

SUTTER COUNTY LOCAL AGENCY FORMATION COMMISSION MINUTES

March 25, 2004
Yuba City Council Chambers

1. CALL TO ORDER

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

2. ROLL CALL

Members Present: Commissioners Hellberg, Richards, Novello, Islip, Kroon, White, and Whiteaker.

Members Absent: None.

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

3. PLEDGE OF ALLEGIANCE

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

4. APPROVAL OF MINUTES

On a motion by Commissioner Whiteaker and seconded by Commissioner White, the minutes of the meeting of February 26, 2004, were approved.

The motion was carried by a unanimous voice vote.

5. PUBLIC HEARINGS

- a. **LAFCO 03-04:** Northeast Yuba City Reorganization No. 316 (Request for Reconsideration) - A reorganization proposing to annex 154± acres to Yuba City lying southeast of the intersection of Pease Road and State Highway 99, west of Live Oak Boulevard, and north of the current City limits and detach the property from County Service Area G. The Commission may consider expanding the boundaries of the proposal to include those lands lying 1,200± feet north of Pease Road, east of State Highway 99, and west of and including Live Oak Boulevard, comprising 79± additional acres to the annexation boundary.

Senior Planner Doug Libby summarized the previously circulated staff report and noted this is a new public hearing on an item that was approved at the January public hearing. Staff had filed a request for reconsideration due to an error being made in the previous public hearing notice that had been provided.

Mr. Libby also noted that a letter of support has been received from Alvin and Mary Ann Deabel. Mr. Libby stated that staff is in support of the reconsideration request.

Chairperson Kroon opened the public hearing:

- Sean Minard, MHM Engineering at 523 J Street, Marysville which represents Dunmore Homes, the company proposing to develop within the annexation area. Mr. Minard spoke in favor of the proposed annexation and stated that the petitioner would like the Commission to consider the originally proposed area if there is a problem with the addition of the expanded area. In closing, Mr. Minard noted he would be available if there were any questions in regard to drainage, water, or sewer.

- Richard Desmond, Attorney for Amreik Takher a property owner in the annexation area, spoke in opposition to the proposed annexation voicing concerns regarding the impact development might have on his client's agricultural land.

- Amreik (Mike) Takher, 2714 Live Oak Blvd., read a letter in opposition of the proposed annexation and expressed concern that potential development would result in public roads being extended through his property.

Commissioner Hellberg stated the annexation should have no impact on his farming and he believes the City has no interest in putting streets through his property.

Commissioner White asked if Mr. Takher had received notice and asked why he didn't speak at the previous meeting on this matter.

Mr. Combs explained that Mr. Takher was in attendance of the previous meeting but was unsure of the process and didn't realize he could have spoken.

Mr. Desmond submitted Mr. Takher's letter to Senior Planner Doug Libby and asked if the Commission might consider removing Mr. Takher's property from the proposed annexation noting that he has seen the City's subdivision map that shows public roads being extended through his clients property.

Mr. Combs clarified that in considering this reorganization, the Commission is including a CEQA document prepared by the City of Yuba City and noted that it could reject the document and require its own environmental document be prepared. Mr. Combs asked that Denis Cook comment on the street issue.

- Denis Cook – City of Yuba City Community Development Director, commented on policies regarding maintaining agricultural land noting it is the City's policy to save agricultural land wherever possible. Mr. Cook continued noting the size of the City's sphere of influence and stated that the City encourages infill development within the

sphere. Mr. Cook stated that the City is reviewing a subdivision map from Dunmore for a subdivision in the proposed annexation area noting that Mr. Takher's property would be impacted. Mr. Cook stated that it would be necessary to extend Clark and Gray Avenues which would require purchase of property from Mr. Takher, but said Mr. Hellberg is correct stating the City would try to minimize use of eminent domain.

In response to Commissioner Novello's question, Mr. Cook stated that at some point both Gray and Clark Avenues would be extended to Pease Road but for this subdivision only Gray Avenue would be extended. Mr. Cook stated he thought a road to the south may also be involved.

Sean Minard stated that in regard to the proposed development, Mr. Takher's property would be affected by two roads and discussed the amount of Mr. Takher's property which might be affected.

In answer to Commissioner Hellberg's questions, Mr. Cook stated that this summer would be the approximate time development would take place if the proposal is approved as proposed.

Mr. Minard stated that it is unlikely that the roads would be extended in the first two phases; but that the timeline ultimately would be determined by the developer.

Commissioner Hellberg stated his support for Mr. Takher and his concerns and asked if an island could be created by leaving out Mr. Takher's property.

