

LOCAL AGENCY FORMATION COMMISSION MINUTES

CITY MEMBERS

David Ayers
Jim Wadsworth
Sid Craighead - Alternate

COUNTY MEMBERS

Joe Neves – Chair
Jon Rachford - Vice Chair
Alene Taylor - Alternate

PUBLIC MEMBERS

Paul Thompson
Vacant - Alternate

CALL TO ORDER: A regular meeting of the Local Agency Formation Commission of Kings County was called to order by the Chairman, Joe Neves, at 3:32 p.m., on January 25, 2006, in the Board of Supervisors Chambers of the Kings County Government Center, located at 1400 W. Lacey Blvd., in Hanford, California.

COMMISSIONERS PRESENT: Joe Neves, Jon Rachford, Sid Craighead

COMMISSIONERS ABSENT: Jim Wadsworth, Paul Thompson

STAFF PRESENT: Bill Zumwalt, Greg Gatzka, Marti Seniff

VISITORS PRESENT: Cathy Cain, Richard Harriman, Norm Allinder, Alex Dwiggin

UNSCHEDULED APPEARANCES: None

MINUTES OF December 7, 2005:

The minutes of December 7, 2005 were unanimously approved by the members present on a motion by Commissioners (Craighead / Rachford). A revised copy of the minutes was submitted and approved.

I. OLD BUSINESS:

None

II. NEW BUSINESS:

A. LAFCO Case No. 05-12 – Hanford Reorganization No. 133

Mr. Gatzka stated that the City of Hanford has requested an annexation of one area consisting of 162.73 acres. He stated that there are five (5) parcels, two privately owned parcels consisting of 75.12 acres each, with only one consented and three (3) smaller parcels owned by the City of Hanford. None of the parcels are under Williamson Act Contract.

Mr. Gatzka stated that there is a Supplemental document to include in the agenda and a corrected Resolution. He stated that the territory is located south of the Grangeville Boulevard and west of 12th Avenue and the properties are not considered 100% consent which will require a public hearing and protest proceedings. He stated that the protest proceedings can not be waived on this project because it is considered uninhabited which requires 100% land owner consent to waive the protest proceedings. Mr. Gatzka went over the proposal showing how the annexation would appear if annexed into the city. He stated that the annexation would create an unincorporated island of the territory commonly known as “Sunset Acres”. He stated that because of this unincorporated island creation there is an additional finding that the Commission needs to make and the supplemental document covers that information. He stated that a creation of an unincorporated island is not

allowed unless a waiver of Government Code Section 56744 can be made which would find that the restrictions placed by the Government Code would be detrimental to orderly expansion of the city and also that the area can not be annexed by any other city. Mr. Gatzka explained Government Code Section 56377 which requires that the Commission consider the policies related to Ag land conversion and also Section 56064 which relates to Prime Agricultural Land which is defined by class I and class II soils. He stated that even though the Natural Resource Conservation does not indicate that certain soil types are prime, the LAFCO law does and the entire surroundings of the City is designated as prime in relation to LAFCO law. He stated that the territory proposed is considered prime land and as long as it is in line with the orderly development of the City in relation to the Hanford General Plan and their services, it could be considered for annexation. He stated that the areas to the west do have services for water and sewer. He stated that the Hanford General Plan has planned for residential uses to the west. Mr. Gatzka stated that the City adopted the Negative Declaration No. 2005-25 on September 6, 2005. He stated that this was supported by the 2002 General Plan Program EIR and Statement of Overriding Considerations for Agriculture, Air Quality and School Impacts. He stated that the proposed territory is currently in the sphere of influence of the City of Hanford. Mr. Gatzka stated that the City of Hanford has requested to detach the Kings River Conservation District and the Excelsior-Kings River Resource Conservation District.

Mr. Gatzka stated that based upon these findings, staff recommends that the Commission approve LAFCO Case No. 05-12, with the conditions that LAFCO be designated as the conducting authority and commence protest proceedings for the project and the City obtain pre-clearance from the Department of Justice. He stated that Resolution No. 06-01 is provided for the Commission's adoption to approve the reorganization.

Commissioner Rachford asked if the area is annexed, would it fall under the substantially surrounded provision.

Mr. Zumwalt answered no, because the Island Annexation provisions took effect in the year 2000. Commissioner Neves stated there is a size requirement. Mr. Zumwalt stated that the area must be less than 150 acres. He stated that the land would need to have been substantially surrounded prior to the year 2000. He stated that the territory proposed was surrounded on the South in 1978 and the East side was done in 1980 but the north he believes was after the year 2000. Commissioner Neves stated that he thought it was annexed in the 90's. Mr. Zumwalt read Section 56375.4 which explains substantially surrounded provisions.

