



*Local Agency Formation Commission*  
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**ACTION MINUTES OF REGULAR MEETING  
OF THE  
LOCAL AGENCY FORMATION COMMISSION  
MERCED, CALIFORNIA**

**January 27, 2005**

**Vice Chairman Amabile called the meeting to order at 10:01 a.m. in the Board Chambers on the Third Floor of the Merced County Administration Building.**

**I. ROLL CALL**

**Commissioners Present:** Commissioner Amabile  
Commissioner Ingram  
Commissioner Bertao  
Commissioner Kelsey  
Commissioner O'Banion  
Commissioner Melville  
Commissioner Nelson

**Staff Present:** William Nicholson, Executive Officer  
John LeVan, Staff Planner  
Victoria Lane, Recording Secretary

**Counsel Present:** Ruben Castillo, LAFCO Counsel

**II. APPROVAL OF MINUTES**

**MOTION: M/S O'BANION/BERTAO, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION APPROVES THE MINUTES OF THE MEETING OF DECEMBER 2, 2004.**

**III. CITIZEN COMMUNICATION**

None.

**IV. GENERAL BUSINESS**

A. Appointment of Chairman and Vice Chairman  
LAFCO File No. 1002B

Commissioner Kelsey nominated Commissioner Bertao for Chairperson and Commissioner Ingram for Vice Chairman.

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Commissioner Bertao nominated Mike Amabile for Chairperson and with respect, declined his own nomination for Chairperson.

**MOTION: BY KELSEY, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION APPROVES COMMISSIONER INGRAM FOR VICE CHAIRMAN.**

**MOTION: M/S BERTAO/INGRAM, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION APPROVES COMMISSIONER AMABILE FOR CHAIRMAN.**

- B. Contract Addendum with Economic Planning Systems for Preparation of Municipal Service Reviews for three cities

**MOTION: M/S KELSEY/O'BANION, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION APPROVES ADDENDUM NO. 2 TO SPECIAL SERVICES CONTRACT NO. 2003-1, WHICH EXTENDS THE COMPLETION DATE TO JULY 31, 2005 TO COMPLETE THE MUNICIPAL SERVICE REVIEWS FOR THE SIX INCORPORATED CITIES IN MERCED COUNTY.**

- C. Out-of-Boundary Service Application – City of Atwater/Rolfe Construction  
LAFCO File No. 04-01  
(Continued from December 2, 2004 meeting)

In response to questions from the Commission, Mo Khatami, Atwater Planning Director, commented on the City's current sewer and water capacity levels.

In response to questions from the Commission, Garth Pecchenino, from Fremming, Parson, and Pecchenino, spoke on behalf of the applicant on stormwater drainage issues.

**MOTION: M/S O'BANION/KELSEY, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION DIRECTS THE EXECUTIVE OFFICER TO SUBMIT A LETTER TO THE CITY OF ATWATER INDICATING THE COMMISSION'S APPROVAL OF THE OUT OF BOUNDARY WATER AND SEWER SERVICE EXTENSION TO TERRY ROLFE, CONDITIONAL UPON MR. ROLFE SIGNING A "WAIVER OF PROTEST AGREEMENT" WITH THE CITY AND CONTINGENT UPON A WRITTEN LETTER FROM THE CITY OF ATWATER VERIFYING THAT THEY HAVE SUFFICIENT SEWER CAPACITY FOR THE APPLICATION.**

**V. PUBLIC HEARINGS**

- A. Reconsideration of the Bandoni Annexation to the City of Merced  
LAFCO File No. 0612 – (Requested by the Merced Union High School District and the Merced City School District)
- B. Reconsideration of the Franco Annexation to the City of Merced  
LAFCO File No. 0613 – (Requested by the Merced Union High School District)

Items A and B were presented together.

The public hearing was opened at 10:27 a.m.

The following people spoke: Marshall Krupp, Community Systems Associates, consultant for the Merced City School District and the Merced Union High School District and Corbett Browning of Mason, Robbins, Gnass and Browning, representing the Franco applicants.

The public hearing was closed at 11:04 a.m.

**MOTION: M/S O'BANION/INGRAM, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION DISAPPROVES THE REQUESTS FOR RECONSIDERATION FOR BOTH THE BANDONI ANNEXATION TO THE CITY OF MERCED AND THE FRANCO ANNEXATION TO THE CITY OF MERCED.**

- C. East Mercey Springs Annexation to the City of Los Banos  
LAFCO File No. 0614

The public hearing was opened at 11:26 a.m.

