



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

January 23, 2003

Chairman Cortez-Keene called the meeting to order at 2:05 p.m. in the Board Chambers on the Third Floor of the Merced County Administration Building.

I. ROLL CALL

Commissioners Present: Commissioner Cortez-Keene
Commissioner Bertao
Commissioner Amabile
Commissioner O'Banion
Commissioner Trevino
Commissioner Hunter

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

Counsel Present: Fernanda Saude, LAFCO Counsel

II. APPROVAL OF MINUTES

MOTION: M/S AMABILE - TREVINO, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION APPROVES THE MINUTES OF THE MEETING OF DECEMBER 5, 2002 WITH MINOR CORRECTIONS.

III. CITIZEN COMMUNICATION

NONE

IV. PUBLIC HEARINGS

A. Atwater Mello Ranch Annexation (LAFCO File No. 0583)

Executive Officer, Bill Nicholson, presented the Executive Officer's Report dated January 23, 2003.

Commissioner Amabile asked if a protest hearing was held to try to include the 16 parcels in the annexation and the majority voted no; would that stop the entire

annexation or just the annexation of the 16 parcels. Mr. Nicholson replied that the entire annexation would be denied if that were to happen.

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

Jeff Reid, representative for the applicant, Steiner Development, introduced himself to the Commission. He explained that they knew the peninsula area would be troublesome. After some consideration, they decided to submit the application excluding the 16 parcels to avoid delays and unnecessary aggravation of their future neighbors (who they speculated would not want to be part of this annexation.) A survey was conducted and sent in with the application to inform staff that most of the residents of the parcels that replied were opposed to being included in the annexation.

In summary, he asks the Commission not take action on option 2b of the Executive Officer's Report. He further asks that the portion of item 2a with regard to dedication of property along the west side of Parcel B for future circulation plans of the rural residential corridor not be included as a part of the conditions of approval. In item 2a (1), the applicant is agreeable with the maintenance of Avenue One between Buhach Road and the annexation territory, but would request that the phrase "and providing improvements to" be stricken from the last sentence of that item, since the City does not want to be required to improve an existing public facility that they don't own. He added that is he working with a landowner further along Avenue Two whose property is currently the subject of a proposal for a condemnation by the County, to straighten up Avenue Two at its connection at Gunn Road. He had heard that particular project had been de-funded.

Commissioner O'Banion asked if the portion of Avenue Two from Buhach Road to the annexation territory is all in the City or half in the County.

Steve Hamilton, Merced County Public Works Department, confirmed that the entire portion of Avenue Two that Commissioner O'Banion spoke of is in the City.

Mr. Hamilton confirmed that he had told Mr. Nicholson that the project to straighten Avenue Two was going to be delayed a year due to a cutback in state funding.

There was discussion about the traffic study on Avenue Two. Commissioner Bertao asked about including Avenue One in this study. Mr. Hamilton replied that it could be included, but the City and the County should get together and decide what roads and intersections they want to look at.

Mo Khatami, City of Atwater Planning Director, introduced himself to the Commission. He suggested that the County should do the study and everyone who annexes or develops in the area pay a proportionate share of the cost of the study. Under the tax sharing agreement between the City and the County, the County collects all the base tax of this annexation, the County collects 80% of the increment, so the County should pay for the study. He mentioned that they are looking at making Avenue One and Avenue Two into 4-lane roads. They will also try to include the created peninsula of 16 parcels in future annexations south of Avenue One.

James Apolinario, resident of Avenue One, introduced himself to the Commission. The annexation borders his property. He asked if an Environmental Study had been done. Mr. Nicholson answered that the City of Atwater had prepared a Negative Declaration based on the EIR that they did on their General Plan. Mr. Apolinario also wanted to confirm that property owners do have the right to oppose and vote against the annexation if it includes their property. This was confirmed. He was also

concerned about the straightening of Avenue Two in light of the increasing traffic flow from continued development in that area. He added that because of the curves in Avenue Two there is more traffic and road-wear on Avenue One. He concluded by advising the Commission that he opposes this annexation.