Commissioner Rachford stated that he would like to discuss orderly creation. He asked if they have city water out in that area. Mrs. Cathy Cain from the City of Hanford stated that she did not think that they currently have city water. Mr. Zumwalt stated that back in the 80's they replaced fire hydrants but there is no sewer. Mrs. Cain stated that perhaps they have water but not sewer. Mr. Zumwalt stated that the development such as the Sunset Acres and Fitzgerald Lane is the reason why LAFCO was created in the first place because it was a major extension of urbanized area outside the city. He stated that this area was developed in the late 50's. The next development area to the East towards Hanford was the east side of the railroad which is called Greater Hanford. He stated that El Rancho subdivision and other subdivisions that had since been surrounded by the City were approved back in the days when there was no LAFCO. He stated that now we have a case where the city has grown out around them and there is opposition within those areas to be annexed and it could delay the orderly growth of the city to fill out this General Plan in areas that have been designated for the urban growth. He stated that if this area was not to be annexed and was left vacant, that eventually additional areas would have to be found for development as demand occurs and may push the Sphere of influence even farther out into the Ag zone.

Commissioner Rachford stated that he understands that but just wanted to encourage Hanford to annex the Islands because it can cause problems with emergency services and other agencies. He stated that Hanford should take the same steps that Corcoran did in the South. Commissioner Craighead stated that the Islands do create problems down the road.

Commissioner Neves asked if that information would change the protest hearing. Mr. Zumwalt said no, that staff is not recommending that the Commission change the Island territory but that the Commission makes the findings to waive that.

Commissioner Neves opened the public hearing.

Mrs. Cathy Cain, 317 N. Douty Street, Hanford City Planner, stated that the City would be willing to annex the area with the residences and stated that the Island was already on their list as substantially surrounded which was prior to 2000. She stated that the City would like the approval of the reorganization.

Mr. Alex Dwiggin, associate of Zumwalt-Hansen, Inc., stated that he is representing the developer and stated that he is asking the Commission for their support of the proposal and if there are any questions he is available.

Mr. Richard Harriman, 4321 N. West Avenue, Suite 106, Fresno 93705, stated that he is speaking on behalf of Hanford Citizens for Responsible Planning. He stated that his comments are similar to that of December 7th and the Kemp Land Company annexation proposal but with some additions. He stated that he wanted to put into record a copy of the lawsuit that was filed regarding the Kemp Land Company Annexation, Reorganization No. 135 that the Commission approved on December 7, 2006. He stated that what they are asking from LAFCO is to not approve Reorganization No. 133, LAFCO Case 05-12, on the grounds that the EIR proposed by the City is legally inadequate. He stated that the Negative Declaration that was prepared on September 6th, 2005 was done before the City approved its Arsenic Reduction Study Treatment, Well Replacement and Well Rehabilitation Study, which he discussed at the December 7th meeting. He stated that he believes the City may not be in compliance with the Federal and State Arsenic Standards for drinking water which came into affect January 23, 2006. He stated that on the December 7th LAFO meeting one of the Commissioners asked whether or not the City was in compliance at that time and City staff did state that they were in compliance at that time. He stated that in today's record there is no evidence that shows that the city is in compliance with the new standards that came into affect on Monday. He stated that the evidence in his lawsuit and the hand out that was passed to the Commissioners on December 7th states that they will not be in compliance and they are not in compliance to this date. He stated that the city has not completed the well replacement project that would bring them into compliance. He stated in the cities General Plan approved on July 2002 and master EIR does not discuss the reduction of the arsenic that is required under the new Federal statute. He added that the Urban Water Management Plan adopted in 2004 has not been updated and does not address Federal and State Arsenic Standards for drinking water, so the EIR is legally inadequate and can not rely on it for review. He stated that although the property is included in the projected development for the City of Hanford, and because of the project size there should be a project related EIR now addressing the supply of the potable water issue which is the same issue from the meeting of December 7th. Mr. Harriman stated that since the December 7th meeting he has reviewed LAFCO's policies and procedures and stated that on page nine of the manual and paragraph B there are two unfavorable factors which are to be considered, one in 2c. regarding financial feasibility and there is no evidence of this today which supports financial feasibility and since there are no analysis on this and so it

lacks substantial evidence to support that finding. He stated that regarding an issue that Commissioner Rachford raised which is found in 2f. Boundaries of the proposal do not include appropriate area or are otherwise improperly drawn. He stated that the evidence today is not sufficient to support a waiver under the statute and stated that more importantly Commissioner Rachford made the point correctly that if you're going to do the annexation for the Lennard project you ought to include Sunset Acres as well in the annexation. Mr. Harriman concluded by saying that the Commission should deny the application of the City of Hanford Reorganization No. 133 and LAFCO Case No. 05-12 without prejudice and refer it back to the City for further Environmental Review addressing the potable water and drinking water standards issue relative to arsenic reduction before they bring it back to the Commission.

