



BUTTE LOCAL AGENCY FORMATION COMMISSION Minutes of October 10, 2018

(A complete voice recording of the Commission's meetings can be obtained from www.buttelafo.org)

1. CALL TO ORDER

Chair Leverenz called the meeting to order at 2:00 p.m., October 10, 2018, in the Butte County Board of Supervisors Chambers, 25 County Center Drive, Oroville, California.

1.1 Roll Call

Commissioners Present: Jack Kiely (Special District), Nathan Wilkinson (City), Carl Leverenz, Chair (Public) Alternate Commissioner Present: Al McGreehan (Special District)

Commissioners Absent: Scott Lotter (City), Bill Connelly (County), & Steve Lambert (County)

Alternate Commissioners Absent: Larry Wahl (County), Greg Steel (Public) & Bruce Johnson (City)

Others Present: Stephen Lucas, LAFCO Executive Officer
Joy Stover, LAFCO Commission Clerk
P. Scott Browne, LAFCO Legal Counsel

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2. CONSENT AGENDA

2.1 Approval of the Minutes of September 6, 2018

Chair Leverenz asked if there were any changes or modifications to the minutes. None stated.

Commissioner Wilkinson made a motion to approve the Consent Agenda approving the September 6, 2018 minutes. The motion was seconded by Commissioner Kiely.

The motion was carried by the following vote:

AYES: Commissioners Kiely, McGreehan, Wilkinson and Chair Leverenz
NOES: None
ABSENT: Commissioners Lotter, Connelly & Lambert
ABSTAINS: None

Commissioner Connelly arrived at 2:02 p.m.

3. NOTICED PUBLIC HEARINGS

3.1 17-04 – Public Review Draft Municipal Service Review and Sphere of Influence Plan for the City of Chico (*Hearing Continued from September 6, 2018*)

Steve Lucas stated we held a public hearing on September 6, 2018 and at that time a Motion of Intent was passed to approve the Municipal Services Review (MSR) and Sphere of Influence (SOI) Plan for the City of Chico. The public hearing was closed and Staff was directed to prepare the findings and the resolution and bring this project back. There were some clerical errors corrected and the resolution was also amended to incorporate the requested changes in language that was brought to Staff's attention.

Chair Leverenz stated, for the record, everything Staff has received, including documents received today will be formally part of the record.

Richard Harriman, resident of the City of Chico, stated he feels the letter he submitted to the Commission is straight forward. He doesn't feel the records submitted by the consultant were sufficient for the Commission to go forward. At this point, it is important that this [Doe Mill] area be marked as a Special Study Area. The City of Chico has a lot more work to be done before approving a development of this size.

Chair Leverenz stated as a practical matter, if this area is left in the SOI but designated as an area for special study, before it could move forward and come back to LAFCo for an annexation, all the things Mr. Harriman feels needs to be done would have to be done in order to gain approval by the City of Chico.

Richard Harriman stated it was stated by Supervisor Lambert at the last LAFCo meeting that Supervisor Connelly was very convinced that he did not want this area [Doe Mill] to be developed under the County's jurisdiction.

Supervisor Connelly stated he will go on the record to state during the development of the general plan there was a dichotomy between the City and the County about this area. The City of Chico showed great interest in bringing this in as their growth area. He stated he has no objections as it makes more sense for an area to be developed that is going to be urban to be in the City limits than in the County. Commissioner Connelly stated he would really rather see development in that area than the green line or any of the loam area to the west.

Allen Harthorn, Executive Director of Friends of Butte Creek, stated Supervisor Connelly knows him quite well from their meetings over the last 8 years in developing the Butte Creek Canyon overlay for the General Plan which protects the last best habitat for the wild spring run salmon. Butte Creek supports the last best run of the wild spring run salmon, an endangered species and an evolutionarily significant unit that is only found on Butte Creek, Deer Creek and Mill Creek and once in a while on Big Chico Creek. When urban development happens on a stream such as Butte Creek, slowly but surely you encroach on the habitat, you increase storm water runoff, pollution and other things from those urbanized areas. Slowly but surely you degrade stream quality and it degrades the habitat for the wildlife for those streams. This project, if and when it is developed, needs to be very conscience of every bit of storm water that comes from that area. Everything above the levee comes into Little Chico Creek over to Butte Creek, directly impacting the watershed of Butte Creek.

Chair Leverenz stated our issue today is to approve a Municipal Service Review for the City of Chico and in addition we look at what's called the Sphere of Influence, the area where the City has grown and where it could grow in the future. This is one area

where there is some differences of opinion, maybe not that it shouldn't grow there in the future, but maybe not in the near future.

