



of Merced County California

Local Agency Formation Commission

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**MINUTES OF REGULAR MEETING
OF THE
LOCAL AGENCY FORMATION COMMISSION
MERCED COUNTY, CALIFORNIA**

JUNE 28, 2001

Chairman O'Banion called the meeting to order at 2:00 p.m. in the Board Chambers on the third floor of the Merced County Administration Building.

I. ROLL CALL

Commissioners Present: Commissioner O'Banion, Chairman
Commissioner Maiorino
Commissioner Trevino
Commissioner Bertao
Commissioner Cortez-Keene

Staff Present: Bill Nicholson, Acting Executive Officer
Patricia Lippmeier, LAFCO Staff
Mary Schmid, Recording Secretary

Counsel Present: Dennis Floyd, Deputy County Counsel

II. APPROVAL OF MINUTES

MOTION: M/S BERTAO – TREVINO, UNANIMOUSLY CARRIED, THE COMMISSION APPROVES THE MINUTES OF THE REGULAR MEETING OF APRIL 26, 2001.

III. CITIZEN COMMUNICATION

NONE

IV. PUBLIC HEARINGS

A. Sphere OF Influence Revision No. 2 to the City of Atwater
LAFCO File No. 1054B *(to be continued to an unspecified future date)*

B. Laird Annexation to the City of Merced
LAFCO File No. 0576

LAFCO Staff Planner Lippmeier presented the Executive Officer's Report dated June 28, 2001. She clarified that Finding No. 9 should read "uninhabited".

Commissioner Cortez-Keene asked if the city has land in their sphere of influence at the south end of streets L, M, P and R. She feels there is a problem that there is County unincorporated land surrounded on three sides by the City.

The public hearing was opened at 2:11 p.m.

The following person(s) spoke in favor:

- Kim Espinoza, City of Merced, Principle Planner, said the City has been working with the property owner for a while and with annexation they will be able to provide a much needed industrial expansion for the area. She feels they can provide the City services needed for the property.

Commissioner Maiorino asked for clarification regarding the Highway 59 area (west side). Ms. Lippmeier explained that most properties are already developed but have not been annexed. Commissioner Cortez-Keene asked what are the city plans for Gerard Avenue, and if it will go through west and east. Ms. Espinoza said Gerard will go over Highway 99 to West Avenue (by the airport). Commissioner Cortez-Keene requested a timeframe for this. Ms. Espinoza said maybe within the next five to ten years. Commissioner Bertao asked if the whole project site would be used by Laird. Ms. Espinoza said yes.

No one spoke in opposition to the application.

The public hearing was closed at 2:15 p.m.

Commissioner Cortez-Keene said the way the City is going, this is probably a good move.

MOTION: M/S CORTEZ-KEENE – BERTAO, AND CARRIED BY A 5-0 VOTE, THE COMMISSION CERTIFIED THEY HAVE REVIEWED AND CONSIDERED THE NEGATIVE DECLARATION PREPARED BY THE CITY OF MERCED AND THERE ARE NO MITIGATION MEASURES TO ADOPT UNDER LAFCO'S AUTHORITY TO IMPLEMENT.

MOTION: M/S CORTEZ-KEENE – BERTAO, AND CARRIED BY A 5-0 VOTE, THE COMMISSION MAKES THE 9 FINDINGS SET FORTH IN THE EXECUTIVE OFFICER'S REPORT DATED JUNE 28, 2001, AND BASED ON THOSE FINDINGS APPROVED LAIRD ANNEXATION TO THE CITY OF MERCED, LAFCO FILE NO. 0576.

- C.** Sphere of Influence Revision No. 5 to the Central California Irrigation District
LAFCO File No. 1006E
Hostetler/Carlucci Annexation to Central California Irrigation District
LAFCO File No. 0577

LAFCO Staff Planner Lippmeier presented the Executive Officer's Report dated June 28, 2001. She clarified Finding No. 9 that the Commission has reviewed and considered the Negative Declaration that was mailed by Central California Irrigation District.

The public hearing was opened at 2:25 p.m.

Commissioner Maiorino asked if there were any plans regarding annexing the islands

of non-district land surrounded by the district.

- Tracey Rosin, Central California Irrigation District (CCID) said that CCID maintains a list whether it is land or an island. She said that at this time, there is no consideration by CCID to annex islands – rather, they rely on applications by land owners who wish to transfer water. Chairman O'Banion asked if this land was previously farmed. Ms. Rosin said yes.

Commissioner Bertao referred to an overhead map of the district boundaries and asked if sections 27 & 28 are in the district already. Ms. Rosin said no, it is outside the boundary and is Grasslands.

No one spoke in favor or opposition of the application.

The public hearing was closed at 2:30 p.m.

