



Solano Local Agency Formation Commission

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Staff Report

DATE: June 10, 2013

TO: Local Agency Formation Commission

FROM: Elliot Mulberg, Interim Executive Officer

SUBJECT: **Core Area Annexation Protest Hearing Report Back**

RECOMMENDATION: That the Commission receive and file this report.

BACKGROUND:

At the February 11, 2013 meeting the Commission approved the Core Area Annexation to the City of Fairfield. Approval triggered a 30 day reconsideration period followed by a protest hearing. The process allows registered voters and landowners in the affected territory to reverse LAFCO's decision. Eligible voters or landowners receive written notification of the hearing at least 21 days in advance. The notification includes instructions and a form when completed constitutes a written protest. In order for the protest to be counted it must be a written protest received by the close of the hearing. Since this is essentially a referendum on the Commission's action, the Commission has no discretion for further action.

The law is very specific about what the outcome of the protest hearing means in terms of the annexation.

1. If it is determined the value of valid written protests filled and not withdrawn is found to be 50% or more of the registered voters, the Executive Officer shall issue a Certificate of Termination pursuant to Government Code Section 56020.7
2. If it is determined the value of the valid written protests filled and not withdrawn is found to be 25% or more, but less than 50% of the registered voters or 25% or more of the number of owners of land who own 25% or more of the assessed value of land an election is required. The Executive Officer is directed, on behalf of the Commission, to request that the Solano County Board of Supervisors direct the elections official to conduct the necessary election.
3. If there are insufficient protests to order an election or terminate the proceedings; the Executive Officer shall issue a Certificate of Completion which shall incorporate the specified terms and conditions in the LAFCO Resolution 13-01 and record and file this reorganization pursuant to Government Code section

57000 et seq.

Per Government Code Section 57052, "Upon conclusion of the protest hearing, the commission shall determine the value of written protests filed and not withdrawn." That determination depends on the number of valid written protests received before the close of the hearing. Protests are validated by either the Registrar of Voters or the County Assessor's office to be sure they are within the affected territory.

DISCUSSION:

For the Core Area Annexation there were no motions for reconsideration filed and the protest hearing was scheduled for April 8 at our regular commission meeting. Notices for the protest hearing were mailed on March 15 to registered voters and property owners. The notice was published in the Daily Republic on March 16.

The role of LAFCO in the protest proceedings is not to encourage or discourage someone from filing a protest, merely to provide the opportunity to do so. During the Core Area protest preceding all who were eligible to file a valid protest were given that opportunity.

In the Core Area there were 13 registered voters and 88 parcels owned by 50 landowners. Given there are 13 registered voters, the 25% threshold is 4 and the 50% threshold is 7. The 25% threshold for landowners is 13 and they must own land with 25% of the assessed value. Prior to the hearing we received 3 protests from registered voters and 1 land owner protest. In addition we received a landowner protest after the hearing which could not be counted. Since no additional protests were filed during the hearing there were not sufficient protests that exceeded either threshold. Therefore on April 15 a certificate of completion was filed which made the annexation effective.

There was some confusion that resulted in the newspaper erroneously reporting there were no protests. In fact there were no protests filed at the hearing. Perhaps it should have been acknowledged that some protests were received, however they were not validated and could not be validated until after the protest hearing (Government Code Section 57052) in case additional protests that were faxed to the office before the conclusion of the hearing. To make an announcement at the hearing without validating the protests that had been received could have led to erroneous conclusion and misinformation. Perhaps the best solution is to work with local media to verify results before they are published.