Brendan Ottoboni, Director of Public Works and Engineering for the City of Chico, stated it's been a lot of work between County, City and LAFCo staff over many years. Specifically on SP3 [Doe Mill area], this would allow efficient and effective development of that property. It's been identified in the City's general plan and the general plan went through a full environmental impact report. A specific development plan would then further have to come with specific impacts and we would be back before the City Council and then LAFCo looking for annexation. The City staff has been meeting with the developer regarding pre-application and looking at concerns, issues and trying to figure out the best process on how to develop that property.

Chair Leverenz stated the issue really isn't the development but the mechanics of getting there. The law provides that the area has to be in the sphere of influence of the City of Chico before you can annex it and before you can annex it you have to provide a plan for both to satisfy the City and ultimately LAFCo. Whoever is going to develop the property has to come up with environmentally sound practices that have to satisfy the people from Butte Creek and others. LAFCo's decision is solely if it's going to develop, is it going to develop in the County or the City and that decision has already been made by the County and the City.

Caroline Burken, resident of the City of Chico and former resident of the Butte Creek area, stated she is a little put out in how the City is trying to push development in the Special Planning Area 5 through. She would like support Mr. Harriman's suggestion of designating this as a special study area until such time as we get better information than what was come from the City Council.

Elizabeth Devereau, states she agrees with what Caroline said that the process has been rushed through. She also agrees with Richard Harriman that the three other special study areas will meet the housing needs. She would prefer to see developers address influx in areas that are either blighted or underdeveloped. It needs further study before it is included in the City of Chico's sphere of influence.

Bill Brouhard, a 40 year resident of the City of Chico and a developer for the Doe Mill Special Planning area. It occurs to him that everyone is doing exactly what they should be doing here today. The concerns are taken very seriously. In this case Mr. Harriman is asking LAFCo to narrow this down and put a special designation on this special planning area because it is different and unique. Bill Brouhard went over the bullet points from Mr. Harriman's letter he received today and provided his replies.

Chair Leverenz stated what he is interested in is the timing of the project.

Bill Brouhard stated we expect our first pre-application Public Hearing to occur within the next 4 months or shorter. All the information Mr. Harriman is looking for will be addressed during the annexation process. This won't be before LAFCo again until the City of Chico approves everything.

Commissioner McGreehan asked for clarification on when the land absorption study will be formally acted upon by the City of Chico Council.

Bill Brouhard stated it will be on October 16, 2018.

Commissioner McGreehan asked who the author of the Study was.

Bill Brouhard stated BAE, consultants out of Berkeley, CA, hired by the City of Chico.

Commissioner Keily stated he doesn't see that the Commission would be throwing in an additional hurdle by designating this a special planning area.

Bill Brouhard stated LAFCo has its own special overlay zone that LAFCo puts on projects where you don't have enough information to act on the project right now.

Commissioner Wilkinson asked how long Mr. Brouhard publicly has been working on this project.

Mr. Brouhard stated for 10 years since the County first began their General Plan and we've had over 400 people on tours of this property, including public agencies. We need a regulatory environment that is smooth, predictable and straightforward. There is nothing other than the desire to delay this project that would justify a special designation at the LAFCo level.

Chris Constantine, Assistant City Manager for the City of Chico, stated he first wants to thank the staff for the long hard work that has gone into this area. There has been a lot of planning, environmental review and calculations of impacts. The last thing the City wants to do is to press any growth west into the Green Line. This is the best direction for the City to go in terms of development.

Mr. Harriman read a section of the absorption study referring to areas available for development which are already inside the city limits.

Chair Leverenz closed the public portion of the hearing.

Commissioner Connelly asked if LAFCo staff legally publicized the City of Chico MSR/SOI.

Steve Lucas stated yes.

Commissioner Connelly asked if we make this a Special Study area does that change the CEQA & NEPA oversight requirements of this process.

Steve Lucas stated the short answer is no.

Commissioner McGreehan wanted to confirm that the MSR/SOI that lead up to the motion of intent being adopted at the last meeting referenced the Absorption Study.

Steve Lucas stated is yes it did.

Commissioner McGreehan stated he was not under the understanding at that time that the Absorption Study had not been publically as an end product sanctioned by the City of Chico Council.

Steve Lucas stated he had no involvement in the preparation of the Absorption Study. The cover letter provided with the Study states "We are pleased to present the final land absorption study for the City of Chico". It is my understanding that the agency is simply accepting the Absorption Study, not sanctioning the Study. Staff prepared the Study, produced the Study and is now giving it as an informational item to their Council.