Deborah Hanning, resident of Avenue One, introduced herself to the Commission. She doesn't want her property to be included in the annexation and she opposes the annexation of the 81.8 acres as well. She is concerned with the traffic, noise, lights, and congestion that will come with this new housing development. She is also upset because she purchased her home in order to be in the unincorporated country area but finds development coming closer and perhaps enveloping her property into the City altogether.

Georgia Pemberton, resident of Buhach Road, introduced herself to the Commission.

They moved to this area because they were not allowed to weld or park RVs in the City of Atwater. They are concerned about becoming annexed and not being able to do the things they are accustomed to doing. She also asked about the Merced Irrigation District (MID) pipeline and a possible wall separating their properties from the new subdivision. Mr. Nicholson said that this annexation would not take them out of MID. As far as design issues, that would be addressed when the City processes a tentative subdivision map. Chairman Cortez-Keene let her know that the barrier wall issue would be addressed later in the process at the Planning Commission stage.

James Apolinario again addressed the Commission with regard to the pipeline issue. He stated that the previous property owners, about 20 years ago, sold soil to Caltrans for the Highway 99 project. As a result of this development, an existing ditch was washed out. This went into litigation and the result was the awarding of a pipeline from the MID Canal to these property owners.

Commissioner Trevino reiterated that the barrier wall issue and impacts will be addressed at the City of Atwater Planning Commission and the property owners can bring up their concerns about these and other pertinent issues there.

Steve Hamilton clarified that the Road Division does not receive any funds for road maintenance out of the tax sharing agreement.

The public hearing was closed at 3:07 p.m.

Commissioner Trevino commented that cities grow or they die. If people live contiguous to the city limits, sooner or later, annexation and development are inevitable. The City of Atwater does want this annexation but they do not want to bring people in that do not want to be in it. At this time, he supports the annexation with just the 81.8 acres, but stresses that at some point this peninsula of parcels will be annexed into the City. On a positive note, he stated that the property values of the 16 parcels will increase in value, perhaps even more so because they are larger than the proposed development parcels.

Commissioner O'Banion agrees with some of Commissioner Trevino's comments. He believes that we should try to respect the wishes of the property owners. He pointed out that sometime in the future, when their properties are potentially up for annexation again, it will still be subject to a protest hearing and it may or may not be annexed at that time. He also added that there is probably an easement identifying where that community pipeline is and the rights should be protected. He agrees that the portion of Avenue One should be involved in a maintenance agreement. He also sees Avenue Two as a problem that both the City and the County should examine.

Commissioner Bertao commented that the day the high school was built was the beginning of the end for rural agriculture and rural living in this area. He sympathizes with the property owners. He also believes that the road concerns of both Avenue One and Two need to be addressed with this annexation. He recommends that when these parcels are eventually annexed perhaps the City of Atwater could make some concessions to them with regard to animals, etc.

Commissioner Amabile stated that he believes it best when City growth is contiguous to the city limits instead of the creation of city islands in county territory. He spoke about a similar situation in Los Banos that included a condition for free water and sewer hookups and free sidewalks for the parcels being annexed. He believes that Avenue One should be reconstructed and Avenue Two needs a study. He agrees with striking of "and providing improvements" in 2a(1) of the Executive Officer's Report.

Commissioner O'Banion clarified the stricken phrase and suggested "and determine the provision of the improvements" as a replacement.

Chairman Cortez-Keene expressed her sympathy for the property owners that want their area to remain outside the city limits. She agrees with the road safety issues that were brought up and hopes they are included in the motion.

