

MINUTES OF MAY 5, 2004

The Sacramento Local Agency Formation Commission met this fifth day of May, 2004, at 5:30 P.M. in Board Chambers of the Sacramento County Administration Center, 700 H Street, Sacramento, California.

PRESENT: Lauren Hammond, Vice Chair; Commissioners: Chris Tooker, Roberta MacGlashan, Elliot Mulberg, Muriel Johnson, Gay Jones and Don Nottoli.
Also present: Alternate Commissioner John Jachens.

ABSENT: Illa Collin, Chair; Charles Rose.

Not present: Sophia Scherman, Jimmie Yee.

STAFF: Peter Brundage, Executive Officer; Donald Lockhart, Assistant Executive Officer; Nancy Miller, Commission Counsel; Marilyn Ann Flemmer, Commission Clerk.

The meeting was called to order by Vice Chair Hammond at 5:32 P.M. The Clerk called the roll.

CONSENT CALENDAR

On a motion made by Commissioner Tooker, seconded by Commissioner Mulberg, the Minutes of April 7, 2004 and Claims dated April 30, 2004 were unanimously approved.

REQUEST FOR RCONSIDERATION:

FLORIN RESOURCE CONSERVATION DISTRICT

ANNEXATION OF ELK GROVE WATER SERVICE TERRITORY (10-03)

[CEQA: Exemption]

The Executive Officer briefly reviewed the Florin Resource Conservation District's request for a reconsideration of Condition 12(h) of Resolution No. LAFC 1267, adopted by the Commission March 3, 2004. Mr. Brundage stated the Commission has three options to consider: (1) deny the reconsideration request; (2) delete Condition 12(h) of Resolution No. LAFC 1267; (3) amend Condition 12(h). To replace or delete any part of Resolution No. LAFC 1267 will require the adoption of a new resolution but it appears to be possible to achieve the conducting authority hearing by the deadline required for the election of District directors (June 30), stated Mr. Brundage. Mr. Brundage recommended that the Commission amend Condition 12(h) to require the Florin Resource Conservation District to sign a Procedural Agreement with the Water Forum Successor Effort. There was Commission discussion.

Leo Winternitz, Executive Director, Water Forum, addressed the Commission. Mr. Winternitz stated the Water Forum Successor Effort addresses elements to implement safe and reliable water, protection of the American River, conjunctive use of surface water, and water conservation. In response to a question from the Commission, Mr. Winternitz stated the costs for membership for Florin Resource Conservation District would be borne by the Sacramento County Water Agency, a signatory to the Agreement. He further stated, it is appropriate that Florin Resource Conservation District be a member. Mr. Winternitz defined and described the

process of signing a Procedural Agreement. There was Commission discussion. [Commissioner Muriel Johnson arrived 5:59 PM.]

Ms. Ann Siprelle , representing the Florin Resource Conservation District, addressed the Commission. Ms. Siprelle stated the District has not yet determined whether or not membership in the Water Forum would be in the best interest of the District ratepayers. The District believes there are ambiguous issues (i.e., mediation of disputes) that the District has not yet analyzed and is unsure of a commitment to membership at this time. The purpose of the annexation proposal was to allow our ratepayers to vote for Directors, stated Ms. Siprelle. Ms. Siprelle concluded stating she does not believe the Commission has the authority to impose this condition on the District. Commission Counsel Nancy Miller respectfully disagreed.

David Beales, Board of Directors, Florin Resource Conservation District, addressed the Commission. Mr. Beales stated the Water Service was purchased without ratepayer representation by an elected Board of Directors and the District wishes to change its image. The Board does not yet know what the Water Forum's impact will be on District ratepayers at this time, stated Mr. Beales. It does not appear fair to us to impose future unknowns on our ratepayers when the impact of Water Forum membership on the District is not yet clear, stated Mr. Beales.

Gil Albiani, Board of Directors, Florin Resource Conservation District, addressed the Commission. Mr. Albiani stated the Board wishes to enfranchise the ratepayers.

Mike Eaton, Nature Conservancy, addressed the Commission. Mr. Eaton stated he supported the Water Forum Successor Effort in Sacramento County and that groundwater users should be a part of the process of regional cooperation to conserve water. Mr. Eaton urged the Commission to uphold condition 12(h).

Commission Action

There was Commission discussion. Commissioner Tooker then **moved adoption of staff's recommendation**, to replace condition 12(h) with the requirement that the Florin Resource Conservation District sign a Procedural Agreement with the Water Forum. Commissioner M. Johnson seconded the motion.

A Substitute Motion was put forth by Commissioner Mulberg to allow the annexation of the Elk Grove Water Service territory to proceed and encourage the District to join the Water Forum after it has had the opportunity to analyze membership in the Water Forum. The motion was seconded by Commissioner Nottoli. There was Commission discussion.