Steve Lucas explained the City of Chico has this area identified as a Special Planning area; the County refers to this area as a Specific Plans to be Developed area. The LAFCo Special Study designation is simply a third level that is consistent to the other two. By LAFCo putting a Special Study level on this, you are simply mirroring what the other two agencies have done.

Commissioner Wilkinson stated he is worried there is a motive to the 'why'. Does it offer additional ammunition, should someone legally contest this project, that basically LAFCo added this asterisk for a reason.

Scott Browne stated the Commission policies require an absorption analysis to support the designation of a sphere and you are required to follow your policies. If you put a designation of 'Special Study' it allows you to leave that determination to when the circumstances of the actual project comes before you. You aren't making a commitment, you are saying let's get more information and then we'll make that decision at that time. If you choose to include it in the growth sphere then you are making a decision that the absorption analysis supports including this in the sphere.

Commissioner McGreehan asked if you can keep it in the sphere of influence boundary and also give it the Special Study designation.

Scott Browne stated that is the point. The Special Study designation is in the sphere because everybody agrees it should develop in the sphere. This gives it the signal that if it is going to develop at all, it is going to develop in the sphere. It leaves the Commission in a position where you haven't made a final determination that this needed for the City and the Commission is waiting to get more information. This is appropriate based on the ambiguous evidence before you.

Commissioner McGreehan made a motion to approve the City of Chico Municipal Service Review with the suggested amendments and changes as suggested by the Staff. The motion was seconded by Commissioner Wilkinson.

The motion was carried by the following roll call vote:

AYES: Commissioners Kiely, McGreehan, Wilkinson, Lambert and Chair Leverenz

NOES: None

ABSENT: Commissioners Lotter & Lambert

ABSTAINS: None

Commissioner McGreehan made a motion to adopt the resolution in the form submitted by the Staff and Special Planning Area 3 will be in the Sphere but also given the designation of LAFCo Special Study Area. The motion was seconded by Commissioner Kiely.

Commissioner Connelly stated he does not agree with adding a triplication of the same thing.

Commissioner Wilkinson stated he agrees with Commissioner Connelly. It has been 20 years since the City of Chico asked for an increase of their sphere. The sphere they have asked for is extremely conservative in his opinion and to add that asterisk he just

doesn't even know why they are doing it except for the fact the attorney is warning the Commission of not.

The motion was carried by the following roll call vote:

AYES: Commissioners Kiely, McGreehan, and Chair Leverenz

NOES: Commissioners Connelly and Wilkinson

ABSENT: Commissioners Lotter & Lambert

ABSTAINS: None

Scott Browne, LAFCo counsel, stated there is an affirmative vote of 3. The LAFCo Bylaws require an affirmative vote of 4. Motion fails. Scott Browne recommended a motion to continue.

Commissioner McGreehan made a motion to continue this item to the November LAFCo meeting. Motion died for lack of a second.

Commissioner Connelly made a motion to approve the Sphere of Influence as submitted without the Special Study designation for SPA 3. Commissioner Wilkinson seconded the motion.

The motion was carried by the following roll call vote:

AYES: Commissioners Kiely, Connelly, Wilkinson, and Chair Leverenz

NOES: Commissioners McGreehan

ABSENT: Commissioners Lotter & Lambert

ABSTAINS: None

4. REGULAR AGENDA

4.1 Items Removed from the Consent Agenda – None

4.2 19-02 – City of Chico – Extension of Services – 1621 Chico River Road

Commissioner Kiely made a motion to adopt Resolution No. 05 2018/19 approving the extension of sewer services. The motion was seconded by Commissioner Connelly.

The motion was carried by the following roll call vote:

AYES: Commissioners Kiely, Connelly, McGreehan, Wilkinson, and Chair Leverenz

NOES: None

ABSENT: Commissioners Lotter & Lambert

ABSTAINS: None

5. Public Comment on Items not on the Agenda - None

6. Reports and Communications

6.1 Executive Officer's Report.

Steve Lucas summarized the Executive Officer's Report and provided updates.

Commissioner Wilkinson asked if the Bylaws allow for an item to be added to the agenda.

Scott Browne stated the Brown Act allows an item to be added if you get a vote of four-fifths of the body.

Commissioner Wilkinson asked if it is lawful for us to add something for closed session pending litigation.

Scott Browne stated it would be best to put that on the next agenda when we may be clear as to whether there may be a need for it.

6.2 Correspondence - None

7. ADMINISTRATION - None

8. ADJOURNMENT

There being no further business, the meeting was adjourned at 3:41 p.m. to the next LAFCO meeting scheduled for November 1, 2018.

LOCAL AGENCY FORMATION COMMISSION



By: Stephen Lucas, Executive Officer

Minutes prepared by Joy Stover, Commission Clerk