

DIRECTORS
TED BAMBINO **BOB NASH**
JEFF O. STEPPAT **JEFF THOMPSON**
LEIMONE WAITE
DAVID J. COXEY
Secretary/Treasurer/General Manager

BELLA VISTA WATER DISTRICT

11368 E. STILLWATER WAY • REDDING, CALIFORNIA 96003-9510
TELEPHONE (530) 241-1085 • FAX (530) 241-8354

May 10, 2013

Shasta Local Agency Formation Commissioners
2516 Goodwater Ave, Suite A
Redding, California 96002



Subject: Shasta LAFCo Budget

Dear Commissioners:

I am writing on behalf of the Bella Vista Water District Board of Directors to express our concerns regarding the Shasta LAFCo budget and record of work accomplishment. As was reported at the District's April 22nd Board of Directors meeting, the Commission apparently took action at their April 4th meeting to adopt a draft budget as required by code. However, it was noted by the Executive Officer that additional revenue would be required in order to complete the substantial backlog of municipal services reviews (MSR) and sphere of influence (SOI) studies. Additionally, on April 3rd, the District's General Manager called to inquire about the status of the District's MSR and was informed by the LAFCo Executive Officer that the District was exempt from the MSR requirements. As a water district that provides municipal water service, we question how the District could be, or have previously been, exempt from the MSR requirements.

These actions and communications have raised a number of questions for which the District would appreciate a reply as follows:

1. As a special district, the Bella Vista Water District has a responsibility to its customers and landowners which among other things includes the adoption of an annual budget and establishment of appropriate fees and charges. What apportionment amount can the District expect for its fiscal year 2013-2014 budget, beginning on July 1, 2013, and when will that be determined?
2. What services and/or attributable workload has the District received from Shasta LAFCo over the past six years with \$107,527.00 of dues paid by the District?
3. Why is there such a backlog of legislatively mandated MSR's and SOI's?
4. What is the plan for completing the mandated Shasta LAFCo workload?

We are an equal opportunity employer and provider.

Shasta Agency Local Formation Commissioners

May 10, 2013

Page Two

5. Has the Commission reviewed the apportionment of the special district allocation as requested by the District General Manager in his letter dated June 14, 2007 (copy attached)?

Thank you for your review and consideration. We look forward to your reply.

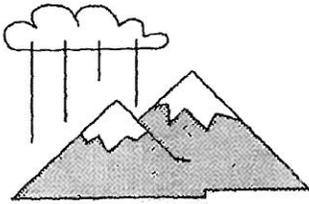
Sincerely,



Jeff Thompson,
President, Board of Directors

Copy: lafco@shasta.lafco.ca.gov
lbaugh@co.shasta.ca.us
larryfarr@charter.net
dkehoe@co.shasta.ca.us
pjones@ci.redding.ca.us
haynes034@att.net
ifust@digitalpath.net
moneytilpayday@sbcglobal.net
bbajohn@live.com
pgiacomini@co.shasta.ca.us

Attachment



BELLA VISTA WATER DISTRICT

• DIRECTORS •
BOB NASH
JEFF THOMPSON
TODD R. SIKES
NANCY L. POLK
WALLY WESSEL
DAVID J. COXEY
Secretary/Treasurer/General Manager

11368 E. STILLWATER WAY • REDDING, CALIFORNIA 96003-9510
TELEPHONE (530) 241-1085 • FAX (530) 241-8354

June 14, 2007

Shasta Local Agency Formation Commission
Attn: Commissioners
1670 Market Street, Suite 244
Redding CA 96001

Subject: Proposed 07-08 Budget

Dear Commissioners:

I am writing today to provide comments on the proposed 07-08 budget. My comments are primarily related to allocation methodology and the proposed budget. It is my observation that the budget has increased at an alarming and seemingly disproportionate rate over the past few years. The increases appear to greatly outpace all inflationary, consumer price indexes and other generally accepted indices. Hopefully, these increases are justified by proportionate increased productivity and accomplishment of LAFCO business. However, this has not been the case with regard to the District. With the exception of a yet uncompleted municipal services review, little workload can be attributed, both historically and for the foreseeable future, to the District.

In fact, due to the District's mission, structure and contractual relationship with the United States Bureau of Reclamation, the District's boundary and sphere of influence are relatively static. Despite little attributable workload, the District is apportioned almost a third of the Special Districts' one third share of the budget due to the current apportionment methodology. Presently, a special districts' share is "*apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county.*" As you may know, unlike other similar organizations, the Bella Vista Water District's system requires all water to be pumped, at least once and up to three times. Additionally, all water is treated to federal drinking water standards, including that used for irrigation purposes. Therefore, the District has significantly higher expenses and offsetting revenues than similar agencies with gravity systems or those providing raw water. Hence, the District and its customers are required to pay a higher proportion of LAFCO expenses because they have a higher cost for water delivery service.