A Second Substitute Motion was made by Commissioner MacGlashan: Approval of the annexation of the Elk Grove Water Service territory to proceed, encourage the District to join the Water Forum, the District's decision to vote on membership in the Water Forum shall occur no later than March, 2005. Commissioner Nottoli seconded the MacGlashan motion. Commissioner Mulberg withdrew his Substitute Motion; Commissioner Nottoli withdrew his second of the first

Substitute motion. The vote was called on the MacGlashan Second Substitute Motion. The motion failed. [Yes: MacGlashan, Mulberg, Nottoli. No: Tooker, Jones, Johnson, Hammond.]

Staff Recommendation Adopted

The vote on Commissioner Tooker's first motion was then called. **The motion to approve staff's recommendation passed.** [Motion: Amend condition 12(h) with the requirement that as a condition of the annexation proposal the Florin Resource Conservation District shall sign a Procedural Agreement with the Water Forum.] [Yes: Tooker, Jones, M. Johnson, Hammond. No: MacGlashan, Mulberg, Nottoli.]

CITY OF ELK GROVE: INCORPORATION MITIGATION MEASURES

Mr. Brundage reviewed the outstanding mitigation measures for the City of Elk Grove incorporation: (1) Regional Transit and the City of Elk Grove, (2) Habitat for Swainson's Hawk. Mr. Brundage recommended that the Commission take no action on (1) until after receipt of the requested outside counsel opinion on the matter and that the Commission continue to monitor the issue of habitat for Swainson's Hawk. There was Commission discussion concerning Regional Transit; it was the consensus of the Commission to wait for the legal opinion from outside counsel prior to taking any action on this item.

Mike Eaton, Nature Conservancy, addressed the Commission. Mr. Eaton stated the cost of land in the southern part of Sacramento County is now so high that the Nature Conservancy sent a letter to State Fish and Game stating currently, the fee program is no longer mitigating for Swainson's Hawk loss of habitat. It should be discontinued and developers should be required to pay for land for Swainson's Hawk or to provide mitigation land similar to the City of Sacramento Natomas Basin Conservation Plan, stated Mr. Eaton.

Alta Tura, Sacramento Audubon Society, addressed the Commission. Ms. Tura urged the Commission to continue to monitor for Swainson's Hawk habitat. Elk Grove is not in compliance, and the problem becomes ever more serious with no easements and no purchase of land and no approved entity responsible for the State Program. Far too many acres have been lost with no mitigation; land prices have sky-rocketed, stated Ms. Tura. The context of LAFCo monitoring may further the development of a South Sacramento County Habitat Conservation Plan, concluded Ms. Tura.

Jude LaMar, Friends of Swainson's Hawk, addressed the Commission. Ms. LaMar expressed appreciation to the Commission for playing a key role in encouraging the creation of a Habitat Conservation Plan. She supported staff's recommendation to continue monitoring Swainson's Hawk implementation in Elk Grove.

David Storer, Assistant City Manager, City of Elk Grove, addressed the Commission. Mr. Storer stated the City of Elk Grove has been in the process of attempting to purchase easements on land that is on the Department of Fish and Game map listed as suitable for Swainson's Hawk habitat but the price of land has far exceeded the ability to purchase, due to speculative land purchases.

On a motion made by Commissioner Mulberg, seconded by Commissioner Hammond, the Commission unanimously approved staff's recommendation to continue to monitor the City of Elk Grove and the Swainson's Hawk habitat mitigation measure. The Commission requested a monthly status report on this issue from the Executive Officer. On a motion made by Commissioner Johnson, seconded by Commissioner Tooker, the Commission unanimously continued the issue of the City of Elk Grove and Regional Transit to be scheduled after staff receives outside counsel's opinion on this matter.

Agreement with Economic Planning Systems to Provide Technical Support Related to the Rancho Cordova Incorporation

The Executive Officer stated he recommends the Commission require Harvey Rose Accounting Corporation to pay for LAFCo staff time as well as reimburse Economic Planning Systems for the research they request regarding the incorporation of Rancho Cordova. Commissioner Nottoli moved staff's recommendation; Commissioner Tooker seconded the motion which was unanimously passed.

Proposed LAFCo FY 2004-05 Budget

Commissioner Mulberg conveyed comment from the Special District Advisory Committee; Commissioner Hammond expressed concern about the City of Sacramento's share. On a motion made by Commissioner M. Johnson, seconded by Commissioner Mulberg, the Commission unanimously set final budget deliberations for June 2, 2004.

Draft Municipal Service Review and Updated Sphere of Influence For Sacramento Metropolitan Fire District (07-04)

The Executive Officer stated this document is a draft, issued for public review and comment and the final document will be scheduled for hearing before your Commission on June 2, 2004.

The Monthly Budget Report and Work Status reports were noted as provided. Mr. Lockhart gave a brief review of legislation. Mr. Lockhart informed the Commission that meetings would now be available "live" via Sacramento LAFCo.org. There were no other reports. The meeting was adjourned at 8:10 P.M.

Respectfully submitted,

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION

Marilyn Ann Flemmer
Commission Clerk