

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

MEETING MINUTES
NOVEMBER 8, 2017

Members Present: Commissioners Silva, Quintero, Magsig, Santoyo, Parra

Members Absent: None

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

1. Call to Order and Roll Call

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

2. Pledge of Allegiance

Chair 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 of interest.

CONSENT AGENDA

5-A. Minutes from the regular LAFCo meeting of October 11, 2017

5-B. 2018 Final Hearing Calendar

5-C. Kamm-Academy Northwest No. 4 Reorganization

Commissioner Quintero made a motion to approve consent agenda items 5-A, seconded by Commissioner Santoyo.

The commission approved the consent agenda items 5-A through C by a vote of 4-0.

REGULAR AGENDA ITEMS

6. Mendocino-Kamm Northwest Reorganization

LAFCo Analyst Juan Lara presented staff's report; a proposed reorganization to annex approximately 88 acres to the City of Kingsburg and the Selma-Kingsburg-Fowler County Sanitation District, and detach from the Fresno County Fire Protection District, the Kings River Conservation District and the Consolidated Irrigation District for territory located south of Caruthers Avenue, north of Howard Street and situated on both sides of Mendocino Avenue. The territory is inhabited and not all landowners or registered voters have consented to the reorganization. Pursuant to State Law and commission policy, a notice was given to all landowners, registered voters, and residents within 300 feet of the affected territory. Staff has received two landowner protest forms. The affected territory is within the City of Kingsburg's sphere of influence and is contiguous to city limits as well as within the Selma-Kingsburg-Fowler County Sanitation District (SKF) sphere of influence and its service area. The affected territory will be included in a phased development of 121 single-family residential lots consistent with the Kingsburg General Plan and the North Kingsburg Specific Plan. Kingsburg is likely to be represented by the South Kings GSA, comprised of the Cities of Kingsburg, Fowler, Sanger, Parlier and the Del Rey Community Service District. The City already has a groundwater recharge plan in place. The city's sewer and water can readily serve the subject territory. The city has ample water supply to accommodate the water needs of the proposed subdivision. Staff recommends the commission to consider two separate actions; the first being the CEQA component, and action (B) would address recommendations 1-9 in staff's report, excluding 8, which directs staff to hold a conducting authority proceeding to evaluate the value of protests.

Commissioner Parra asked if staff has copies of the two protest forms that were submitted. Lara answered that they are in the file. Commissioner Parra responded he would like a copy of those forms.

LAFCo Executive Officer Dave Fey added the protest proceedings would be held at the Fresno LAFCo office.

Commissioner Silva asked if there were only the two protest forms submitted. Fey replied and asked Lara what the percent of the assessed valuation protest and Lara answered 22% as of today.

There were no other comments from the commission. The chair then opened the meeting to public testimony.

Gary Nelson, owner of assessor parcel numbers 393-123-28, 393-123-29, 394-252-01 stated his reasons for my protest: the removal of the ability to have access to water from Consolidated Water District will affect his ability to farm his land and ultimately create a severe hardship on his livelihood. Consolidated Water District informed him that if an annexation occurred he would only get water after all other farmers had taken their water and what was left, if any, he could buy. Also, the head gate for district water is located on the south side of his property APN 394-252-01. APN 393-123-28 and 393-123-29 are his home and vineyard, which have been farmed for the past 63 years and have given him his income. Fresno County's Metroscan Property Report for years 2012-2017 shows only 30

new homes have been sold during that time. California is putting severe restrictions on use of underground water due to nitrates and the depletion of the underground water table, which is a serious problem. Forcing him to use only underground water would create a hardship financially as well as the ability to farm my vineyard effectively. He supports growth. Growth with vision, planning and the demand for housing. He is dedicated to farming and want to continue farming and making a living on his land until the time there is a demand for new growth and development.

