



Local Agency Formation Commission  
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**MINUTES FOR REGULAR MEETING OF  
SEPTEMBER 28, 2006  
LOCAL AGENCY FORMATION COMMISSION  
MERCED COUNTY, CALIFORNIA**

Vice Chairman Bertao called the meeting to order at 10:05 a.m. in the Board Chambers on the third floor of the Merced County Administration Building.

**I. ROLL CALL**

**Commissioners Present:** Commissioner Bertao  
Commissioner Melville  
Commissioner O'Banion  
Commissioner Nelson  
Commissioner Gabriault-Acosta  
Commissioner Hunter, sitting as a Non-voting Alternate Member

**Staff Present:** Bill Nicholson, Executive Officer  
Gene Barrera, LAFCO Staff Planner  
Angela M. Resendez, Recording Secretary

**Counsel Present:** Malathy Subramanian, LAFCO Counsel

**II. APPROVAL OF MINUTES**

**MOTION: M/S O'BANION / NELSON, AND CARRIED BY A UNANIMOUS VOTE OF 5-0, THE COMMISSION APPROVES THE MINUTES OF THE MEETING OF AUGUST 24, 2006.**

**III. CITIZEN COMMUNICATION**

None.

**IV. GENERAL BUSINESS**

**A. MOTION: M/S O'BANION/NELSON, AND CARRIED BY A UNANIMOUS VOTE OF 5-0, TO APPROVE RESOLUTION NO. 0632, WITH THE FOLLOWING MODIFICATION:**

SECTION II. Determines that the annexation does not conform to all local LAFCO policies due to the lack of information to demonstrate the availability of public services, notably sewer capacity and infrastructure. There was a disagreement among the Commission about the information received from the City of Atwater. ~~Based on the information received from the City of Atwater, the~~

~~City's waste water treatment plant facility has a present capacity of 6.0 mgd of which 1.0 mgd has been promised to other proposed development and the current wastewater treatment plant expansion must be completed in order to accommodate the proposed annexation area. The Local Agency Formation Commission of Merced County has not received information documenting the timing or cost of the sewer plant upgrade.~~

**MOTION: M/S O'BANION/MELVILLE, AND CARRIED BY A UNANIMOUS VOTE OF 5-0, THE COMMISSION APPROVES RECONSIDERATION OF THE KIPER ANNEXATION TO THE CITY OF ATWATER, LAFCO FILE NO. 0632, AT THE OCTOBER 26, 2006, LAFCO MEETING.**

**IT WAS ALSO REQUESTED BY THE COMMISSION THAT THE CITY OF ATWATER PROVIDE A LIST OF FUTURE ANNEXATIONS THAT ARE IN PROCESS AT THIS TIME, OR THAT THEY ARE AWARE OF. MO KHATAMI STATED THAT THEY ARE WAITING FOR THE DRAFT MSR FOR THE CITY OF ATWATER BEFORE THEY CAN PROVIDE THAT INFORMATION. BILL NICHOLSON STATED THAT THE MSR IS BEING HELD UP BECAUSE INFORMATION IS NEEDED FOR THE MASTERPLAN FOR SEWER. MO KHATAMI THEN STATED THAT THEY HAVE FLORSHEIM HOMES AND KIPER ANNEXATIONS WITH ANOTHER IN THE NEAR FUTURE, AND THAT THEY ARE WORKING ON THE WASTEWATER TREATMENT PLAN EXPANSION.**

**COMMISSIONER NELSON WAS EXCUSED AT 10:25 AM TO ATTEND ANOTHER MEETING.**

- B. BILL NICHOLSON GAVE A BRIEF PRESENTATION ON THE STATUS OF MUNICIPAL SERVICES REVIEWS FOR URBAN SPECIAL DISTRICTS, AND THE REQUEST IS TO ALLOW EPS TO MOVE FORWARD ON THE MUNICIPAL SERVICE REVIEWS FOR URBAN SPECIAL DISTRICTS. THE COMMISSION DIRECTED THAT ONE MORE ATTEMPT BE MADE TO GET THE INFORMATION REQUESTED BEFORE EPS COMPLETES THE MSR DOCUMENT.**
- C. BILL NICHOLSON GAVE A BRIEF UPDATE OF THE 2006 CALAFCO ANNUAL CONFERENCE HELD SEPTEMBER 5-7, 2006: *STEPPING UP TO THE PLATE: BRINGING HOME LAFCO SOLUTIONS*. THIS WAS A GOOD CONFERENCE OVERALL, AND THERE WAS GOOD INFORMATION GIVEN ON CONSOLIDATING DISTRICTS. THERE WAS BRIEF DISCUSSION BY COMMISSIONERS O'BANION, MELVILLE, AND BERTAO, AS WELL AS, BY LAFCO COUNSEL SUBRAMANIAN.**

**V. COMMISSIONERS' COMMENTS**

**COMMISSIONER O'BANION REQUESTED THAT COUNSEL DESCRIBE TO THE COMMISSION WHAT THE CONSEQUENCES ARE IF THE COMMISSION COMES TO A TIED VOTE IN THE FUTURE. COUNSEL SUBRAMANIAN STATED THAT THE LAFCO POLICIES AND PROCEDURES STATES THAT, "NO ACT OF THE COMMISSION SHALL BE VALID OR BINDING UNLESS A MAJORITY OF THE COMMISSION, WHICH IS THREE (3), CONCURS THEREIN. A TIE VOTE SHALL CONSTITUTE A DENIAL".**

**VI. ADJOURNMENT**

**There being no further business, Vice Chairman Bertao adjourned the meeting at 10:45 AM.**