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**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)  
EXECUTIVE OFFICER'S REPORT**

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**CONSENT AGENDA ITEM NO. 5-C**

**DATE:** January 9, 2019

**TO:** Fresno Local Agency Formation Commission

**FROM:** David E. Fey, Executive Officer

**BY:** Juan Lara, LAFCo Analyst II

**SUBJECT:** **Consider Approval – City of Fresno “Shepherd-Willow No. 3 Reorganization.”** A proposed reorganization consisting of the annexation of 6.53 acres of street right-of-way to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District for territory located on the southwest corner of East Shepherd and North Willow Avenues. (LAFCo File No. RO-18-13)

**Applicant:** City of Fresno

**Land Owners/Parties of Real Interest (100% Consent):** City of Fresno

(This proposed reorganization has been placed on the consent agenda without notice pursuant to Govt. Code sec. 56662(a) because the territory is uninhabited, no affected local agency has submitted a written demand for notice and hearing, and all property owners have consented in writing to the annexation.)

**RECOMMENDATION: Approve by Taking the Following Actions:**

**Action 1:**

- A. Acting as Responsible Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that prior to approving the proposed annexation, the environmental effects of the proposal as shown in the CEQA documents prepared, adopted, and submitted by the Lead Agency, were reviewed and considered, and determine these documents to be adequate pursuant to CEQA Guidelines Section 15096.

**Action 2:**

- B. Find that the proposed reorganization is consistent with LAFCo Policies and Procedures and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH).
- C. Find pursuant to CKH and information in the record that:
  - a. The territory is uninhabited; and

- b. All landowners and affected agencies have consented to the reorganization.
- D. Assign the distinctive short form designation “Shepherd-Willow No. 3 Reorganization” and approve the annexation and detachments subject to the following conditions of approval:
  - a. Pursuant to Fresno LAFCo policy 103-05, the Executive Officer shall record the approved application if all conditions have been satisfied and once he or she has determined that the facts pertaining to the application during the time of recording are materially similar to those facts considered by the Commission when the application was approved. Facts, as used in the proceeding sentence, is defined to include, but is not limited to, whether or not the proposed project is materially similar to the project described in any application before the Commission.
  - b. Submittal of corrected legal description and map.
- E. Find that the application of the “island restriction” pursuant to GC sec. 56744 would be detrimental to the orderly development of the community and waive this restriction pursuant to GC sec. 56375(m).
- F. Waive further Conducting Authority Proceedings and order the reorganization subject to the requirements of CKH.

### **Executive Summary**

On December 11, 2018, the City of Fresno initiated this reorganization with the adoption of Resolution No. 2018-255 requesting the Commission to begin proceedings for the “Shepherd-Willow No. 3 Reorganization.” A proposed reorganization consisting of the annexation of 6.53 acres of street right-of-way to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District for territory located on the southwest corner of East Shepherd and North Willow Avenues.

### **Proposal/Land Use**

- The proposal consists of the annexation of 6.53 acres of street right-of-way to the City of Fresno and detachment from the Fresno County Fire Protection District and the Kings River Conservation District.
- Information related to the proposals affected territory, land use, proposed development, special districts, surrounding areas, and existing/proposed services can be found on **Attachment A**.
- The affected territory is within the City of Fresno sphere of influence (**Attachment B**) and is contiguous to city limits (**Attachment C**).
- The proposal consists of the annexation of street right-or-way therefore prezoning was not required.
- The territory is uninhabited.

### **Consistency with LAFCo Policies**

- The County has determined that the proposal is consistent with the Memorandum of Understanding (Master Tax Sharing Agreement) and the Standards for Annexation between the City of Fresno and County of Fresno.
- The City of Fresno and the Fresno County Fire Protection District have a transition agreement in place to provide fire protection services to the affected territory.
- The proposal is consistent with the CKH and LAFCo Policies, including, but not limited to, Sections 100 and 200.

### **Basis for waiving the Island Annexation Restriction**

GC sec. 56744 prohibits LAFCo from approving annexations that would create an island of unincorporated territory. However, GC sec. 56375(m) permits the Commission to waive this restriction finding that the application of the restriction would be detrimental to the orderly development of the community.

