

## **Consent Agenda Item No. 5A**

### **FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)**

#### **“MINUTES”**

#### **LAFCo MEETING – JULY 16, 2014**

- Call to Order:** Chairman Silva called the meeting to order at 10:04 a.m.
- Members Present:** Commissioners Phil Larson, Mario Santoyo, Armando Lopez, Henry Perea and Robert Silva
- Staff Present:** David E. Fey, AICP, LAFCo Executive Officer  
Ken Price, LAFCo Counsel  
Candie Fleming, Commission Clerk

#### **1. Call to Order and Roll Call**

Chairman Silva called the meeting to order at 10:04 am.

#### **2. Pledge of Allegiance**

Chairman Silva led 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. Minutes from the Regular LAFCo Meeting of June 18, 2014**

A motion was made by Commissioner Perea to approve the minutes for the June 18, 2014 meeting. The motion was seconded by Commissioner Santoyo and Commissioners Larson, Perea, and Silva voted in favor of the motion.

## **PUBLIC HEARING**

6. **Consider Approval:** Consider various items related to the City of Clovis "Barstow-DeWolf Southeast Reorganization (LAFCo File No. RO-14-1).

Executive Officer Fey presented staff's report. Fey reported that the Commission would need to take two separate actions to approve the proposal; the first action would be to approve actions listed in Recommendation A and the second to approve actions listed in Recommendations B through E. Counsel Price reported that there was a change in the law that any time a lead or responsible agency takes action to adopt or make a finding on an environmental document; the Brown Act requires two separate actions.

City of Clovis Associate Planner George Gonzalez said he was available to answer any questions.

Commissioner Lopez made a motion to approve the actions related to the environmental document. Commissioner Santoyo seconded the motion with Commissioners Larson, Perea, and Silva voting for the motion.

Fey recommended the Commission approve recommendations B through E which included waiving the conducting authority proceedings. Chairman Silva asked if staff had received any opposition from landowners. Fey reported that the proposal was not 100% consent; however, under the CKH, the Commission had the authority to waive the Conducting Authority proceedings if no protest was made by the end of the hearing.

Commissioner Larson made a motion to approve Recommendations B through E and the motion seconded by Commissioner Santoyo. Commissioners Lopez, Perea and Silva voted in favor of the motion.

7. **Consider Approval:** Consider various items related to "Shields-Grantland No. 1 (Westlake) Reorganization."

Executive Officer Fey reported that the Commission had continued this item from the May hearing due to the lack of consistency with the City/County MOU. Fey reported that the City and County subsequently came to an agreement on appropriate conditions that would address the County's concerns resulting in a side letter to the MOU that has been signed by both agencies. The County has since expressed that the proposal is consistent with the City/County MOU.

Fey described the project and said that the land is vacant but since the land is already in the City's sphere of influence, the Commission had already acknowledged that the land could eventually be converted into urban use. Fey reported that the water plan assessment concluded that the City of Fresno had adequate water to supply to the project and other service demands through the year 2030. Fey concluded his report requesting the Commission to approve Recommendation A for the CEQA documents and then approve Recommendations B through E for the project.

Commissioner Perea asked Fresno City Manager Bruce Rudd how the project fits into the City's philosophy on infill. Mr. Rudd responded that the project is part of the current and future general plan that creates a balance of new growth as well as infill development and the City feels this project is consistent with the plan. Commissioner Perea asked what the City's plan was for the territory around the project site. Mr. Rudd responded that the city is in the process of developing a southwest specific plan that would to identify the necessary infrastructure to start annexing those areas to the City. Commissioner Perea said that transportation in the area was a real problem and asked about the plan and funding source to address these issues. Mr. Rudd responded that the City had a significant investment in Veterans Boulevard and fortunately the High Speed Rail Authority was bringing \$20,000,000 to the table to help the City offset the cost of that project. Mr. Rudd said the City is revising its impact fees to support development in the area and that the general plan will include an economic or financial plan. Mr. Rudd said that in the past, development was allowed to occur before the infrastructure was in place and that is why the City is re-evaluating Mello-Roos districts and restructuring its impact fees to reflect those realities.

Commissioner Larson made a motion to move ahead with the project as indicated.

Granville Homes' Jeff Roberts spoke on behalf of the project and supported staff's recommendation to approve the environmental documents.

Veronica Garibay, Co-director of Leadership Council for Justice and Accountability requested that this item be continued until the public had an opportunity to review the staff report. Ms. Garibay said she had informed the Executive Officer that the LAFCo website, which contained the staff report, was down. Ms. Garibay said the website was up this morning around 8:30 but didn't give her enough time to determine how the issues that were brought up at the May hearing have been resolved. Ms. Garibay said there were other issues that she felt have not been resolved.

