

BUTTE LOCAL AGENCY FORMATION COMMISSION

DRAFT Minutes of February 6, 2014

1. CALL TO ORDER

Chair Leverenz called the meeting to order at 9:00 a.m., on February 6, 2014, in the Butte County Board of Supervisors Chambers, 25 County Center Drive, Oroville, California.

1.1 Roll Call

Present: Commissioners: Larry Duncan (Special District), Tom Lando (Special District), Jerry Fichter (City), Steve Lambert (County) and Chair Carl Leverenz (Public).

Absent: Commissioners: Scott Lotter (City) and Bill Connelly (County).
 Alternate Commissioners: Ann Schwab (City), Wes Gilbert (Special District), Greg Steel (Public) and Larry Wahl (County).

Others Present: Stephen Lucas, LAFCO Executive Officer
 Stephen Betts, LAFCO Deputy Executive Officer
 Jill Broderson, LAFCO Management Analyst
 Joy Stover, LAFCO Commission Clerk
 Scott Browne, LAFCO Legal Counsel

The meeting was adjourned to the Closed Session Item at 9:01 a.m.

2. CLOSED SESSION (*Administration Conference Room Available 9:00 a.m. to 10:00 a.m.*)

2.1 Conference with Legal Counsel on Significant Exposure to Litigation Pursuant to Gov. Code Section 549569(b)(1) – One Case.

The meeting was reopened at 9:34 a.m.

Chair Leverenz stated the Commission met with LAFCO Counsel and no formal action was taken.

3. CONSENT AGENDA

3.1 Approval of the Minutes of January 9, 2014.

Chair Leverenz asked if anyone wanted any corrections or changes to the minutes.

Commissioner Duncan stated the first sentence needs to be corrected to state Chair Leverenz called the meeting to order instead of Vice Chair Lotter.

Commissioner Duncan made a motion to approve the consent agenda with changes to the Minutes on page one. The motion was seconded by Commissioner Lando.

The motion was carried by the following vote:

AYES: Commissioners Duncan, Lando, Fichter, Lambert and Chair Leverenz

NOES: None

ABSENT: Commissioners Lotter and Connelly

ABSTAINS: None

4. NOTICED PUBLIC HEARINGS

4.1 13-15 – City of Chico – Stewart Avenue Annexation No. 03

Steve Betts stated staff received two letters in opposition to the annexation that were received after the agenda packet was sent out. The Commission was provided copies of the letters. Additionally, one letter in opposition to the annexation was received this morning from Cheryl & Jeff Armstrong.

Steve Betts stated this annexation was initiated by a landowner petition from Dan Ostrander. The petition was a condition of the approved extension of sanitary sewer services approved at the April 4, 2013 LAFCo meeting. The requirement was for the landowner to submit a petition for annexation in the event the City of Chico did not initiate the annexation within a certain timeframe. The parcel is not contiguous to the City's jurisdictional boundaries and is within an identified island area. Steve Betts provided a PowerPoint presentation and summarized the staff report. Staff is recommending the Commission approve the annexation. Staff has prepared two resolutions: 1) Resolution No. 22 2013/14A approves the entire 25-acre, 55 parcel Stewart Ave. Island area, including a portion of the Big Chico Creek drainage way, subject to conducting authority proceedings (protest hearing) and 2) Resolution No. 22 2013/14B approves a 100% landowner consent annexation of only the Ostrander parcel and the adjacent parcel to the east. Resolution No. 22 2013/14B will only become effective should the conducting authority protest proceedings for Resolution No. 22 2013/14A result in termination of the annexation of the whole Stewart Avenue Island area.

Chair Leverenz asked if the Commission has any questions for Steve Betts.

Commissioner Duncan asked if there are any parcels in this island area that are already hooked up to the sewer system.

Steve Betts stated the only parcel hooked up to sewer is the Ostrander parcel at this time. There is an existing City of Chico sewer line running the full length of Stewart Avenue. The City is proposing to place a sewer line in Bidwell Place in 2015 and there is no sewer line proposed along Bidwell Avenue.

Commissioner Duncan asked if this is within a nitrate problem area.

Steve Betts identified the parcels within the high nitrate area on the map.