MOTION: M/S CORTEZ-KEENE – MAIORINO, AND CARRIED BY A 5-0 VOTE, THE COMMISSION CERTIFIED THEY HAVE REVIEWED AND CONSIDERED THE NEGATIVE DECLARATION PREPARED BY CCID AND THERE ARE NO MITIGATION MEASURES TO ADOPT UNDER LAFCO'S AUTHORITY TO IMPLEMENT

MOTION: M/S CORTEZ-KEENE – MAIORINO, AND CARRIED BY A 5-0 VOTE, THE COMMISSION MAKES THE 8 FINDINGS SET FORTH IN THE EXECUTIVE OFFICER'S REPORT DATED JUNE 28, 2001, AND BASED ON THOSE 8 FINDINGS APPROVES THE SPHERE OF INFLUENCE REVISION NO. 5 TO CCID, LAFCO FILE NO. 1006E AND HOSTETLER/CARLUCCI ANNEXATION TO CCID, LAFCO FILE NO. 0577 SUBJECT TO THE 4 CONDITIONS OF APPROVAL.

V. GENERAL BUSINESS

A. Status Report on the Policies and Procedures Committee

Acting Executive Officer Nicholson updated the Commission on the policy and procedure committee meetings. He gave a definition of prime-ag land. He said he will come back to the Commission with many policies at one time. These will be proposed for adoption by the Commission.

Commissioner Cortez-Keene asked for clarification on agricultural land policy. Mr. Nicholson said we do have to follow CEQA (California Environmental Quality Act). If the lead agency (city or district) determines agricultural impacts are significant, LAFCO has the right to follow the same action as the lead agency – typically mitigate the impact or adopt a statement of overriding considerations where the impact will not be mitigated. Commissioner Cortez-Keene asked who has the ultimate say. Mr. Nicholson said LAFCO has the right to make its own determination on CEQA for impacts under LAFCO's authority as a "Responsible agency".

Commissioner Maiorino asked for clarification if there is a policy regarding mitigation measures. Mr. Nicholson said that this is part of the ongoing discussion. If you determine you will mitigate, then how will you do it. Commissioner Bertao said that some of the discussion at the last policy and procedure meeting was that the Cities are concerned that some developers in the county will get away with doing less than they have to do. He said, for example, the Buhach area, if they do something out there on some of these housing projects, they may not have to do exactly what the cities have to do, they're crying fowl on that and they're trying to make us make the decision, that's why we told them to go back to the CAPS and straighten this out. Mr. Nicholson said to clarify, there are areas in the County that are designated for one acre lots, like the McSwain area and areas east of Merced, out by Lake Road. There is no urban service district out there. There are individual septic systems and wells for each project. The

City's concerns are that if the City wants to annex land and provide, sewer, water, police and fire, then they have to come before LAFCO every time. When the County has a project, most of the time it is in an urban community that has an urban service district. And before the subdivision or commercial development is able to be served with sewer and water than that district has to come before LAFCO for annexation. He said the one exception is where you have what's considered urban development of one acre home sites on individual systems. That doesn't come before LAFCO because there is no district involved.

He said this is an issue for the City and County to have an agreement through the CAPS process on similar requirements to mitigate farmland conversion. Chairman O'Banion said all mitigations so far have been voluntary. He said he would prefer to have this process as long as it is recognized that it is mitigated. Mr. Nicholson said the policies are being developed through the CAPS process, and will be brought back to the Commission. The Commission has full flexibility to accept, reject or modify them and that will also be at a public hearing.

B. Approval of Memorandum of Understanding with Merced County for LAFCO Staff Support.

Acting Executive Officer Nicholson gave a summary for the Memorandum of Understanding. He said this represents the commitment by the County to provide staff and space for LAFCO operations and the Commission's agreement to pay for them. He said this memorandum covers the maximum amount of funds that can be anticipated and is for the 2001-2002 fiscal year. He explained that LAFCO staff has a system with the Auditor's Office to compile all our time which will identify time spent on LAFCO functions vs. other County responsibilities. Commissioner Maiorino asked if the fees will off-set the applications. He said let's get the fees where they are supposed to be. Commissioner Cortez-Keene asked if we can get an update of the staff time that was spent. Chairman O'Banion said we will get a quarterly report.

Chairman O'Banion said we were requested by the Mayor's Council to not approve the budget. He said a request was made that the County pay for full staff support and building costs. He directed the Mayor's Council to formally ask the Board of Supervisors to support this request, but the Mayor's have not done so.

Commissioner Trevino stated because of time constraints, he would like to follow the proper steps. He requested for Staff to solicit an RFP to get cost comparisons for providing the organization staff for LAFCO. He said the more options we have the better off we'll be. Mr. Nicholson said that his understanding is that the Commission agreed to use County Staff back in February and was for one year. Chairman O'Banion said this RFP issue is not on the agenda and requested it to come back at the next meeting.

Commissioner Cortez-Keene asked if it is the general direction to include a sentence in the Memorandum of Understanding to come back to the LAFCO Commission for an update. Chairman O'Banion said he thinks this will be done periodically anyway, since it is a one-year agreement.

MOTION: M/S BERTAO – CORTEZ-KEENE, APPROVED UNANIMOUSLY FOR THE MEMORANDUM OF UNDERSTANDING (MOU) TO GO TO THE BOARD OF SUPERVISORS AND FOR CHAIRMAN O'BANION TO SIGN THE MOU.

Mr. Nicholson introduced Joyce Crothway, LAFCO Specialist and Trish Toole who are performing an operational and procedural audit of the County Planning Department.

VI. ADJOURNMENT

There being no further business, Chairman O'Banion adjourned the meeting at 2:58 p.m.