Greg Collins, Contract City Planner for the City of Kingsburg testified that the city is in support of this annexation, the city had a number of meetings at the planning commission in city council level involving consistency with the general plan, in which this project is, along with Kingsburg Specific Plan. In addition to that, the planning commission and city council rezoned this area for residential development. The city also has an allocation process in terms of metering out growth in the community and this area was allocated for a number of residential units. As indicated in staff's report there is a tentative map for 121 lots that has already been approved and the previous speaker, Mr. Nelson, the planning commission and city council also considered a tentative map on his particular project but he elected to withdrawal that.

Commissioner Silva added you have had the public meetings and posted, right.

Greg Collins answered yes.

Commissioner Magsig added for Mr. Collins, the Consolidated Irrigation District he recognized that the district is a separate entity with a separate board; they indicated their willingness to provide water to this farm until such time that it develops.

Mr. Collins answered he was not aware of their position, this is typical of any annexation everything is detached and city water would be available to the subject properties. He is not aware of the district having some sort of exclusion for particular farmers that would have to be explored through the irrigation district.

Commissioner Magsig noted that he is familiar with Fresno Irrigation District and typically when there is property is annexed, part of the conditions are that the property's surface water rights are transferred to the city to be used for its surface water plants. Would Mr. Nelson lose his surface water rights as a condition of approval of development or is it done as soon as he is annexed? Mr. Collins replied he assumes it is upon annexation, which is a topic that needs to be explored through the irrigation district.

Kingsburg City Manager Alex Henderson testified that every community in the Consolidated Irrigation District has a separate cooperative agreement meaning there are guidelines for annexations that have to be met based upon that agreement. One of those guidelines is when property is annexed to the city it is detached from Consolidated, so the properties in question would lose their surface water rights and the reason for that is Consolidated doesn't want to have individuals that have property within the city limits eligible to run for their board. He appreciates Mr. Nelson's point, however if one were to look at the map one would see that this property is surrounded by three sides of the city limits, the northern 42 acres has an approved tentative map, this process was driven by the developers coming to the city. We have Mr. Crinklaw whose representatives are here and Mr. Nelson who was

given allocations and went through the tentative map process up until the point that he decided to pull out. We held 18 months' worth of meetings with those county residents that currently reside on the west side of Mendocino to make sure that they were adequately addressed. This is a market driven process this isn't us driving for further growth, the is housing that's occurring in Kingsburg and we don't want essentially one or a few property owners slowing what we feel is orderly and appropriate growth consistent with our specific plan and consistent with our general plan.

Commissioner Magsig asked of the 88 acres you are looking to annex, how much of that is Mr. Nelson's property.

Alex Henderson replied just under 40.

Commissioner Santoyo asked if Mr. Nelson will no longer have access to consolidated water and becomes dependent on groundwater what health will the groundwater condition be should he have to rely on it. Mr. Henderson replied he believes Mr. Nelson currently uses a portion of that groundwater but with the cooperative agreement in place there are recharge agreements in place so we have connections between our retention basins and the CID canal and so we have several locations that are currently connected and when CID is running they open the valves have recharge up to that point. As well as our SGMA requirements that we will be following as well.

Commissioner Santoyo asked how the groundwater levels existed in the subject area recently has. Mr. Henderson replied the aquifer in Kingsburg sits anywhere from about 68 to 75 feet; we saw some drop-off during the drought years but have already seen those replenished.

Commissioner Magsig added if there is anyone from the public who wishes to submit a protest form to do so. Fey added protest forms will be accepted by the LAFCo office from now up to the conclusion of the protest proceeding.

LAFCo Legal Counsel Ken Price stated the executive officer would notice a conducting authority proceeding which is a process in which voting ballads are accepted, and then the executive officer will calculate those ballads. When that conducting authority proceeding occurs there is no longer the ability to modify the proposal, if the commission chooses to take action today whatever conditions it imposes have to occur at that time unless there is a reconsideration by the board.