Staff presents the following facts:

- The potential island is already substantially surrounded on three sides by the City of Fresno and on the fourth by the City of Clovis; in other words, this unincorporated area is already an “island.”
- The owner of this unincorporated property has objected to annexation at this time, and if this property were included in the current annexation, this property owner would have the majority of the assessed valuation and the ability to terminate reorganization proceedings during the Conducting Authority Proceeding.
- The proposed annexation of the public right-of-way would not substantively alter the unincorporated territory’s relationship to these two cities’ boundaries.
- The proposed annexation of the public right-of-way would not have an adverse effect on the current operation of the unincorporated property.
- The proposed annexation is intended to complete planned circulation facilities on the Fresno side of Shepherd and Willow Avenues; further delay would impeded completion of these planned facilities.

Based on these facts, staff recommends that the Commission find that the application of the restriction would be detrimental to the orderly development of the community and waive the “island restriction” as permitted by GC sec. 56375(m).

### **Sustainable Groundwater Management Act**

California’s Sustainable Groundwater Management Act (“SGMA”) was signed into law by Governor Edmund G. Brown Jr. on September 16, 2014. This three-part legislation requires local agencies to develop groundwater sustainability plans that are compatible with their regional economic and environmental needs. SGMA creates a framework for sustainable local groundwater management for the first time in California’s history.

SGMA requires local agencies to form Groundwater Sustainability Agencies (“GSAs”) in local groundwater basins by June 2017, and requires the adoption of Groundwater Sustainability Plans (“GSPs”) for groundwater basins deemed high priority by year 2020. The North Kings GSA will represent the City of Fresno.

The affected territory is within the Fresno Irrigation District service area. After annexation, the surface water entitlement within the area will be managed by the City of Fresno.

### **Environmental Determination**

The City of Fresno, acting as “Lead Agency” under CEQA, prepares a Notice of Exemption for the Shepherd-Willow No. 3 Reorganization. The project meets the Class 1 “Existing Facilities” Exemption, where no alteration of existing structure, facilities, and mechanical equipment is proposed; with negligible or no expansion of use beyond that previously existing and Class 19 Exemption from the provision of CEQA, annexation of individual small parcels of the minimum size for facilities exempted by Section 15303, New Construction or Conversion of Small Structures filed with the Fresno County Clerk office on December 4, 2018 is consistent with the requirements of CEQA. The Notice of Exception determined the project would not have a significant impact on the environment including impact on matters such as air quality, water consumption, loss of agricultural and city service/infrastructure therefore the preparation of an Environmental Impact Report is not required.

As “Responsible Agency”, the Commission is required to review and consider the City’s environmental documents prior to taking its action. If the Commission determines that these documents are adequate, pursuant to CEQA, it may make the required findings provided under “Recommendations” above.

### **Costs and Other Changes Affecting Residents or Landowners**

None reported by the City of Fresno staff.

### **Agencies and Individuals Submitting Comments**

- Jean Rousseau, County Administrative Officer
- Karen Coletti, Executive Secretary, Fresno County Public Library
- Michael Maxwell, Engineering Technician III, Fresno Metropolitan Flood Control District
- Caitlin Juarez, Water Resource Control Engineer, State Water Resources Control Board
- Kevin Tsuda, Environmental Health Specialist II, Fresno County Environmental Health Division
- Bernard Jimenez, Deputy Director of Fresno Co. Public Works and Planning
- Assistant Chief Josh Chrisman, Fresno County Fire Protection District

### **Territory Boundaries**

The boundaries of the proposed annexation **are** definite and certain and the County Assessor has determined that the map and legal description **are not adequate** to file with the State Board of Equalization.

### **Registered Voter Data**

Staff determined there were **zero** registered voters within the affected territory.

### **Compliance with the Requirements of CEQA**

**Lead Agency:** City of Fresno

**Level of Analysis:** Notice of Exception

**Finding:** Class 1 Exemption and Class 19 Exemption (see Environmental Documents at [www.fresnolafco.org](http://www.fresnolafco.org) under the Hearing and Workshops tab in the January 9 file).

### **Individuals and Agencies Receiving this Report**

- Ken Price, LAFCo Counsel
- Bernard Jimenez, Deputy Director of Fresno Co. Public Works and Planning
- Will Kettler, Development Services Div. Mgr., Fresno Co. Public Works and Planning
- Paul Peschel, District Manager, Kings River Conservation District
- Chief Mark Johnson, Fresno County Fire Protection District
- Mike Sanchez, Assistant Director, Development and Resource Management