

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

LAFCo MEETING MINUTES NOVEMBER 4, 2015

Members Present: Commissioners Brian Pacheco, Daniel Parra, Henry Perea, Robert Silva, and Alternate Commissioner Michael Lopez

Members Absent: Mario Santoyo

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 through C

A. Minutes from the October 14, 2015 LAFCo Meeting

B. Malaga County Water District “Fowler Packing Annexation”

C. Malaga County Water District “Malaga Industrial Park Annexation”

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

PUBLIC HEARING

6. Workshop: Municipal Service Review and Sphere of Influence update prepared for the City of Fresno.

Executive Officer Fey introduced Jennifer Stephenson from Policy Consultant Associates who authored the City of Fresno's MSR.

Ms. Stephenson presented the Commission with a PowerPoint of the Municipal Service Review, observing that it took two years to complete the MSR process; she summarized the findings and recommendations in the report. Ms. Stephenson said that both City and LAFCo staff appear to be satisfied with the findings and recommendations.

Commissioner Silva noted that the MSR talked about disadvantaged unincorporated communities (DUCs) and said he didn't realize that there were DUCs in Fresno. LAFCo Analyst George Uc responded that earlier this year the Commission adopted a DUC database and directed staff to work with the local environmental justice groups and gather some of the data that they used to identify DUCs in the community. Uc said staff then used the Commission's policy that defines DUCs and found that there were 26 areas in the City of Fresno that met at least three of the key indicators for a DUC.

Karen Wado (sp?) a citizen stated her concern with various issues including recycling, etc.

City of Fresno Assistant City Manager Renena Smith thanked staff for the MSR presentation and for making the MSR an interactive process. Ms. Smith said the City has made great strides in the last couple of years as the economy improved. Ms. Smith made reference to a letter from Fresno City Manager Bruce Rudd that was included with the Commission's hearing material and said that the City in general concurs with all of the recommendations in the MSR. Ms. Smith said that the City agreed with staff's recommendation to retain the SEDA (Southeast Development Area) in the City's SOI and welcomed further conversations on policies and how the City should proceed. Ms. Smith said that if the Commission was considering reducing the SEDA, conversations would need to take place on how the services were going to be provided to those 45,000 anticipated residents in that area which would include infrastructure and the ability to meet water demands.

Commissioner Perea agreed that the City and County should engage in some discussion but stated that if the Commission returned some portion of the SEDA back to ag land, then the land would be farmed and it would be the City's responsibility to accommodate those residents. Ms. Smith said the City welcomes the conversation regarding annexations and how the City will meet current service demands and how they would fund long-term service demands.

Commissioner Perea asked if the City was still interested in partnering with the County for shared services such as solid waste pick up. Ms. Smith said she would look into it.

Fey thanked Ms. Stephenson and City staff for their work on the Fresno MSR and explained the purpose of an MSR. Fey recommended that the Commission continue the hearing to adopt the MSR to the December 9th meeting.

Commissioner Perea said he didn't know if the Commission would be ready to make a decision on the MSR in December and offered some history on the reason the City wanted to add the

SEDA area into its SOI when they did. Commissioner Perea expressed that some of the reasons for expanding the SOI are no longer valid and that it was time to take another look at the SEDA and the impacts that were created on the ag community by including the SEDA area. He didn't think it was an option to leave the SOI as it is and said there needs to be discussions about whether the size of the area still makes sense between now and December and asked what kind of direction staff needed to move forward.

Fey said staff has presented the facts and it was up to the Commission as to which direction it wished to take. Fey said the reason he recommended that the SEGA be retained was to allow for some time for Fresno to reconcile its General Plan growth strategies with LAFCo's SOI policy. Fey said the Commission's MSR policy established a sphere of influence as a 20-year growth horizon. Fey said that there was some difference in interpretation between LAFCo staff and City staff about SEDA's conformance with Commission policy. Fey said that the Commission may wish to direct staff to work with the City between now and December to refine the interpretation.

Assistant City Manager Smith said it would certainly be the City's preference for the Commission to approve the MSR and its recommendations and continue to have conversations and work through the policy issues regarding the City's General Plan.

Commissioner Silva said he wasn't in a hurry to adopt the MSR and Commissioner Pacheco concurred saying he would not be in favor of putting the MSR on the December agenda. Fey said that if it was the Commission's consensus to continue the hearing, it could direct staff to present an update to the Commission at the December 9th hearing on discussions between the City and LAFCo and continue it to a later date. Fey said it would be helpful to know what items the Commission wished to see addressed before staff presented an updated.

Commissioner Perea said that if the Commission was to look at reducing the SEDA, he wished to know what the new SOI would look like. Commissioner Perea said that since the City has moved more toward an infill program, he wondered what was happening within the context of that program and the funding for the infrastructure to support it. Commissioner Perea wanted to know what that would mean long-term to the SEDA and what the boundaries would look like. Commissioner Perea wanted to know what options were available to re-evaluate the SEDA such as acreage, timing, phasing, etc., and since the MOU between the City and County expires in 2017, what would that mean.

Assistant City Manager Smith said City staff would be available to continue discussion with LAFCo staff and felt that the December 9th date for consideration of the MSR was very aggressive considering Commissioner Perea's request.

By consensus the Commission directed staff to present an update on discussions at the December 9, 2015 hearing and continue consideration of Fresno's MSR until such time the Commission was ready to take action.

7. Annual Report on the Municipal Service Review Policy

LAFCo Analyst George Uc presented staff's report and PowerPoint presentation on the progress of the Commission's MSR policy. Fey noted that staff is still having trouble getting the Districts to comply with requests for information. Fey asked Counsel Ken Price how staff could compel the public agencies to respond to staff and said that staff may look to the Public Records

Act to compel the agencies to respond. Counsel Price said that despite the fact that the law requires that an MSR be prepared, there is nothing in the statute that requires a special district to assist in its preparation. Counsel Price said that if LAFCo must file a Public Records Act request which is then ignored by the subject agency, then that agency is violating California State law. Counsel Price said there is a Citizen Attorney General in the California Division of the Public Records Act that enables individuals (or this agency) to enforce its rights and LAFCo could file a lawsuit through its Executive Officer. Fey said staff is exploring the options and that if in the future it appears that a Public Records Act request is the only option, staff will return to the Commission and seek authorization.

Fey reported that when staff made the Lanare MSR Progress Report available to the Grand Jury and District Attorney's Office the Commission had been concerned about what kind of impression that might have given those agencies. Fey asked the Commission for direction to provide the MSR Update to the Fresno County District Attorney's Public Integrity Unit. Fey said the Public Integrity Unit's mission was to investigate, where appropriate, and prosecute those public officials or employees who commit crimes related to their official duties including, but not limited to, violations of the Brown Act, the Elections Code, or Political Reform Act. Commissioner Silva said he supported Fey's request and through a consensus, directed staff to forward the MSR Update to the Public Integrity Unit.

8. Executive Officer Comments/Reports

Fey reported that today is the 6th anniversary of Fresno LAFCo's independence and the 52nd anniversary—to the day—of the first meeting of Fresno LAFCo.

9. Commission Member Comments/Reports

Commissioner Perea asked if it would make sense for the Commission to have an ad hoc committee to explore options for the City of Fresno's sphere of influence. Chairman Silva asked Commissioner Perea if he would like to take the lead role. Commissioner Parra expressed his interest in serving on that committee. Counsel Price advised that since the selection of an ad hoc committee was not on the agenda, it would have to take action to form an ad hoc committee at the December 9th meeting. There was a consensus by the Commission to consider forming an ad hoc committee at the December 9th hearing.

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 3:19 p.m.