

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

MEETING MINUTES
JANUARY 11, 2017

Members Present: Commissioners Brian Pacheco, Mario Santoyo, Robert Silva, Daniel Parra, and Sal Quintero

Members Absent: None

Staff Present: David E. Fey, AICP, LAFCo Executive Officer
Ken Price, LAFCo Counsel
George Uc, Senior LAFCo Analyst
Juan Lara, LAFCo Analyst
Amanda Graham, Office Assistant

1. Call to Order and Roll Call

Chair Pacheco called the meeting to order at 1:30 p.m.

2. Pledge of Allegiance

Chair Pacheco 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 potential conflicts of interest announced.

CONSENT AGENDA

5A. Minutes from the regular LAFCo meeting of December 14, 2016

Commissioner Silva made a motion to approve consent agenda item 5A, seconded by Commissioner Santoyo. Commissioners Parra and Quintero announced that they weren't at the December meeting and would abstain from voting on the minutes.

The Commission approved the consent agenda by a vote of 3-0-2-0.

5B. City of Fresno "Alluvial-Chestnut No. 4 Reorganization."

Executive Officer David Fey called the Commission's attention to the revised recommendation for this project regarding evidence of payment of the Fire Transition Fee.

LAFCo Analyst Juan Lara stated that based on recent experience staff recommends that the subject condition be added.

Chair Pacheco clarified that the additional condition is evidence of payment of the Fire Transition Fee.

There were no comments from public.

Commissioner Quintero asked if the City of Fresno was aware of this condition. Lara responded that the applicant and City staff had been briefed on this condition and had no objections.

Chair Pacheco gave the City of Fresno representative the opportunity to speak to the Commission. City representatives present indicated that they had no comment.

Commissioner Parra made a motion to approve consent agenda item 5B, seconded by Commissioner Santoyo. The Commission approved the consent agenda item 5B by a vote of 5-0-0-0.

REGULAR AGENDA ITEMS

6. Mid-Year Budget and Work Program Status for Fiscal Year 2016-2017.

Fey presented this item; the Commission has an approved budget of \$571,336; mid-year revenue is \$425,407, which includes both County and cities' contributions. The Commission has an approved reserve of \$100,000 and at this point, the mid-year fee revenue is less than half of what was projected. However, that reserve is in place to cover that if at the end of the year that number falls short; otherwise, the budget is moving along as predicted.

Moving on to the mid-year work plan, Fey observed staff has been working on the Municipal Service Review program and is endeavoring to bring these projects to the Commission for consideration as soon as possible. Staff is reviewing its progress and gearing up to have two MSR's per meeting, though it is taking some time getting the MSR's completed and to get local agencies staff is working with to work at that same speed. As the Commission will note, staff has been busy in consultation with local agencies in fulfilling their own development plans. After a couple years of light attendance of local agency workshop, staff has refocused its efforts on working with California Special District Association locally to hopefully get some horsepower with that group. LAFCo Counsel and the EO have presented to CSDA in September and we have offered to varied cities and Special Districts to come out and talk to their boards. EO has been out to speak to the Kingsburg City Council and has spoken with the Reedley Rotary. Staff has made changes to Policies and Procedures, unfortunately, we do not have the time to make a systemic change to the policies but as changes come up, we will address them at that time. We have started the data collection of an application fee analyses that we expect to bring back to the Commission mid-year.

Commissioner Silva wondered for the mid-year budget if the \$100,000 reserve was anticipated to being used by the fiscal year or to still be maintaining the same amount.

Fey answered that use of the reserve may be necessary by year's end if the fee revenue falls short of projects. The reserve is a buffer, it's there if needed but with any luck, we will not. Silva questioned if we have a healthy reserve why do we go back to the cities and County every year with added fees when they are barely making it. Fey answered that if the Commission wishes to reduce that reserve or make changes, staff is ready to work with the Commission on this is March.

Silva wondered if during this process the cities are involved. Fey answered that the cities are certainly involved in the process and can contribute their comments during the budget process. Last year was the first year in the last several years that the budget was higher than the previous years.

There were no other comments from the Commission.

There were no comments from the public.