According to section 56381c of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act) special districts' share may be apportioned "...by an alternative method approved by a majority of the agencies, representing a majority of their combined populations." Furthermore, the Act states, "It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the district share of costs." [Emphasis Added] I submit to you this is precisely the current situation with the Bella Vista Water District!

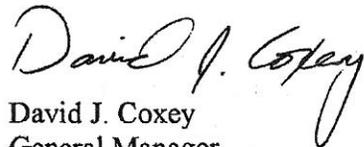
I request that the Commission direct staff to verify the Auditors figures and methodology prior to apportioning costs for the 07-08 fiscal year.

I appeal to the Commission's collective sense of fairness and equity and encourage the appointment of an Ad Hoc Committee with a special district representative to evaluate alternative methodologies with a recommendation for a more equitable methodology, perhaps based on the principle of attributable workload and consistent with the intent of the Legislature

Furthermore, for the benefit of all LAFCO agencies and for the sake of accountable and transparent local government, I encourage the Commission to appoint an ad hoc Committee to review, evaluate and report on the key budgetary items and trends over time as related to work accomplished.

Thank you for your consideration.

Sincerely,



David J. Coxe
General Manager



2516 Goodwater Avenue, Suite A
Redding, California 96002
530.242.1112
www.shasta.lafco.ca.gov

Les Baugh, Chairman
County Member

Larry Farr
City Member
Alternate

Irwin Fust
Special District Member
Alternate

Linda Hartman
County Member
Alternate

Brenda Haynes
Special District Member

Patrick Jones
City Member

David Kehoe
County Member

Vacant
Public Member Alternate

Stephen Morgan, Vice Chair
Special District Member

Larry Russell
Public Member

John Day
City Member

Amy Mickelson
Executive Officer

Jan Lopez
P.O. Box 374
Igo, CA 96047

May 15, 2013

Ms. Lopez,

In trying to determine what information it is that you are seeking, I offer the following:

1. We do not have in our possession, Resolutions 01-04, 01-06, 01-07, 01-08, 03-08 and 03-15. None of these referenced resolutions occurred when current staff was under the employ of LAFCO, thus we have no knowledge of their possible whereabouts. We have searched the entirety of LAFCO's electronic and paper records, as well as inquired of Shasta County. It is indeed, very unfortunate that these records were not maintained for the permanent records of Shasta LAFCO.
2. We have provided additional copies of Resolutions 06-02 and 08-02 for your convenience. We are unable to locate Resolution 08-01.
3. As to the duplicated numbering on Resolutions 04-03, staff will ask the Commission to accept a renumbered version of these items. Thank you so much for pointing out this unintended redundancy.
4. The other items that you reported as sharing the same resolution numbers do not, in fact, have any shared indicators.
5. Also, in addition, the twenty-six resolutions that you indicate as missing do not, nor have they ever, existed.

I hope this will shed light on your continuing research.

Best regards,

Amy Mickelson
Executive Officer

Marissa Jackson

From: Jan Lopez <jelopez19@jeffnet.org>
Sent: Friday, May 24, 2013 11:41 AM
To: Marissa Jackson
Cc: Amy Mickelson-Beadle; Brenda Haynes; David Kehoe; Irwin Fust; John Day; Larry Farr; Larry Russell; Les Baugh; Pam Giacomini ; Patrick Jones; Stephen Morgan
Subject: FW: LAFCO Committees request
Importance: High

Would you please send me the information requested below?

Have you been instructed by the executive officer or someone else to wait ten days before responding to every single request I make, even for simple information like this? If so, this practice is likely to be seen as the deliberate abuse of the PRA waiting period for identification and collection of data in order to delay receipt of public information by the requestor.

Jan Lopez

Jan Lopez
LAFCO Consulting Since 1984
P.O. Box 374
Igo, CA 96047
530.396.2685

"How Wonderful it is that nobody need wait a single moment before starting to improve the world!"
~ Anne Frank

From: John Benoit [mailto:johnbenoit@surewest.net]
Sent: Thursday, May 16, 2013 10:34 AM
To: Jan Lopez
Subject: Re: LAFCO Committees
Importance: High

On May 13, 2013, at 10:41 AM, Jan Lopez wrote:

Glad to hear from you. Would you please send me a quick list of LAFCO's appointed committees, who serves on them this year, and when they are scheduled to meet? I recall the following being mentioned from time to time:

- Executive Committee
- Budget (or Financial) Committee

- Personnel Committee

If there are others, please identify their names, duties, who is appointed to them and when they meet.

Thank you!

