

# SUTTER COUNTY LOCAL AGENCY FORMATION COMMISSION MINUTES

November 24, 2003  
Yuba City Council Chambers

## 1. CALL TO ORDER

Chairperson White called the meeting to order at 4:00 p.m.

## 2. ROLL CALL

Members Present: Commissioners Richards, Kroon, Hager, Islip, White, Hilliard, and Whiteaker.

Members Absent: None.

Staff Present: Executive Officer Larry Combs, LAFCO Counsel Ron Erickson, Senior Planner Doug Libby, and Office Assistant Karna-Lisa Aucoin.

## 3. PLEDGE OF ALLEGIANCE

Commissioner Whiteaker led the audience, staff, and Commission in the Pledge of Allegiance.

## 4. APPROVAL OF MINUTES

The minutes of the meeting of September 25, 2003, were approved as submitted on a motion by Commissioner Whiteaker and seconded by Commissioner Kroon.

The motion was carried by a unanimous voice vote.

## 5. PUBLIC HEARINGS

- a. LAFCO 00-04 - Sutter LAFCO has received two requests for reconsideration for its resolution adopted on September 25, 2003, approving the South Highway 20 Reorganization No. 302.

Senior Planner Libby summarized the previously circulated staff report and noted that a resolution has been prepared should the commission decide to approve either request for reconsideration.

Mr. Libby answered Chairperson White's question about the annexation area by stating that the reconsideration request filed by John Taylor Fertilizers Company is identical to the boundary previously considered by the Commission at its September meeting.

Commissioner Whiteaker questioned whether property owners were provided notice of the meeting. Mr. Libby responded that notice was provided to both property owners and

registered voters within the proposed annexation boundaries and within 300 feet of the annexation boundaries.

Commissioner White asked whether staff had attended a recent community meeting hosted by John Taylor Fertilizers Company. Mr. Libby responded that staff did not attend that meeting.

Hearing no further comments from the commission, Chairperson White opened the public hearing for comments in support of the reconsideration requests.

- Eric Jenks, Regulatory and Environmental Affairs Officer with Wilbur – Ellis Company, John Taylor Fertilizers Company’s parent company, spoke in support of expanding the annexation area and stated that John Taylor Fertilizers Company is committed to covering the cost of infrastructure and connecting the area to city water along with abandoning existing wells in the area. Mr. Jenks said the majority of property owners he has spoken with are in favor of receiving city water and annexation if it is necessary to receive city services. Mr. Jenks stated he had received a letter of support from the California Regional Water Quality Control Board.
- Michael Ciociola – Calvary Temple Church, 2620 Colusa Hwy. spoke in favor of annexing the area referenced in their request for reconsideration because they wish to provide safe water for students and families attending their facilities.
- Keith Martin – Board Member at Faith Christian School spoke in favor of the reconsideration request submitted by the Calvary Temple Church due to the previously cited water concerns.
- Mike Singh – 1634 Poole Boulevard, spoke in favor of John Taylor Fertilizers Company’s proposal because of health and safety issues concerning water.

There being no further public comment in favor, Chairperson White opened the floor to comments in opposition to the reconsideration requests.

- John Buckan – 3100 Industrial Drive stated he had obtained thirty to forty signatures from business owners in opposition to the South Hwy. 20 Reorganization’s proposed expanded area being annexed. Mr. Buckan asked whether city water could be accessed without being annexed.

Denis Cook, Yuba City Community Development Director, responded to Mr. Buckan’s comments by stating that at the recent meeting held by John Taylor Fertilizers Company, there was discussion about providing water to residential parcels outside the proposed annexation area. Mr. Cook explained the city doesn’t provide water outside the city limits except if there are health and safety issues. In this instance, the city would provide water to those outside the proposed annexation boundaries, but the city would require the property owners to sign a contract stating that when a future annexation is proposed, they will not oppose annexation.

Mr. Buckan asked if the business owners can get water without being annexed.

Mr. Cook stated that since the businesses are already within a proposed annexation area, they would have to annex in order to receive city water.

Mr. Combs explained that the contract Mr. Cook was referring to is a tri-party agreement which allows the city to provide water or sewer services outside the city limits if an owner enters in to an agreement with the City and County stating that they will not resist annexation should it be proposed at a later date.

Mr. Buckan submitted his list of signatures in opposition to annexation to Mr. Libby.