7. Workshop: Sphere of Influence/ Memorandum of Understanding Policy Discussion

Fey presented that under statute, the Fresno LAFCo has the responsibility to plan and regulate the orderly and logical development of local agencies subject to its jurisdiction and provide for the present and future needs of the County and its communities. One of the ways in which the Commission fulfills this responsibility is by adopting sphere of influences for cities of special districts under its jurisdiction. A sphere of influence is defined as "a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission." Adopting a sphere of influence is a fundamental role of the Commission. The SOI plans the logical and orderly development of the affected local agency and the Commission's determination is based in large part by the respective city's general plan. In staff's opinion, LAFCo has few policies, practices, or agreements with other public agencies cities or the County that influence the development of unincorporated territory between a city limit and the SOI once the SOI is adopted. There is also a lack of consistency between city and County's general plan. The effect of this is inconsistent planning and zoning requirements between city and County general plans for this territory is that County development in cities' SOI frequently impairs the fulfillment of cities' general plans by complicating land use assembly and annexation necessary for development. The question for LAFCo to consider is whether the conditions described in this report are consistent with the Commission's legislative mandate for orderly, logical, and efficient growth of cities and special districts, and if not, then by what means should the Commission engage the cities and County to address these conditions.

There were no questions from the Commission. Chair Pacheco opened the meeting for public comments.

Bernard Jimenez, Deputy Director for Fresno County Department of Public Works and Planning, speaks for Fresno County and observed that staff has reviewed the agenda item and has several concerns regarding misrepresented and opinionated information contained in the report. Notes that neither County nor city staff was consulted in preparation of this item, in fact, he believes the cities were only made aware of this item on Friday.

The County does not believe that there is a need to interject a third party, especially one that does not have land use authority, in a land use decision making role, either by policy, practice, or agreement.

Mr. Jimenez states that the Commission's executive officer has concluded that there exists a lack of consistency in the coordination between the County and cities, and that the master tax sharing agreements between the cities and the County duplicate LAFCo's responsibilities and concludes that Fresno County strongly disagrees with these statements. Fresno County and its cities, especially at a staff level, have close cooperation and cooperative relationship. This is especially true at a staff level and this is maintained in formal and informal settings; concluding otherwise only illustrates a lack of understanding by the executive officer of how these processes work.

Mr. Jimenez observed that the agenda item also points out outdated County community plans and how those result in conflict between cities plans. He expressed that the date of the plan does not constitute conflict with another adopted plan. He reiterated that the County coordinates these efforts at the staff level whether it is through a general plan update, whether it is through the routing of a project, which the Commission and LAFCo staff is involved in that process, so there are many opportunities for consultation and resolution of any conflict.

He noted that the master tax sharing agreements, which are also mentioned in staff's report, have been in place since the 1990s, have served to streamline and facilitate annexations by the cities, they also address circumstances of which the County is required to refer a proposed development project to a city for annexation.

Mr. Jimenez directed the Commission's attention to exhibit 2 of staff's report and expressed that the executive officer has misrepresented the referral policy, that the executive officer concluded that discretionary applications trigger the need to refer a project to the city within a SOI. This is not correct, it's actually whether or not the project constitutes new "urban" development and that term is defined in the MOU as a use that is not permitted in the County's agricultural, rural residential, or river influence area.

Mr. Jimenez presented an example, if we are approached at the County, by a property owner who lives in the agricultural district, and let us say he wants to reduce his side yard setback, that triggers a variance, which is discretionary. That does not trigger referral to the city. Now if that same property owner wanted to file a variance to create substandard lot sizes for urban-style lots less than 2 acres, then that is referred.

Mr. Jimenez stated that he thinks that is just a small example of the executive officer's lack of understanding of what goes on between the city and the County.

He addresses another point that is being made in staff's report about the duplicate nature of the MOU and LAFCo policies. However, what has failed to be disclosed here is the fact that the County and LAFCo share similar priorities. One of LAFCo's primary responsibilities and priorities is to preserve agricultural land. That is the same priority shared by Fresno County. Therefore, he does not look at that as duplicative but as complementary in terms of the policies that exist in the MOU versus the policies that exist at LAFCo.

Fresno LAFCo is comprised of representatives of both the cities and the County and a public member. Essentially what your executive officer has expressed is that your respective planning staffs are unable to coordinate or lack the ability to coordinate and to resolve the issues at that level. In addition, essentially the message is being sent is that the master tax sharing agreements which the cities and the County are party to duplicate this effort. We strongly disagree with those statements.

While it may be the desire of your executive officer to assert himself in the roles and responsibilities of the city and the County, there is a reason for the separation of authority and power between LAFCo and the cities and the County. We should hope that LAFCo would continue to respect that separation.