Ashley Warner, attorney with Leadership Council for Justice and Accountability also requested the item be continued for the above stated reasons. Ms. Warner said she felt the project was contrary to the spirit of the general plan and that the project would be drawing resources from the inner city and established neighborhoods and that the project falls short of providing affordable housing.

Fey responded that the website was available up until close of business yesterday (4:00 p.m.). Fey said the e-mail from Ms. Garibay was received after 8:00 p.m. last night and that staff was available during office hours to provide staff reports to any interested parties. Fey said the policy consistency did focus largely on the shape of the project and that the accord between the City and County satisfied staff's concerns related to service delivery. Fey said that regarding the environmental impact report that was adopted and certified by the City, LAFCo didn't have much leeway for amending the work that was done by the lead agency and that staff supported the project as supported by the City and County in their agreement and that he did not support continuing the project.

Commissioner Larson said that the project has been in the works for over three years and that it was not unusual for people opposed to a project come forward to delay it and that his motion

stood.

Commissioner Santoyo asked what the Commission's legal responsibility was for maintaining a website. Counsel Price responded that this issue came up at a California Brown Act Conference put on by the California State Bar. Price said that if a website goes down for a brief period of time due to technical improvements, for example, that is considered to be a harmless situation as long as it doesn't prejudice someone. Price said that if an agency took down the website within the 72 hours on purpose, then that would be a problem for the agency. But, with regard to a website being down for a couple of hours for things like normal maintenance, that wouldn't cause a prejudice according to the analysis that he is familiar with. Price said that the environmental document has been on the website for several months and that has not been changed.

Commissioner Santoyo asked City Manager Rudd if based on current information, was it safe to assume that the general information currently available on water in the area isn't any different than when the water analysis completed in 2011? Mr. Rudd responded that was correct.

Commissioner Perea asked if it was correct that staff was focused on the project itself and not concerned with potential lack of infrastructure resources outside of the project area. Fey responded that staff reviewed the documents prepared by the City for the planning, environmental, and service plan, in the context of urban development of the area. Fey said that the traffic study discussed the east/west traffic into town and the larger role of metropolitan circulation and was noted that ultimately there would be a need for improvement of the roads that are currently in the County and that staff was focused on service provision to the project itself. Fey said this area is of particular issue to the Commission because past Councils and Boards have approved projects, and ultimately this Commission, as well as the current Board of Supervisors and City Council must now deal with the intervening unincorporated areas. Fey said he is encouraged to hear that the City and County have been working together to start to answer some of the larger questions and would encourage the Commission to ask to be a part of those discussions. Fey said that the current land use authority is the County; however, the City has growth plans and this Commission adopts the sphere boundary so there needs to be a significant coordination between those three parties as the City moves forward to implement its general plan.

Commissioner Perea asked Mr. Rudd what the timing was for the expansion of Ashlan Avenue and how the City was going to deal with the traffic since it is already beyond its capacity and if there was some funding in place. Mr. Rudd responded that there is some money in place through the developer impact fee reimbursement program. Mr. Rudd said the City has a lot of problem areas and that they were starting the preliminary work for Ashlan Avenue and have also received a request to do something with the interchange at Shaw Avenue so there is a lot of pent up demand to try to find a way to fund the projects but cannot say today that they have the funds to expand Ashlan Avenue from 99 to Grantland Avenue. Commissioner Perea asked when the congestion on Ashlan and Shaw Avenues would be fixed by the City. Mr. Rudd responded that it would probably be within the next seven to eight years.

Commissioner Santoyo seconded the motion previously made by Commissioner Larson to

approve the CEQA documents and Commissioners Lopez and Silva voted in favor of the motion with Commissioner Perea voting against the motion. The motion passed by a 4 to 1 vote.

Fey summarized the project in his report to the Commission. In light of the current drought, Chairman Silva asked Mr. Roberts about the lake planned for the project. Mr. Roberts responded that the main design feature of the project is a man-made lake that would utilize only non-potable water. Mr. Roberts said early meetings with the Fresno Irrigation District (FID) indicated that they could utilize the FID entitlement water for the project area and then the water would float through the property to the recharge facility south of Shields. Mr. Roberts said that in light of the severe drought the developer is looking at reducing the size of the lake or changing it into two smaller lakes. Mr. Roberts said the lake is important to the design but the lake will never use potable water.

Commissioner Santoyo asked what quality level of homes are planned for the project. Mr. Roberts responded that all of their homes were high quality and that they were planning medium-low density to medium-high density which is consistent with the density of the current general plan. Commissioner Santoyo said he would like to see a more balanced Fresno – or an area that would include a wide-range of homes from higher-end homes to lower-end homes. Mr. Roberts responded that they have been working closely with Central Unified that supports a wide range of styles and price ranges that adds stability to the District.

Commissioner Silva asked what kind of commercial uses are planned for the area. Mr. Roberts responded that the northwest corner of Ashlan and Grantland and the northwest corner of Shields and Grantland were selected by the City of Fresno for commercial use. Mr. Roberts said that the southerly portion of the project will have traditional shops and the one to the north closer to the lake will have some specialty shops.