Mr. Combs noted that those who wish to oppose the annexation, should it be approved, would do so at a later date at a formal protest hearing. Mr. Combs stated that the list of signatures is received as an advisory piece of information only.

- Charles Capps - 2982 Commercial Dr. and 699 N. George Washington Blvd. stated his property appears to be outside the proposed annexation area and asked how the proposed annexation would affect his property.

Mr. Cook responded that Mr. Capps' property is outside the annexation area but that he could enter in to the tri-parties' agreement if the annexation takes place and he could receive City water.

Mr. Capps asked what his cost would be and could he keep the sewer system until it fails.

Commissioner Hilliard explained there would be no cost to him beyond a monthly water bill.

Mr. Cook responded that there are no plans for running sewer into the area at this time so property owners can continue to utilize their individual septic systems.

- John Haynes - 3265 Industrial Drive, who owns a 15 unit mini warehouse, stated his tenants are not in favor of annexation and are concerned about government interference. Mr. Haynes asked about zoning changes that might take place.

Mr. Cook explained that the City's zoning codes for industrial property are very similar to the County's and stated that both entities use the same building codes noting there might be a small difference in fire sprinkler requirements in new buildings. Mr. Cook stated that there would be a change in that the city does have a business license requirement. Mr. Cook continued by stating that a flyer had been previously circulated that contained incorrect information regarding the cost of city business licenses. Mr. Cook noted that there will be no changes in fire protection to the area due to the City already providing this service.

Commissioner Hilliard explained the cost of city business licenses.

Mr. Cook noted that the change would be positive in that the properties would have better water pressure for fire suppression and this could possibly lower fire insurance rates as a result.

Mr. Haynes asked how the city could provide fire and police protection at no additional cost.

Chairperson White stated that the fire protection is already provided by the city and asked Mr. Combs to explain police protection.

Mr. Combs explained that until a certain threshold is met, the police protection is covered by the County.

There being no further comments from the public, Chairperson White closed the public hearing.

Chairperson White reopened the public hearing to accept additional public testimony.

- Dick Arnoldy stated he owns five parcels within the proposed annexation area and noted that he is not in a contaminated area and said he would prefer not to be annexed but said that people with contaminated wells should be allowed access to city water. Mr. Arnoldy said he feels he should be excluded from paying business license taxes until he needs to connect to city services.

Chairperson White clarified that business taxes are a City issue and not an issue that LAFCO has authority over.

Commissioner Hilliard noted that some businesses in the area already have city business licenses because they already conduct business in Yuba City.

- James Bonner - 3137 Industrial Drive stated that he is concerned that if the area is annexed, business owners may be required to make changes and feels that it is unfair that they may be annexed because of contaminated water that they did not cause.

There being no further public comment, Chairperson White closed the public hearing.

Commissioner Hager asked if there are differences in code requirements.

Mr. Combs clarified that both jurisdictions use the Uniform Building Code and that the codes can be modified by different entities, but any differences in the codes between the County and City are minor.

Mr. Cook stated that the fire sprinkler requirements on commercial buildings are a little different and would be enforced on new buildings only.

Commissioner Hilliard stated she has spoke with some of the business owners in the area and with Mr. Jenks. Ms. Hilliard said she is concerned with the health and safety aspect and therefore is in favor of annexation.

Commissioner Kroon asked about the City providing water without annexation due to the contaminated water in the area.

Mr. Cook said that if the annexation does not go forward, water would not be provided. They could only provide water to those just outside the proposed annexation area if they signed the tri-party agreement.

A discussion ensued amongst the Commission and staff regarding the cost to connect to city services and it was clarified that if the proposed annexation doesn't take place, property owners would have to pay the cost to connect to city services themselves at a later date. The proposed annexation boundaries were clarified by Eric Jenks.

Chairperson White asked if John Taylor Fertilizers Company had anything in writing stating all the costs they intend to cover.

Mr. Jenks responded that John Taylor Fertilizers Company has not contacted individual land owners in writing but they have held a community meeting and noted that the offer has been made publicly. Mr. Jenks stated that they are working with the city regarding extending water to the area and noted that annexation is required in order to make John Taylor Fertilizers Company's offer possible.

Commissioner Whiteaker asked why some affected areas are not being included in the proposed annexation area.

Mr. Cook said the area not included in the proposed annexation area is outside of the City's current General Plan and therefore cannot be annexed.