Chair Leverenz opened this item to the public.

Crystal Keesey stated she owns parcel #40 on the map on Bidwell Avenue and the septic failed on her parcel and she had to put in a new septic system. She wanted clarification on where the City of Chico is proposing to put in new sewer lines in the area.

Steve Betts confirmed the City of Chico currently does not have any plans to extend a sewer line in Bidwell Avenue.

Crystal Keesey stated she is now opposed to the annexation of her parcel.

Chair Leverenz explained the County and City of Chico had a fiscal study prepared for three island areas in Chico. The outcome of the fiscal study showed the cost for the City to provide services is about \$4000. Chair Leverenz explained that LAFCO is required by state law to consider urban areas that are not part of a city, including areas considered to be Disadvantaged Unincorporated Communities, when they are within a certain distance to proposed annexation.

Patricia Louise McCroskey, residing at 1135 Stewart Avenue, Chico, CA 95926, feels their small DUC area should remain in the County.

There was a discussion on the potential increase in taxes that would be imposed on the property owners if the area is annexed into the city. A 5% utility tax would be charged by the City and if your income level qualifies, you can receive a rebate of the utility tax from the City.

Chair Leverenz explained that if the Commission proceeds with the annexation, there would be a protest proceeding process where the landowners would be allowed to formally protest the annexation.

Robert Muhlheim, a resident of 1135 Stewart Avenue, Chico, CA 95926 and a registered voter, read a letter dated 2/5/2014 in opposition of the Stewart Neighborhood annexation.

Chair Leverenz explained, according to the City's data that was given to the people doing the study, sufficient services would be provided at an additional cost of about \$4000.

Robert Muhlheim stated there's no capital improvement plan in place to provide sidewalks, gutters, storm drains, street lights or a sewer line on Bidwell Avenue.

Chair Leverenz stated the Commission's goal is to clean up an island of county that should be, according to the legislature, in the City because the City provides urban services and the County does not.

Jeff Armstrong, owner of two contiguous parcels on Bidwell Ave. (1230 & 1236), stated they enjoy being DUCs and their primary concern is about commercial development in a residential area and altering their way of life. They are concerned about a sewer line going down Bidwell Avenue.

Steve Betts stated from the information he has received the city is not planning to put in a sewer line down Bidwell Avenue, but they do show one going down Bidwell Place in 2015.

Darcy Davis, 1212 Bidwell Avenue, stated she is more opposed than she is in favor of the annexation. She is not clear on what the benefits would be to being annexed since she would have to spend more money to be in the City.

Chair Leverenz stated the legislature has determined that urban areas need to be given a wide range of services and the city is more capable of providing those services.

Dan Ostrander, stated he would be very happy with Resolution No. 22 2013/14B, annexing just his parcel and his neighbor's parcel. He also understands that by law LAFCo is required to consider the other parcels for annexation as well. He wanted to clarify where he is at and stated this isn't just something he wanted or that LAFCo wanted, but it is a process by state law.

Terry Ridenour, resides at 1242 ½ Bidwell Avenue, stated she is completely opposed to the annexation. She is a renter and doesn't want to see future residential and commercial development in the area.

Jeffery Obser, 1220 Stewart Ave - Parcel #7 said he is on the fence regarding the annexation. The neighbors include individual homeowners trying to build homes and improve their lives. He would like to remodel and enlarge his home. He is pretty sure the minute he goes to the City of Chico to get any form of a permit, he will have to shell out \$20,000 for curb and \$10,000 to \$12,000 for sewer. If he had to do that, the possibility of improving the house goes down the drain. He would like to go on the record as opposed to the annexation.

Crystal Keesey, 1326 Bidwell Avenue, asked once the Commission takes an action, will the public have another opportunity to speak?

There was discussion regarding the protest hearing process & election process and how the votes are determined.

Patricia McCroskey stated she wanted to voice her concerns regarding curbs and gutters being put in their area and how they would affect the trees in the neighborhood.

Chair Leverenz stated it is the same between the City and the County regarding requirements for curbs and gutters.

Chair Leverenz closed the public portion of the hearing.

Commissioner Duncan asked if staff has any idea what an election would cost LAFCo.