MOTION: M/S O'BANION – TREVINO, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION CERTIFIES THEY HAVE REVIEWED AND CONSIDERED THE MELLO RANCH INITIAL STUDY PREPARED BY THE CITY OF ATWATER AS LEAD AGENCY. THE COMMISSION ADOPTS THE MITIGATION MEASURES A-E UNDER SECTION III A. (2) OF THE EXECUTIVE OFFICER'S REPORT AND ADOPTS THE "STATEMENT OF OVERRIDING CONSIDERATIONS" CONSISTENT WITH THE CITY'S FINDINGS ADOPTED BY CITY COUNCIL RESOLUTION NO. 1570-00.

MOTION: M/S O'BANION – AMABILE, AND CARRIED BY A 4-1 VOTE, NAY BY COMMISSIONER BERTAO, THE COMMISSION APPROVES THE MELLO RANCH ANNEXATION TO THE CITY OF ATWATER, LAFCO FILE NO. 0583, BASED UPON THE DETERMINATIONS 1-8 UNDER SECTION III B. OF THE EXECUTIVE OFFICER'S REPORT, INCLUDING BOTH CONDITIONS OF APPROVAL UNDER ITEM III B. (2A) WITH THE LAST SENTENCE OF ITEM III B. (2A) 1. CHANGED TO READ AS "THE AGREEMENT WILL ALSO INCLUDE A PROVISION WHERE THE CITY AND COUNTY JOINTLY SHARE IN STUDYING AND DETERMINING THE PROVISION OF THE IMPROVEMENTS TO AVENUE TWO EAST OF THE ANNEXATION AREA INCLUDING THE INTERSECTION WITH SANTA FE DRIVE," AND ASSIGNS THE ANNEXATION THE SHORT FORM DESIGNATION, "MELLO RANCH ANNEXATION TO THE CITY OF ATWATER."

Commissioner Bertao indicated his vote against the annexation was because he felt Avenue One should have been included in the study.

B. Atwater Jacobs Ranch Annexation (LAFCO File No. 0584)

LAFCO Staff Planner, John LeVan, presented the Executive Officer's Report dated January 23, 2003.

The public hearing was opened at 3:34 p.m.

Larry Bowers, representative from B-C-A, introduced himself to the Commission. He clarified that the annexation is just short of Camellia Drive in Atwater. He offered to answer any questions about the annexation.

Commissioner O'Banion asked if his engineering firm made the determination of using the access of the canal bank for the secondary access. Mr. Bowers confirmed that he and the Fire Chief had made that determination and that this access was solely for the use of the fire department.

The public hearing was closed at 3:36 p.m.

MOTION: M/S O'BANION - BERTAO, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION CERTIFIES THEY HAVE REVIEWED AND CONSIDERED THE JACOBS RANCH INITIAL STUDY PREPARED BY THE CITY OF ATWATER AS LEAD AGENCY. THE COMMISSION ADOPTS THE MITIGATION MEASURES A-F UNDER SECTION III A. (2) OF THE EXECUTIVE OFFICER'S REPORT AND ADOPTS THE "STATEMENT OF OVERRIDING CONSIDERATIONS" CONSISTENT WITH THE CITY'S FINDINGS ADOPTED BY CITY COUNCIL RESOLUTION NO. 1570-00.

MOTION: M/S O'BANION – BERTAO, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION APPROVES THE JACOBS RANCH ANNEXATION TO THE CITY OF ATWATER, LAFCO FILE NO. 0584, BASED UPON THE DETERMINATIONS 1-8 UNDER SECTION III B. OF THE EXECUTIVE OFFICER'S REPORT AND ASSIGNS THE ANNEXATION THE SHORT FORM DESIGNATION, "JACOBS RANCH ANNEXATION TO THE CITY OF ATWATER."

C. Paradiso Reorganization involving the CCID (LAFCO File No. 0585)

LAFCO Staff Planner, John LeVan, presented the Executive Officer's Report dated January 23, 2003.

The public hearing was opened at 3:44 p.m.

No one spoke in favor or opposition.

The public hearing was closed at 3:44 p.m.