In response to a question from Commissioner Richards, Commissioner Hilliard said she believes the monthly rate for city water is approximately \$33.00.

Bill Lewis, Yuba City Utilities Director said the average monthly charge is \$30.00 and the minimum charge is \$12 or \$13 dollars.

James Bonner asked if the area is not annexed, would the City refuse to let John Taylor Fertilizers Company bring water to the contaminated area.

Mr. Combs stated that would be a policy decision on the part of the City Council.

Chairperson White expressed concern that John Taylor Fertilizers Company has only verbalized their intention and doesn't have a written contract. Chairperson White then asked if the Commission could approve the annexation with a stipulation.

Commissioner Kroon asked if John Taylor Fertilizers Company has applied to the City for water.

Eric Jenks stated that they have been working with the City and that a system is under design, but final design plans have not been submitted to the City.

A discussion ensued regarding the costs that John Taylor Fertilizers Company has offered to pay in their effort to provide safe water to the area.

Eric Jenks stated John Taylor Fertilizers Company can provide a letter of intent or a formal proposal.

Mr. Combs questioned Mr. Jenks how soon a document could be provided and noted that he is not sure if, legally, LAFCO needs to be involved in the matter.

Mr. Jenks replied that they could provide a document very quickly.

LAFCO Counsel Ron Erickson spoke to Mr. Combs' reference about legality and said that a letter of intent could not be considered a contract.

Mr. Jenks stated he feels a contract could be prepared.

Mr. Combs suggested this hearing be continued to a later date that does not exceed 35 days from this date.

Mr. Libby stated the next LAFCO meeting is scheduled for December 11, 2003, which falls within the time limit.

Chairperson White stated he would like a more concrete offer from John Taylor Fertilizers Company before the Commission approves John Taylor's request for reconsideration. Mr. White asked LAFCO Counsel Ron Erickson if his office could work with John Taylor Fertilizer Company on a contract.

Ron Erickson stated he believes his department could be available.

It was moved by Commissioner Hager and seconded by Commissioner Islip to continue the request for reconsideration on LAFCO-00-04 to the December 11, 2003 LAFCO meeting.

Jeff Foltz, the City Manager of the city of Yuba City stated that the request for reconsideration is what LAFCO should be considering not whether a contract from John Taylor Fertilizers Company exists.

Chairperson White called for a vote on the motion on the floor.

Commissioner Hilliard asked if LAFCO normally has conditions on an annexation.

Ron Erickson stated he is not sure if his office has a role to play in a developing contract.

Commissioner Hilliard stated that she believes LAFCO's purpose is to allow or not allow the annexation process to begin.

Mr. Combs stated Commissioner Hilliard is correct and that a protest hearing would be held where those opposing the proposal could bring forward a protest.

Commissioners Hager and Islip withdrew their motion regarding continuation of LAFCO-00-04.

It was moved by Commissioner Hilliard and seconded by Commissioner Islip to adopt Resolution No. 2003-13 approving both requests for reconsideration and amend the South Highway 20 Reorganization No. 302.

The motion failed to pass by a roll call vote with Commissioners Kroon, Hager, White, and Whiteaker voting in opposition and Commissioners Hilliard and Richards and Islip voting in the affirmative.

It was moved by Commissioner Kroon and seconded by Commissioner Richards to adopt Resolution No. 2003-13 approving only the Calvary Temple Church request for reconsideration adding those lands lying east of and including the Calvary Temple Church located at 2620 Colusa Highway to the annexation.

Mr. Libby clarified that the appropriate map would be attached so that Resolution No. 2003-13 would apply only to Calvary Temple Church's request.

The motion was carried by a unanimous roll call vote.

LAFCO Counsel Ron Erickson stated that action is still required to be taken on the request for reconsideration filed by John Taylor Fertilizers Company.

It was moved by Commissioner Hager and seconded by Commissioner Whiteaker to continue the hearing of John Taylor Fertilizers Company's request for reconsideration to the December 11, 2003 LAFCO meeting at 4:00 p.m.

The motion was carried by a unanimous roll call vote.

Mr. Jenks asked the Commission what type of document the commission expects John Taylor Fertilizers Company to return with at the December meeting.

Commissioner Kroon stated that some of the people in the area are unsure of what annexation entails and will mean to them.