Commissioner Magsig asked if the commission takes action now to allow the 88 acre annexation then the protest votes wouldn't matter, however if we do not take action and there are enough votes against the annexation it will not take place no matter what we decide. Price responded the way the proceeding works is if 25% or more of the assessed value of the entire area being annexed protests then there would be an election effect and if its 50% or greater than the application would be deemed abandoned.

Fey added in this case because it is inhabited the statute states that both registered voters and property owners can submit protests.

There were no other comments from the public.

Commissioner Magsig restated that there is still time for landowners to submit protest forms.

Commissioner Magsig made a motion to approve agenda item 6 A, seconded by Commissioner Parra. The motion passed by a vote of 5-0.

Commissioner Parra made a motion to approve agenda item 6 B, seconded by Commissioner Silva. The motion passed by a vote of 5-0.

7. Ad Hoc Policy to implement the Independent Special District Selection Committee nomination and election process for the Consolidated Countywide Redevelopment Area Oversight Board Representative.

LAFCo Executive Officer Dave Fey presented staff's report: The State is now pushing towards having one Consolidated Successor Agency per County. The process includes appointing a representative for the independent special districts. Staff is recommending a process that has been approved by other LAFCos including Yolo LAFCo. 26 of Fresno LAFCo's 92 independent special districts are the only agencies that receive redevelopment agency (RDA) funding and are deemed eligible to appoint a special district representative. Staff will be reaching out to these 26 special districts by certified mail with a ballad attached to nominate and appoint a representative to this committee.

There were no other comments from the commission.

There were no comments from the public.

Commissioner Magsig made a motion to approve agenda item 7, seconded by Commissioner Santoyo. The motion passed by a vote of 5-0.

8. Workshop: Public Utility Districts' Municipal Service Review Orientation

Uc presented PowerPoint Presentation on the upcoming Municipal Service Reviews for Public Utility Districts.

9. Executive Officer Comments

Fey noted the CALAFCO Conference in San Diego in which LAFCo Analyst Juan Lara and Commissioner Parra attended was not one of the better conferences but it was informative. The September financials are in front of the commission at the dais. There was an article in the Fresno Bee about the Board of Supervisors reaction to the City of Fresno's homeless program, Fey notes that the county islands play a significant role in how the city and the county operate together yet the city is not interested in annexing those county islands.

Commissioner Magsig commented that he thinks a study should be done to look at the effect of the different development standards of the county and the city when it comes to sidewalks, how streets are built, lighting, etc. and what happens is when you get a community that is less dense if they ever are annexed you can never really build city services in there even though those are expected. Therefore, who pays for the sidewalk, sewer and water, traffic signals etc? I do not have an answer but I appreciate looking into

the problem.

Commissioner Quintero stated he would like to be included in any meeting with the city on county islands.

Fey noted that the city is not interested in a proactive annexation of these areas, the data to support the revenue and development in the existing city provides more long-term property tax revenue stream than any annexation.

Fey continued that there was a protest about the relocation of the Darling rendering plant, Fey and Price have had a chance to look at this and the challenges that have arisen recently. Commissioner Magsig asked if the property is zoned correctly. Fey answered that would be in the approved plan amendment and the appropriate entitlements. Commissioner Magsig stated but those entitlements only apply within the cities area of corporate boundaries, if that detaches from them whatever they have done reverts to the County. Price answered that it raises more questions than answers in terms of if the area automatically detaches then who are the service providers. The way the law works is it completely takes LAFCo out of the picture, once the sale occurs the city has to pass a resolution and LAFCo is bypassed in the process.

Fey continued that Oak Grove Cemetery MSR/SOI will be brought back to the commission in December.

10. Commission Comments/ Reports

Commissioner Parra thanked staff for the Conference in San Diego.

11. ADJOURNMENT

Commissioner Parra motioned to adjourn the meeting, seconded by Commissioner Santoyo. The motion passed on a vote of 5-0. The meeting was adjourned at 2:32 p.m.