The following people spoke: Tim Miller, Planning Consultant with the City of Los Banos; Dave Romano of Russell Newman's office, civil engineer; Marshall Krupp, Community Systems Associates, representing the Los Banos Unified School District; and Richard McCall, resident of Los Banos.

The public hearing was closed at 11:32 a.m.

**MOTION: M/S O'BANION/AMABILE, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION CERTIFIES THAT THEY HAVE REVIEWED AND CONSIDERED THE EAST MERCEY SPRINGS INITIAL STUDY PREPARED BY THE CITY OF LOS BANOS AS LEAD AGENCY, INCLUDING THE ONE MITIGATION MEASURE UNDER SECTION III A.(2) AND ADOPTS A "STATEMENT OF OVERRIDING CONSIDERATIONS" CONSISTENT WITH THE CITY'S FINDINGS ADOPTED BY CITY COUNCIL RESOLUTION #4037, AND APPROVES THE EAST MERCEY SPRINGS ANNEXATION TO THE CITY OF LOS BANOS, LAFCO FILE NO. 0614, BASED UPON DETERMINATIONS 1-9 UNDER SECTION III B. OF THE EXECUTIVE OFFICER'S REPORT INCLUDING THE CONDITION OF APPROVAL UNDER SECTION III C.(4A) AND ASSIGNS THE PROJECT THE FOLLOWING SHORT FORM DESIGNATION: "EAST MERCEY SPRINGS ANNEXATION TO THE CITY OF LOS BANOS."**

- D. Country Villas Annexation to the City of Livingston  
LAFCO File No. 0615

The public hearing was opened at 11:44 a.m.

The following people spoke: Doug Moren, resident of Livingston; Brian Millar, Contract City Planner for the City of Livingston; Marshall Krupp, Community Systems Associates, representing the Merced Union High School District; Brett Jolley of Herum Crabtree Brown Law Firm, representing Dunmore Homes, and Tim Miller, Planning Consultant for Dunmore Homes.

The public hearing was closed at 12:11 pm.

**MOTION: M/S O'BANION/INGRAM, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION CERTIFIES THAT THEY HAVE REVIEWED AND**

CONSIDERED THE COUNTRY VILLAS INITIAL STUDY PREPARED BY THE CITY OF LIVINGSTON AS LEAD AGENCY, INCLUDING THE NINE MITIGATION MEASURES UNDER SECTION III A.(2) AND ADOPTS A "STATEMENT OF OVERRIDING CONSIDERATIONS" CONSISTENT WITH THE CITY'S FINDINGS ADOPTED BY CITY COUNCIL RESOLUTION #99-37, AND APPROVES THE COUNTRY VILLAS ANNEXATION TO THE CITY OF LIVINGSTON, LAFCO FILE NO. 0615, BASED UPON DETERMINATIONS 1-8 UNDER SECTION III B. OF THE EXECUTIVE OFFICER'S REPORT AND ASSIGNS THE PROJECT THE FOLLOWING SHORT FORM DESIGNATION: "COUNTRY VILLAS ANNEXATION TO THE CITY OF LIVINGSTON."

E. City of Livingston Municipal Service Review

The public hearing was opened at 12:25 p.m.

The following people spoke: Gerald Ford, Livingston City Manager and Diana Westmoreland-Pedrozo, Executive Director of Merced County Farm Bureau.

The public hearing was closed at 12:27 p.m.

**MOTION: M/S BERTAO/O'BANION, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION DETERMINES THAT THIS MUNICIPAL SERVICE REVIEW IS CATEGORICALLY EXEMPT FROM CEQA AND THAT ANY FUTURE LAFCO ACTION INVOLVING THE CITY OF LIVINGSTON WILL INVOLVE A SEPARATE ENVIRONMENTAL DETERMINATION AND ACTION, AND APPROVES THE CITY OF LIVINGSTON MUNICIPAL SERVICE REVIEW BASED UPON DETERMINATIONS 1-4 UNDER SECTION IV OF THE EXECUTIVE OFFICER'S REPORT.**

VI. ADJOURNMENT

There being no further business, Chairman Amabile adjourned the meeting at 12:30 p.m.

**NOTE: The LAFCO meeting was recorded and a tape is available to the public at the Merced LAFCO Office. Copies of the tape may also be purchased.**