Commissioner Rachford asked Mr. Harriman, if he was representing a group in Hanford, what is the name of the group and their address? Mr. Harriman stated that it was the Hanford Citizens for Responsible Planning and didn't know the address at the top of his head. Commissioner Neves stated that they would appreciate if he would submit the address and contacts. Mr. Harriman stated that he would get a copy of the certificate of unincorporated association on file from the Secretary of State for the record. Commissioner Rachford stated to include a local address and contact person. Mr. Harriman stated that that information would be on that certificate.

Commissioner asked if there are any public comments.

Mrs. Cathy Cain, City of Hanford, stated that she would like to address some of the comments made by Mr. Harriman. She stated that as for the water potability or if the city is in compliance the Federal Standards, the State has not yet adopted it yet but the Federal Standards did go into affect on January 23, 2006. She stated that the City is not considered out of compliance until quarterly test has been done on the well that shows that it is above the 10 parts per billion and it passes the standard. She stated that the State does not require them to do anything about it until a certain number of those studies have been done unless it is considerably above and then they can declare that it is out of compliance. That has not been done so at this time the City is in compliance. She stated that there is a plan and even though it was not included in the Urban Water Management Plan and the General Plan, it was not included because it was not an issue at that time. She stated that it is an issue that the City has been dealing with the Department of Health Services form the State and received a letter from them stating that the plan that the City submitted to be in compliance is adequate and considered in compliance at this time. She stated that they can not implement that plan until the State says they are out of compliance and the City is doing all they can and it is not an issue at this time. Mrs. Cain stated that this is for an annexation and not for a development plan and even though the CEQA would allow for them to do an Environmental Impact Report to cover all those things it is not required at this time for the annexation. She stated that when they don't have adequate information to cover the development the City would proceed with the annexation and cover the rest at the time of development. She stated that there will additional Environmental done on the property when development is proposed. She stated that more than 75 acres of this site are not planned for development because the property owner wants to keep the property in farming and that can be grandfathered into the City, so there is only 75 acres that will be developed.

Mr. Harriman stated that the reason they are coming in regarding this project is that there was a newspaper article which reported that the Kings County Water District was objecting to the proceeding with the Well Treatment and replacement Rehabilitation project because of the potential cumulative impacts of the ground water pumping from the aquifer and that is not dealt with in the EIR at all and is one of the issues and he wanted that in the record.

Mr. Zumwalt asked if the Kings County Water District was notified of this hearing. Mr. Gatzka answered no.

Mr. Zumwalt stated that the territory would be on the west side of 12th Avenue and that there will be no proposed changes to their boundaries. Mr. Harriman stated that in that case he would like to object on the record to lack of notice to an agency that has an interest in the ground water issue.

Commissioner Neves closed the public hearing.

Commissioner Neves asked if there is a revised Resolution and the Supplemental information. Mr. Gatzka explained the two corrections include the item j. under the findings and correction on section 3a. Waive protest proceedings. Mr. Zumwalt stated that sub paragraph j. on the third line after the word *sitting*, the line says *Annexed by another city* and then add *for incorporated as a new city*.

Commissioner Neves asked County Counsel regarding the notification of Kings County Water Agency. Mr. Mook stated that he is not sure if they are required to be notified. Commissioner Neves asked if this would affect the Kings County Water District? Mr. Gatzka stated that this not an affected agency as it relates to this annexation. Commissioner Neves asked if this information has any bearing on the annexation at this time. Mr. Mook stated that he didn't believe so and asked if they appeared at the City hearing? Mrs. Cain stated that no, they did not come to the hearing and the City did not receive any written comments.

Mr. Zumwalt stated that on page 7 they were listed as Affected Districts Whose Boundaries Will Not Change and asked the Commissioners if they had any comments regarding Mr. Harriman's comments on unfavorable factors found in 2c and 2f? The Commissioners stated no.

Mr. Zumwalt stated that he wanted to point out that extension of city services are financial feasible for the foreseeable future and upon development the developer will extend the services out there and the city would provide for those services. He stated that the boundary proposed do not include appropriate areas, the territory that is being included and requested it is creating an Island annexation and that issue has been discussed. He stated that the property lines do follow the lines and the lines are definite and certain as described by law.

After Commission members discussed the proposal a motion was made and seconded by Commissioners (Rachford / Craighead) to approve Resolution 06-01, with amended changes. Motion carried unanimously.

AYES: Commissioners: Rachford, Craighead, Neves
NOES: None
ABSENT: Wadsworth, Thompson

III. LEGISLATION

None

IV. MISCELLANEOUS

- A. Correspondence** – None
- B. Unscheduled Public Comments** – None
- C. Items from the Commission** – None
- D. Staff Comments** – The meeting room will not be available before 5:00 at the April meeting and the Commission will be notified before hand what time they will meet.

V. ADJOURNMENT

- A. Next scheduled meeting is February 22, 2006 at 3:30 p.m.**

Respectfully submitted,

**LOCAL AGENCY FORMATION COMMISSION
OF KINGS COUNTY**

William R. Zumwalt, Executive Officer

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