Steve Lucas stated the protest hearing is a process of sending out notices & holding a hearing, and these cost would be covered within the existing deposit. If it goes from a protest hearing to an election, the cost is greater. The election cost is not known at this time.

Commissioner Lando made a motion to approve the staff recommendation of Option 1 as stated on the staff report dated January 29, 2014 approving the proposal. The motion was seconded by Commissioner Lambert.

The motion was carried by the following vote:

AYES: Commissioners Duncan, Lando, Fichter, Lambert and Chair Leverenz

NOES: None

ABSENT: Commissioners Lotter and Connelly

ABSTAINS: None

Chair Leverenz informed the audience that they will be getting a notice of the protest hearing and stated the Commission's charge is to clean these pocket areas up and the Commission takes that charge very seriously.

5. REGULAR AGENDA

5.1 Items Removed from the Consent Agenda – None

5.2 Appointment of Budget Committee for the 2014/15 Fiscal Year

Commissioners Duncan, Fichter, Connelly, Steel and Chair Leverenz were appointed to the Budget Committee.

5.3 Review and Acceptance of Final Report Chapman, Mulberry, and Stewart Avenue Annexation Study for Butte County/City of Chico.

Steve Lucas provided a brief history leading up to the Study being preformed. Annexing these areas makes sense; Chapmantown area has been literally contiguous to the City boundaries since 1872; all three of these islands have been substantially surrounded by the City for more than 3 decades. The Study does nothing more than reinforce the fact that, at least on a financial basis, the Commission now can look at this and say that this is a relatively revenue neutral process.

Commissioner Lando moved to accept the report, Commission Duncan seconded the item. The item moved by a unanimous vote to accept the report.

Chair Leverenz opened this item to the public. No response received.

5.4 Update of the Sewer Service Extension Process and Actual

Chair Leverenz indicated that a subcommittee of the Commission will meet with a subcommittee of the City Council to address the unauthorized hookups and annexation areas and hopefully by next month we will have a resolution to report or some other action.

6. PUBLIC COMMENTS NOT ON THE AGENDA –

Harvey Janda stated in 2011 he bought a store at 1406 Boucher Street, formerly known as Chinca's Market. Before he bought the store he contacted the City of Chico and they told him since the property is in the County he needed to contact the County. He told the County he was planning to purchase this property. He was told the County was going through a General Plan 2030 and he would have to wait until anything can be done, but it is planned to be a neighborhood commercial market in the General Plan 2030. He took the risk and bought the property and waited a year until the General Plan 2030 was ready. He has numerous emails from staff at the County. Once the General Plan was adopted, he told them he was going to take out his permits. The County referred him to the City and he kept getting bumped back and forth. He paid approximately \$500 to the City of Chico and requested his parcel get annexed. The City turned him down on the annexation.

Chair Leverenz asked if Mr. Janda has submitted a request for annexation to the LAFCo staff.

Steve Lucas stated Mr. Janda has submitted an application for annexation by landowner petition. Our goal is to bring this back to the Commission for approval of the annexation at the April meeting.

Chair Leverenz stated the Commission has no control over the City in regards to the permits, but it would appear by April hopefully we would have the ability to approve the annexation so that he can.

Steve Lucas stated staff has worked diligently with the County Development Services Department, and if the extension of sanitary sewer services for the market is approved, Mr. Janda can then go to the County to obtain his permits and hopefully get his market functioning by the time the Commission hears the annexation project. The real question will be is the City willing to hookup the market to the sewer system.

Doug Smith, agent for Harvey Janda, stated he is hoping they will be able to grandfather in the Use Permit from the County and not have to apply for a new Use Permit from the City.

7. REPORTS AND COMMUNICATION

7.1 Executive Officer's Report

Steve Lucas summarized the Executive Officer's Report.

7.2 Correspondence - None

8. ADMINISTRATION – None

9. ADJOURNMENT

There being no further business, the meeting was adjourned at 11:07 a.m. to the next LAFCo meeting to be held on Thursday, **March 6, 2014** at 9:00 a.m.

LOCAL AGENCY FORMATION COMMISSION

By: Stephen Lucas, Executive Officer

Minutes prepared by Joy Stover, Commission Clerk