Mr. Combs noted an island would be created if Mr. Takher's property were to be left out and asked Mr. Cook if it is possible for Gray Avenue to be extended around Mr. Takher's property.

Mr. Cook stated he believed that is possible, but that action would be left up to the City Council to decide.

Some discussion ensued regarding the possibility of a condition being added to the resolution and whether roads would still be extended if Mr. Takher's property is removed from the proposed annexation.

- Scott Brown – Special counsel to City of Yuba City regarding this proposed annexation stated the resolution should contain a provision continuing existing fees and charges, if any, within the proposed annexation area so that the City doesn't have to reinstitute charges.

Mr. Cook addressed Commissioner White's question by stating that development would impact Mr. Takher's farming, but it is going to protect the area from urban development since it is within the City's sphere of influence.

Mr. Brown stated that a covenant could be placed on residential properties where property owners within 100 feet of the agricultural land would be notified of the agricultural land next to theirs.

Mr. Cook noted it is standard practice for the City to notify potential new owners of the County's Right to Farm Ordinance and make part of the deed something which shows if there is agricultural land nearby.

- Craig Naigler - Dunmore Homes, the developer for the area stated his company is willing to work with the City to mitigate road issues but, ultimately the roadways will be extended.

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

Some discussion ensued regarding who owns some land near the proposed annexation area. Some Commissioners agreed they would rather not create an island, but also understand Mr. Takher's concerns.

There being no further comments from the Commission, it was moved by Commissioner White and seconded by Commissioner Novello to adopt the resolution making determinations and approving the request for reconsideration for the territory designated as the Northeast Yuba City Reorganization No. 316 but not including Mr. Takher's property.

Mr. Combs stated that the motion on the floor would create an island and the Commission is required to make specific determinations in order for that to occur.

Commissioner White suggested the item be tabled to allow staff to prepare the necessary language and then return to this item on the agenda later in the meeting.

Chairperson Kroon acknowledged the suggestion noting there is still a motion on the floor, and continued the meeting to the next agenda item.

- b. **LAFCO #03-06:** Tierra Buena Reorganization No. 318 (Request for Reconsideration) – A reorganization proposing to annex approximately 518 acres to Yuba City and detach the property from County Service Area G and the Consolidated Street Lighting District. In addition, LAFCO has approved of the dissolution of the Tierra Buena Community Services District (CSD) as part of the proceedings. The affected territory is generally located west of Tierra Buena Road and Harter Road on the north side of State Highway 20 and includes those properties served by the City's ground water well system which was the former Hillcrest Water Company. The reconsideration request specifically if approved would retain the Tierra Buena CSD as a subsidiary district of the City of Yuba City.

Senior Planner Doug Libby summarized the previously circulated staff report and stated that the proposed resolution reflects the change of the Tierra Buena CSD to a subsidiary district of Yuba City and also noted staff recommends the last sentence of Section 6 on the resolution be removed.

Mr. Combs stated that fire protection is currently provided by the City and noted there are fees associated with this protection therefore; the sentence in Section 6 should remain.

Chairperson Kroon opened the public hearing.

There being no comments, Chairperson Kroon closed the public hearing.

There being no comments from the Commission, it was moved by Commissioner White and seconded by Commissioner Islip to adopt Resolution 2004-08 approving the request for reconsideration and amendment of the Tierra Buena Reorganization No. 318.

The motion was carried by a unanimous voice vote.

- c. **LAFCO 04-01:** South Sutter Recreation and Park District Formation - A proposed change of organization to form a Recreation and Parks District to provide public recreation for the residents of southern Sutter County. The boundaries of the proposed district would include all of that area of Sutter County lying south of Yuba County easterly of the Feather and Sacramento Rivers, west of Placer County and north of Sacramento County.

Senior Planner Doug Libby summarized the previously circulated staff report and stated that the County Board of Supervisors wish to have conditions added requiring that both the district and the funding mechanism must be approved by registered voters in order for the proposal to take affect. Mr. Libby noted such conditions have been added to the proposal.

Mr. Libby answered Chairperson Kroon's question by stating that the tax imposed would be strictly a per parcel tax that is only applicable on property that is developed with a residence. The number of dwellings on the property is irrelevant to the amount of the tax that will be required to be paid if the proposal is approved.

Chairperson Kroon opened the public hearing to receive comments for or against.

- Gary Spangler, Board Member of the South Sutter Recreation Association spoke in favor of forming the South Sutter Park and Recreation District.

- Matt Conant, 3558 Bear River Drive, spoke in favor of forming the South Sutter Park and Recreation District.