Commissioner Amabile stated that the southerly detachment parcel off Ward Road had recently been purchased by the City of Los Banos, and moderate-income housing was approved for the site.

MOTION: M/S AMABILE – O'BANION, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED BY THE CCID AS LEAD AGENCY (NO MITIGATION MEASURES WERE REQUIRED), APPROVES THE PARADISO REORGANIZATION INVOLVING THE CCID, LAFCO FILE NO. 0585, BASED UPON THE DETERMINATIONS 1-8 UNDER SECTION III. B. OF THE EXECUTIVE OFFICER'S REPORT INCLUDING THE 5 CONDITIONS UNDER SECTION III. B. (2), AND ASSIGNS THE REORGANIZATION THE SHORT FORM DESIGNATION, "PARADISO REORGANIZATION INVOLVING THE CCID"

D. Silva Reorganization involving the CCID (LAFCO File No. 0586)

LAFCO Staff Planner, John LeVan, presented the Executive Officer's Report dated January 23, 2003.

Commissioner Bertao asked how the detached land will be irrigated.

The public hearing was opened at 3:50 p.m.

Oscar Avila, from CCID, introduced himself to the Commission. He said that the detachment parcel will receive secondary water rights and the annexed area was currently being farmed with developed water. The property owner wishes to receive in-district water for that parcel now which is a more secure water source. Both parcels will continue to be farmed.

The public hearing was closed at 3:52 p.m.

MOTION: M/S O'BANION – BERTAO, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION APPROVES THE NEGATIVE DECLARATION PREPARED BY THE CCID AS LEAD AGENCY (NO MITIGATION MEASURES WERE REQUIRED), APPROVES THE SILVA REORGANIZATION INVOLVING THE CCID, LAFCO FILE NO. 0586, BASED UPON THE DETERMINATIONS 1-8 UNDER SECTION III. B. OF THE EXECUTIVE OFFICER'S REPORT INCLUDING THE 5 CONDITIONS UNDER SECTION III. B. (2), AND ASSIGNS THE REORGANIZATION THE SHORT FORM DESIGNATION, "SILVA REORGANIZATION INVOLVING THE CCID"

V. GENERAL BUSINESS

- A. Approval of Contract with Economic and Planning Systems (EPS) for Preparation of City Municipal Service Reviews

Executive Officer, Bill Nicholson, presented the Commission with the contract for EPS to perform the Municipal Service Reviews. There was an addition of the words "negligent" and "or misconduct" on page five that was approved by both parties.

MOTION: M/S O'BANION – AMABILE, AND CARRIED BY A UNANIMOUS VOTE, THE COMMISSION APPROVES THE CONTRACT NO. 2003-1 – AGREEMENT FOR SPECIAL SERVICES BETWEEN MERCED LAFCO AND ECONOMIC & PLANNING SYSTEMS.

It was reiterated that at the last LAFCO meeting it was decided that the Mayors'

Council would decide the order of the cities' municipal service reviews. Commissioner Trevino said they had not reached a decision yet, but would do so at the next meeting.

- B. Mid-Year 2002/03 LAFCO Budget Report

Bill Nicholson stated that the budget was approved for \$158,000 for the year. \$50,000 has been earmarked for the municipal service review consultant. \$28,000 has been spent on other expenses including the LAFCO Conference in Santa Barbara, so the budget is in good shape.

Commissioner Amabile commented that he enjoyed the LAFCO Conference and he had the opportunity to see that all the LAFCOs had to increase their budget over previous years and typically their increases were higher than ours. Suggested that we send out quarterly statements to all jurisdictions that pay into the LAFCO budget.

Commissioner Trevino appreciated Commissioner Amabile's comments and is pleased to see that Merced LAFCO's increase is generally lower than the increases of other LAFCOs and apologized for thinking our budget was exorbitant.

VI. ADJOURNMENT

There being no further business, Chairman Cortez-Keene adjourned the meeting at 4:02 p.m.