Mr. Jimenez concluded, the County recommends that LAFCo not take any action, but rather, allow the cities and County to continue to work together to resolve any issues that arise. Certainly, we are open to suggestions and insight that your executive officer may have, that can happen today, and that can happen at any time. Therefore, he recommends that your Commission take no action.

Commissioner Silva sought comments from County members, but Chair Pacheco stated he would wait until public comments are complete before commenting.

Fresno City Manager Bruce Rudd concurred with the County comments; stated that he wasn't aware of this item, and did not enough time to consider staff's report; noted that the City is going through a transition of administration, and questioned whether the staff report's subject matter is this something that LAFCo wants its EO to pursue given all other competing challenges. Noted annexations for example, and the number of disadvantaged unincorporated communities scattered around the County that have water system or lack thereof and are now scrambling to find water with no plan in place, other than they can annex to the closest city so in the case of Easton, maybe the best is for the city to extend infrastructure to become customers of Fresno or be annexed to the Cit. Observes SGMA implications and that SGMA is a game changer and he would welcome a conversation with LAFCo regarding the SOI as it means other SOIs were expanded before water was an issue. So given all other things, and the need to deal with urgent issues, we may have a good year for rain, but cannot ignore other challenges of drought, so rather than get involved in the MOU, use the great working relationship with staff, expects the relationship with the BOS will improve, and a number of other issues that impact growth that we should be talking about rather than focusing on this issue.

Commissioner Silva expressed that the workshop seemed like a last minute notification, and he doesn't care for that; LAFCo needs to work together on this matter; it's a big issue, for example, Mendota has a solar energy company planning a facility in its SOI; cities and counties need to work together fulfill their dreams, cooperation is needed from all folks; all bodies be working together.

Chair Pacheco stated the recommendations of the Chair is to leave relationship between city and County alone, no additional layers. City and County to work out those SOIs, may be an attempt to help, adds another layer, leave well enough alone. Staff to work on things of LAFCo authority.

Commissioner Quintero questioned Mr. Jimenez on how do the cities and counties currently coordinate their land issues? Mr. Jimenez summarized how cities and counties route development proposals and general plan amendments.

Commissioner Quintero asked what the basic purpose of City/County MOU? Mr. Jimenez answered LAFCo law requires that there be a tax share agreement in place before a petition for annexation is accepted; he also added to that its exchange of sales tax revenue by the city and to facilitate annexations.

Commissioner Quintero then asked what would be the role of LAFCo supporting the city and County. Mr. Jimenez replied, in his opinion your staff can go out, meet with cities and counties and communicate things he sees and identify problems for our consideration. That would be a benefit but it does not need to be a formal thing.

Commissioner Quintero asked Fey if he had spoken with the cities about bringing this forward. Fey replied that the matter of LAFCo policies concerning the area between a city limit and its SOI is a topic he has heard from the cities for several years since becoming the executive officer, and has raised this matter in meetings with the County. The report wasn't vetted through a third party because it was the product of the executive officer's experience; it came straight to the Commission and released to the public in a manner prescribed by the Brown Act. So the question remains how should the Commission use its authority, not as an interloper, not as a party butting into an existing agreement but to establish its own policies that would fulfill its statutory obligations. However, by the comments of the Chair its sounds as if that is not needed.

Commissioner Quintero added if he could just have one request of Mr. Jimenez, could reach out to the smaller cities occasionally to keep them in the loop.

Commissioner Santoyo commented that he gets a lot of what the public has said and feels that the staffs report wasn't clear is to what the problem is that can't be resolved between the cities and County and the lack of timing in terms of involvement in regard to the proposal wasn't as good as it could have been.

No other action taken by the Commission.

OTHER MATTERS

10. Executive Officer Comments

December financials are in front of the Commission. Commissioners will note there is a non-agenda item at their places in which is a staff digest of a CALAFCO white paper regarding LAFCo and SGMA. This is something staff was preparing for the water policy subcommittee but since SGMA is such a prevalent issue, it was prudent to also share it with the Commission.

11. Commission Comments/ Reports

Commissioner Silva commented that SGMA is an issue. County is working on it, LAFCo is working on it, and we should all be working on it together.

Chair Pacheco replied that he is the County member for North Kings Groundwater and the previous Mayor of Fresno had an issue with how it would affect their SOIs and would like to continue the discussion on water.

ADJOURNMENT

Commissioner Santoyo made a motion to adjourn the meeting which was seconded by Commissioner Parra. The motion passed on a vote of 5-0-0-0. The meeting was adjourned at 2:29 p.m.

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