- Charles Kirkman, 2544 Pleasant Grove Road, with "friends of the pool" spoke in favor of forming the South Sutter Park and Recreation District.

Some discussion ensued as to whether the amount of tax monies collected would be sufficient.

- Dale Davis, 3792 El Centro Road, Nicolaus stated she prepared a budget and the amount of monies received from the proposed tax would cover minimum operating expenses.

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

It was moved by Commissioner White and seconded by Commissioner Hellberg to adopt Resolution 2004-09 making determinations and approving the proposed change of organization designated as the South Sutter Recreation and Park District Formation.

The motion was carried by a unanimous voice vote.

***The Commission proceeded to return to Item 5 a on their agenda and Chairperson Kroon reconvened the public hearing.**

LAFCO 03-04: Northeast Yuba City Reorganization No. 316 (Request for Reconsideration) - A reorganization proposing to annex 154± acres to Yuba City lying southeast of the intersection of Pease Road and State Highway 99, west of Live Oak Boulevard, and north of the current City limits and detach the property from County Service Area G. The Commission may consider expanding the boundaries of the proposal to include those lands lying 1,200± feet north of Pease Road, east of State Highway 99, and west of and including Live Oak Boulevard, comprising 79± additional acres to the annexation boundary.

- Denis Cook stated that after meeting with Mr. Takher while LAFCO continued with its agenda that he believes an agreement has been reached with the City and Mr. Takher where the City agrees to defer the requirement of the subdivision to build any streets through Mr. Takher's property. In addition, the City would not require any easements on Mr. Takher's property for utilities. Mr. Cook stated the City would agree to a condition on the resolution stating such.

Mr. Combs responded to Commissioner White's question as to whether LAFCO should add a condition to the proposed resolution stating that LAFCO cannot adopt conditions that would regulate land use. State law gives land use authority to Sutter County and the City of Yuba City in this case.

Commissioner White suggested this item be continued to the next meeting in order to allow time for the proper documents to be drafted and presented and he withdrew his previous motion, and moved to continue this item until the April 22, 2004, meeting.

Commissioner Hellberg asked if the Commission could vote on the item and come back after condition has been drafted.

LAFCO Counsel Jim Lewis stated he would recommend against taking such a vague action.

Commissioner Islip seconded the motion to continue the item to the April 22, 2004, LAFCO meeting.

Chairperson Kroon re-opened the public hearing considering the changes that have taken place.

- Craig Naigler - Dunmore Homes, stated he would like the Commission to take action today because his company will agree to not encumber Mr. Takher's property.

Some discussion ensued as to whether action should be taken.

LAFCO Counsel Jim Lewis recommended this item be continued as more clarity is needed because of the complex issues involved.

Mr. Combs stated the Commission could approve the proposed resolution as it stands and let the City and Mr. Takher work things out themselves.

-Scott Brown said he feels Mr. Combs is correct in stating that the Commission could approve the annexation today. Mr. Brown also stated the City Council would have to stand by the promise made or the annexation would not be completed.

- Richard Desmond, Attorney for Amreik Takher stated that Mr. Takher would be comfortable with the City's promise noting that the City Counsel would have to agree to the condition.

After some discussion, Commissioner White stated his motion to continue the item to the April 22, 2004 meeting stands.

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

At Commissioner Hellberg's request, Mr. Combs explained the differences between this reorganization and that of the South Highway 20 reorganization.

The Commission proceeded to vote on Mr. White's motion and it was carried by a unanimous voice vote and the proposal was continued until the April 22, 2004, LAFCO meeting.

6. OTHER BUSINESS

Discussion regarding Policy No. 22 of the Commission's Rules of Procedure.

Mr. Combs explained that at a public hearing where only written protest is to be received, the law allows for staff to conduct protest hearings. Mr. Combs stated that where this type of hearing is necessary, a meeting could be held before the Commission's regular 4:00 meeting and then report on the amount of protest received at the regular meeting. Mr. Combs said staff could prepare policies to allow for this type of process to occur if the Commission is interested.

Chairperson Kroon stated he thought that the different hearings are confusing to the public and that this would be a way to alleviate some confusion.

On a motion by Commissioner White, and seconded by Commissioner Novello, staff was directed to prepare policies for the Commission's consideration regarding the Executive Officer carrying out conducting authority proceedings on behalf of the Commission.

The motion was carried by a unanimous voice vote.

7. **COMMENTS FROM THE PUBLIC**

None.

8. **ADJOURNMENT**

There being no further business before the Commission, the meeting was adjourned at 5:45 p.m.

Respectfully submitted,

Larry T. Combs
Executive Officer