Veronica Garibay requested that approval of the project be delayed because the website was down and they were not able to see if LAFCo's own analysis was consistent with LAFCo's policies and the Cortese-Knox, not the environmental documents. Ms. Garibay said they were not able to have the time to analyze the difference in the changes in the assessment between May's hearing and today's hearing with respect to the issues with the MOU and inconsistency with LAFCo's policy.

Ashley Warner said that it was her understanding that there weren't any R-3 or R-4 zone districts in the project area and those are the densities that the State is looking for to determine if housing is affordable. Ms. Warner said that the only R-2 area was reduced from 61 acres to 38.83 acres. Mr. Warner said she didn't think this would help meet the City's fair share of the regional housing needs. Ms. Warner said that it should also be of concern that the County of Fresno did not have a valid housing element. Ms. Warner asked the Commission if it was going to approve a project that was only open to certain residents for the City of Fresno and not to others. Commissioner Santoyo asked Veronica Garibay what it was that they were unable to access from LAFCo's website. Ms. Garibay responded that that staff had some issues in May and wanted to know if those issues have been resolved prior to this hearing.

Counsel Price said that it is the consensus that as long as the agency doesn't take the website

down and is only down for a few hours, then that is not prejudicial enough to make it non-compliant with the Brown Act. Counsel Price said that LAFCo must post items on the website 72 hours before its hearing and the staff report was posted last Friday and was consistently on the website until it went down yesterday. Commissioner Santoyo asked how long the website was down and Fey responded that it was operational until close of business yesterday at 4:00 p.m. until about 8:30 a.m. this morning, at which time he notified Ms. Garibay that the internet was back up and the documents were again available.

Commissioner Perea asked if there is an indemnity agreement in place. Counsel Price responded that an applicant must submit a signed “generalized” indemnification with an application. Counsel Price said the Commission may in some cases require an “expanded” indemnification agreement to make sure the Commission is fully indemnified in the event there is litigation involving the application. Commissioner Perea said he thought the condition of an expanded indemnity agreement should be added to the recommendation.

Jeff Roberts said they have signed indemnification agreements before and that they were not opposed to that condition.

Commissioner Santoyo made a motion to approve Recommendations B through E and include a condition requiring an indemnification Agreement. Commissioner Larson seconded the motion and Commissioners Lopez and Silva voted in favor of the motion with Commissioner Perea voting against the motion.

**8. Consider and Adopt: Municipal Service Review and Sphere of Influence Update prepared for the Kings River Conservation District.**

Fey gave a brief report describing the District’s function and recommended that the Sphere of Influence remain the same and that the Commission adopt the MSR.

Commissioner Santoyo made a motion to adopt the MSR, findings, and Sphere of Influence Update and Commissioner Lopez seconded the motion. Commissioners Larson, Perea, and Silva voted in favor of the motion.

**9. Consider and Adopt: Municipal Service Review and Sphere of Influence Update prepared for the Kings River Water District.**

Fey gave a brief report describing the District’s function and recommended that the Sphere of Influence remain the same and that the Commission adopt the MSR.

Commissioner Lopez made a motion to adopt the MSR, findings, and Sphere of Influence Update and Commissioner Santoyo seconded the motion. Commissioners Larson, Perea, and Silva voted in favor of the motion.

## **OTHER MATTERS**

### **10. Executive Officer Comments/Reports**

Fey reported that he finished his investigation and assessment of the Calwa Recreation and Park District and hand delivered it to the District and asked that it be provided to the District Board prior to tomorrow's Board meeting which he would be attending to summarize his recommendations and answer any questions they may have.

Fey said staff would be presenting a report summarizing the Commission's fiscal year in review as it relates to the budget and introduce the new budgeting format. Fey said that the bookkeeper will attend to answer any question the Commission may have.

Fey noted that the CALAFCO annual conference will be held October 15<sup>th</sup> through the 17<sup>th</sup>. Fey also reported that the LAFCo Analyst position had been filled by George Uc-Basulto who would be starting July 28<sup>th</sup>. Fey reported that LAFCo held a workshop for the Cities' staff last week at the Farm Bureau office. Fey said that he will also be presenting a Workshop to the Commission in August focused on special districts which will be followed by individual workshops for the districts.

### **11. Commission Member Comments/Reports**

Commissioner Santoyo said that some of the LAFCo meetings are conflicting with one of his regularly scheduled monthly meetings and asked staff to look into the possibility of changing some of the meetings. Fey responded that staff would check into it.

## **ADJOURNMENT**

A motion was made by Commissioner Larson to adjourn the meeting which was seconded by Commissioner Lopez. Commissioners Santoyo, Perea, and Silva voted in favor of adjourning the meeting. The meeting adjourned at 11:15 am.