about a pathway to make sure the District can fulfill the public outreach obligations. Mr. Kinsey said his

firm was hired because they have experience with assisting governmental agencies with compliance with the law. Mr. Kinsey offered that if anyone had any questions about what the District does he could take their name and address and forward their concerns to the new District Manager, Stephen Heintz. Mr. Kinsey said he was hired to not only respond to the recommendations in the MSR but to assist the District with their by-laws and the Brown Act. Mr. Kinsey said they will also make sure the District has a regular meeting place and that the public understands and knows what's going on within the District, as well as anything else that goes along with a well-functioning public agency. Commissioner Perea asked if the District would be holding some community meetings between now and October to let the community know what the District is doing and what their plans were. Mr. Kinsey responded that the District plans to hold monthly meetings where everyone could attend and to engage in public outreach so people could understand what they do. Mr. Kinsey said the District just submitted an application in collaboration with other public agencies for some state money for the McMullen Recharge project. Mr. Kinsey said the recharge project would not only benefit Raisin City but other lands within the area which will ultimately help recharge the aquifers so that wells don't run dry.

Commissioner Santoyo said that anything the District can do related to groundwater recharge was definitely a plus for any area that will continue to have a deficit by surrounding wells. Commissioner Santoyo said that it appears there has been a failure of the Brown Act for 50 years in terms of properly noticing meetings and related information and asked Mr. Kinsey that in his assessment, has that been the case? Mr. Kinsey responded that things could certainly have been done better and that is one of his core goals, which is making sure the Brown Act is followed. Mr. Santoyo said that since there has been a lack of communication in the past, one of the District's first actions should be to improve their relationship with the residents and to produce an annual report that summarizes the achievements and shows the expenditures of the District. Mr. Kinsey said they have assembled a great team to get things done and have already done a lot of work within a short period of time, but they still have a lot of work to do.

Commissioner Santoyo suggested that the District provide the Commission with interim status reports to make sure that their MSR is ready for adoption in October. Mr. Kinsey said one of their first orders of business would be to sit down with LAFCo staff to make sure the District is able to provide the information they need to give the District feedback in terms of what the District needs to do between now and October. Chairman Silva suggested that the District keep the citizens informed of what is going to be happening.

Ted Miller, a citizen offering public comment on the item, said that when Sophia Lopez spoke, the form that she brought from 1989 was a reinstatement form for her property. Mr. Miller said the District seized her property that caused the bank to call her loan and in addition to pay the \$10.32 fee; she had to pay refinance fees which was thousands of dollars in order to keep her home. Mr. Miller said that was one person that was very significantly affected by the actions of the District. Mr. Miller said that he scanned many pages of recorded documents at the County that consisted of property transactions, beginning in 1989, that involved Raisin City Water District or collections by the Raisin City Water District for a total of 565 transactions.

Commissioner Santoyo asked what he meant by transactions and Mr. Miller responded that it was a recordation of something related to a piece of property. Commissioner Santoyo asked Mr. Miller if the 565 transactions he was referring to involved liens on properties by the Raisin City Water District and Mr. Miller said that was correct. Mr. Miller said that in the 52 years that the Raisin City Water District has been in existence, they have not delivered a single drop of water. Mr. Miller did say the District applied for and received a grant from the State Water

Resources Board to fund a study for a recharge pond. Mr. Santoyo asked Mr. Miller that if assuming the District has an attorney and new board of directors that are very focused on the District's issues and they have potential projects that would include groundwater recharge, wouldn't groundwater recharge be beneficial to the area and be a desirable goal? Mr. Miller said that would be desirable but the District has no canals, pipelines, or surface water rights. Commissioner Santoyo told Mr. Miller that to be fair he needs to allow the new board to lay out their project in full scope which includes not only infrastructure, but how it plans to manage floodwater which he believes is the District's objective which does not require water rights or contracts, just dollars. Commissioner Santoyo said that until the District has a full program - infrastructure and operation plan, he felt it would be premature to say it is not going to be a functional plan. Mr. Santoyo said the new board members can't be held responsible for the past but can be held responsible for the future and must prove to the citizens that there will be a future for the community.

Mr. Miller said he didn't believe there were any new board members and that those members were allegedly elected in a privately-conducted election by the District and were not elected through an election of registered voters. Mr. Miller said that the 2007 MSR for the District said that all the board members were appointed. Mr. Miller asked that the item be continued for one month to allow the board to respond to his public record request and give him time to prepare a report for the Commission and if things are going in the right direction, the Commission could continue the item until October.

Commissioner Perea made a motion to continue the hearing until October 14, 2015, and for staff to work with the District on the issues covered in the MSR and on the issues raised today and Commissioner Pacheco seconded the motion. Commissioners Perea, Pacheco, Para, Santoyo, and Silva voted in favor of the motion and the motion passed 5-0.

8. Municipal Service Review and Sphere of Influence Update prepared for the Bald Mt. Fire Protection District

Uc presented staff's report and recommended adoption of the MSR and update of the District's sphere of influence.

Commissioner Silva asked why there was a discrepancy in the acreage of the District. Uc responded that in 2007 consultants prepared the first MSR. Uc said the District told staff that it did not participate in the preparation and adoption of the document and that the consultant may have overlooked the agency's sphere of influence. Uc said that based on staff's research through LAFCo records the boundaries represented in the District's 2007 MSR did not include the most recent SOI revision; however, the District's service area is represented correctly. For clarification, Fey said the District had a different impression of what it thought its boundaries were and it really wasn't clearly conveyed to the District in a formal document explaining the difference between service area and sphere of influence boundaries. Fey said that when the Auberry Fire Protection District - CSA #50 was created, it split from the Bald Mt. Fire Protection District's former sphere of influence, at this time there was a discrepancy in what Bald Mt.'s revised boundaries were interpreted to be.