Mr. Combs suggested that John Taylor Fertilizers Company consult with their attorneys to provide a document conveying the company's commitment for their proposal.

- b. **LAFCO 03-03 – Sutter LAFCO has received a filing for reconsideration for its resolution adopted on September 25, 2003, approving the South Yuba City Reorganization No. 315.**

Senior Planner Libby summarized the previously circulated staff report.

Commissioner Hilliard stated concern about creating an island.

Mr. Libby responded that the property is contiguous to the City of Yuba City and is in the area of the currently proposed South Yuba City Reorganization No. 315. A separate petition for annexation has been filed to annex Assessor's Parcel 22-072-043 that meets the requirements for a valid annexation proposal.

Hearing no further comments from the commission, Chairperson White opened the public hearing for comments in support of the proposed request for reconsideration.

- Mike Singh - 1634 Poole Boulevard, spoke in favor of approval of the request for reconsideration.
- Chris Hrones - 1338 Hunn Road, stated he represents the Karnegas family who own the property subject to reconsideration and spoke in favor of the request.
- Mary Olson - Portland, Oregon, stated she is involved with Siller Brothers who wishes to sell a walnut orchard. She asked if they could also file a separate request for reconsideration.

Executive Officer Combs responded by saying the reconsideration period has expired and noted that if LAFCO-03-03 fails to become annexed, then the Siller Brothers could submit their own proposal to annex.

Mr. Libby stated the protest hearing for LAFCO-03-03 is tentatively scheduled for January 22, 2004, and noted that if the proposed annexation goes to a vote, the election would likely occur in November of 2004.

There being no further public comment in favor, Chairperson White opened the public hearing for comments in opposition to the proposed annexation.

- Rick Dais - 1576 Jones Road, spoke against approving the request for reconsideration.
- Roberta Osgood - 238 S. Palora, spoke against approving the request for reconsideration.
- James Ratliff - 1736 Morrison Bend and Dane Siller, 680 Sutter Street, stated they own property in the area of the proposed LAFCO 03-03 annexation and would also like to have their property considered for annexation separately.

Mr. Combs noted that his earlier answer regarding the time to file for reconsideration has expired applies to this situation as well. Mr. Combs continued by explaining the three possibilities in regards to LAFCO 03-03: 1) 50% protest at the January 2004 LAFCO meeting would stop the proposal and others could then apply for annexation; 2) 25 to 49% protest would cause the proposal to go to a vote; and 3) less than 25% protest, the proposal will be approved and therefore annexed to Yuba City.

A discussion ensued amongst the Commission regarding the time line allowed when filing for reconsideration and how the reconsideration process works.

- Bob Renton - 1106 Hunn Road, representing his sister who owns property within the annexation area spoke in opposition to the reconsideration request.

There being no further comments from the public, Chairperson White closed the public hearing.

Commissioner Whiteaker stated that he voted against LAFCO-03-03 because he feels that his constituents within the area are opposed to being annexed but noted he will be voting in favor of this request for reconsideration because this individual wishes to be annexed.

There being no further comments, it was moved by Commissioner Hilliard and seconded by Commissioner Islip to adopt Resolution No. 2003-14 approving the request for reconsideration and amendment of the South Yuba City Reorganization No. 315.

The motion was passed with a unanimous roll call vote, with Commissioner Kroon being absent.

c. **LAFCO 03-08 – Sutter Cemetery Municipal Service Review and Sphere of Influence Update.**

Senior Planner Libby summarized the previously circulated staff report noting that the commission initiated municipal service reviews and sphere of influence updates for all Cemetery districts in May of 2003. Mr. Libby recommended adoption of Resolution No. 2003-15 which is included in the staff report.

Commissioner Hager questioned how often cemetery districts are required to conduct these reviews and updates.

Chairperson White responded, every five years.

There being no further questions, Commissioner White opened the public hearing.

There being no comments from the public, Commissioner White closed the public hearing.

It was moved by Commissioner Islip and seconded by Commissioner Hager to adopt Resolution No. 2003-15 making determinations and approving the municipal service review and sphere of influence update for Sutter Cemetery District.

The motion was passed by a unanimous voice vote, with Commissioner Kroon being absent.

6. **OTHER BUSINESS**

None.

7. **COMMENTS FROM THE PUBLIC**

None.

8. **ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 6:05 p.m.

Respectfully submitted,

Larry T. Combs  
Executive Officer