Commissioner Pacheco asked who fixed the boundaries and Fey responded that from staff's perspective the boundaries were never broken, it was the District that misunderstood what its boundaries were and through the MSR process, it became clear that there was a discrepancy in the Sphere of Influence. Fey noted that the District does not have a direct taxing authority within

their sphere but outside their boundary so the discrepancy with the sphere did not affect their taxing authority. Commissioner Pacheco asked why do the districts have spheres of influence, why isn't the service area boundary of one fire district contiguous to the next fire district's service area. Fey responded that the District's sphere and boundary was determined by LAFCo and at that time, the Commission determined the sphere to be larger than the service area. Fey said staff has added a recommendation to No. 5 in the MSR that recommends that the District provide LAFCo with a plan for services to extend into the southeast area of the sphere by the next scheduled MSR because at that time, LAFCo may consider making the boundary and sphere coterminous in the future.

Uc concluded his presentation and recommended that the Commission adopt the proposed MSR and update for the District.

Commissioner Perea made a motion to adopt the District's MSR and update their sphere of influence per staff's recommendation and Commissioner Santoyo seconded the motion. Commissioners Perea, Santoyo, Pacheco, Parra, and Silva voted in favor of the motion. The motion passed with a vote of 5-0.

Commissioner Perea asked Uc if staff was on track to bring the SEGA MSR to the Commission in July or August. Fey responded that the consultant was working on the final administrative report and it should be completed this month. Fey said that he had met with Council President Baines and brought up the City's MSR and Councilman Baines suggested that LAFCo staff hold a workshop with the City Council at their meeting in July before the MSR went public and Fey said staff was close to hitting their target of August. The workshop may be held at the Fresno's City Hall.

OTHER MATTERS

9. Request for Special Meeting in July

Fey reported that staff received a request from John Bonadelle to hold a meeting in July after the Commission removed the July meeting from its calendar. Fey said that if the Commission approved Mr. Bonadelle's request, staff recommended holding the meeting on July 8th which was the date of the originally scheduled meeting. Fey said that since staff received the request from Mr. Bonadelle for a special meeting staff has received another request by the City of Clovis and therefore, recommended that there be no conditions on Mr. Bonadelle's request.

Commissioner Perea asked if there was any progress toward a fire transition agreement between Fresno County Fire and the City of Fresno. Fey responded that staff held a meeting between the fire chief and city manager. Fey said the city manager had observed several terms and conditions that he would like to see in the agreement and the fire chief said those were in the draft he sent to the city manager six months ago. Fey said the city manager is reviewing the document and so far is responding favorably. Fey said that staff is optimistic that they are turning the corner on the process. Perea asked if staff thought it would be signed within the next month but Fey said he didn't want to speculate and is keeping in contact with the city manager to ask that question.

Commissioner Santoyo made a motion to set a special meeting on July 8th and Commissioner Parra seconded the motion. Commissioners Santoyo, Parra, Pacheco, Perea, and Silva voted in favor of the motion. The motion passed with a vote of 5-0.

10. Executive Officer Comments/Reports

Fey reported that at the Commission's direction he set up a meeting with the Leadership Counsel to discuss the Lanare CSD but at the last minute, that meeting was cancelled and was working on setting up another meeting. Fey said staff was working on an action plan and at this point all roads lead to a having a quorum and without a quorum on the board, the District is almost paralyzed and unable to take any official action. Fey said the Leadership Counsel was also interested in activating additional powers but that also requires a request from the board.

Fey reported that he met with Supervisor Mendes and the Parlier Cemetery District to discuss some issues the District is having and to see how LAFCo can help.

Fey said he was part of the COG Ag Policy Committee and he attended a meeting where the group was able to agree on a recommended policy. Fey said the Committee will now need to convene a meeting with all member agencies staff to talk about actual mitigation bench marks that relate to ag preservation and to talk about standardized mitigation.

Fey reported that staff has been working with CALAFCO on a trailer bill regarding the forced consolidation of failed water districts which has gotten bigger and not better. Fey said the SWRCB would essentially usurp LAFCo's authority in the field of consolidation. Fey said that in July, he may brief the Commission more fully and ask the Commission to sign a letter in opposition, if it comes to that.

Commissioner Santoyo said he has read the bill and was wondering if this action was being taken by environmental justice groups because it has been their intent to consolidate for the purpose of creating a more economically reasonable way of managing the districts. Commissioner Santoyo agreed with staff that there were a lot of complexities with consolidating the water districts.

Fey said that the Commission appointed Commissioners Pacheco and Santoyo to an ag policy subcommittee and that staff will be calling a meeting to brief the subcommittee to move forward with some policy development.

11. Commission Member Comments/Reports

Commissioner Santoyo said that he and Chairman Silva were assigned the review and recommendation of compensation for the executive officer and have decided that they need additional information before they could come up with a good recommendation to the Commission. Commissioner Santoyo committed that they would have their recommendation for the July meeting.

Chairman Silva said that if any Commissioner wanted to attend the Annual CALAFCO Conference in September, they would be the voting delegate. Commissioner Parra said that he would like to attend.

12. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
City of Selma v. Fresno County Local Agency Formation Commission
(Case No. 13CECG02651)

Counsel Price reported that on May 7, 2015, the Fresno County Superior Court ruled in favor of LAFCo on the case and that LAFCo has received notice from the City of Selma that the City intends to appeal. Counsel Price said at that point there will be more information to report.

ADJOURNMENT

Commissioner Perea made a motion to adjourn the meeting and Commissioner Pacheco seconded the motion. Commissioners Perea, Pacheco, Parra, Santoyo, and Silva voted in favor of the motion. The motion passed with a vote of 5-0. The meeting was adjourned at 3:07 p.m.