Jan Lopez
LAFCO Consulting Since 1984
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530.396.2685

"How Wonderful it is that nobody need wait a single moment before starting to improve the world!"
~ **Anne Frank**

Marissa Jackson

From: Jan Lopez <jelopez19@jeffnet.org>
Sent: Friday, May 24, 2013 7:51 PM
To: Marissa Jackson
Cc: Amy Mickelson-Beadle; Jim Underwood
Subject: Proposed South County Fire Agencies SOI Updates

Importance: High

I believe it was mentioned that a number of SOI studies would be brought forward at the next Shasta LAFCO meeting on June 13th at the Redding Council Chambers.

Would you please send me a copy of the proposed draft SOI Updates for the south county fire agencies involved, and also the related MSRs prepared for those agencies in that proposal? Please let me know by return message which local fire agencies or districts are involved in this group proposal.

I hereby request that you place me on the mailing list, until further notice, for all future public notices, CEQA reviews and notices, for circulation of proposed draft and final SOI and MSR documents, all related resolutions, the agenda packets, and any meetings and/or hearings scheduled for the SOI Updates and their associated MSRs for all Shasta County local agencies under the jurisdiction of Shasta LAFCO

Thank you for making these arrangements.

Jan Lopez

Jan Lopez
LAFCO Consulting Since 1984
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530.396.2685

"How Wonderful it is that nobody need wait a single moment before starting to improve the world!"
~ **Anne Frank**

Marissa Jackson

From: Jan Lopez <jelopez19@jeffnet.org>
Sent: Monday, May 27, 2013 9:03 AM
To: Brenda Haynes; David Kehoe; Irwin Fust; John Day; Larry Farr; Larry Russell; Les Baugh; Pam Giacomini ; Patrick Jones; Stephen Morgan
Cc: Jim Underwood; Amy Mickelson-Beadle; Marissa Jackson
Subject: Attorney General Opinion on LAFCO Alternates
Attachments: LAFCO AlternateMember-AG opinion.rtf

Importance: High

This opinion came to my attention and I thought you should have a copy of it for future meetings. I wondered about whether it was appropriate to have your Alternate Commissioners (not replacing an absent regular member) in the closed session you held on May 23, 2013. It seems as if that may have been inappropriate.

Cordially,

Jan Lopez

Jan Lopez
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"How Wonderful it is that nobody need wait a single moment before starting to improve the world!"
~ **Anne Frank**

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF CALIFORNIA

No. 98-1011

1999 Cal. AG LEXIS 7; 82 Op. Atty Gen. Cal. 29

March 4, 1999

QUESTION:

[*1]

THE HONORABLE ROBERT WESTMEYER, COUNTY COUNSEL, NAPA COUNTY, has requested an opinion on the following questions:

1. May an alternate member of a Local Agency Formation Commission, when not serving in place of a regular member, participate in public hearings and deliberations of the commission?
2. May an alternate member of a Local Agency Formation Commission, when not serving in place of a regular member, attend closed sessions of the commission?

CONCLUSIONS

1. An alternate member of a Local Agency Formation Commission, when not serving in place of a regular member, may participate in public hearings and deliberations of the commission.
2. An alternate member of a Local Agency Formation Commission, when not serving in place of a regular member, may not attend closed sessions of the commission.

OPINION BY:

BILL LOCKYER, Attorney General; CLAYTON P. ROCHE, Deputy Attorney General

OPINION:**ANALYSIS**

The Cortese-Knox Local Government Reorganization Act of 1985 (Gov. Code, § 56000-57550; "Act") n1 provides for the establishment of a Local Agency Formation Commission ("LAFCO") in each county (§ 56325-56337) "to encourage orderly growth and development and the assessment of local community services needs" [*2] *Antelope Valley - East Kern Water Agency v. Local Agency Formation Com.* (1988) 204 Cal.App.3d 990, 994; see *San Miguel Consolidated Fire Protection Dist. v. Davis* (1994) 25 Cal.App.4th 134, 151). The general function of a LAFCO is "to review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization" of local agencies. (§ 56375; see *McBail & Co. v. Solano County Local Agency Formation Com.* (1998) 62 Cal.App.4th 1223, 1228; *Las Tunas Beach Geologic Hazard Abatement Dist. v. Superior Court* (1995) 38 Cal.App.4th 1002, 1007-1008.) "Changes of organization" include city incorporations, district formations, annexations or detachments from a city or district, disincorporations of cities, dissolutions of districts, and certain mergers and consolidations. (§ 56021.) "Reorganization" means two or more changes of organization initiated in a single proposal." (§ 56073.)

Unidentified section references are to the Government Code.

[*3]

In performing its duties, a LAFCO conducts public hearings on the proposals presented to it where it receives oral and written protests, objections, and evidence. (§ 56834-56840; see *Las Tunas Beach Geologic Hazard Abatement*

Dist. v. Superior Court, supra, 38 Cal.App.4th at 1009.) Within 35 days after the conclusion of a hearing, the LAFCO must adopt a resolution approving or disapproving the proposal, with or without conditions (§§ 56851-56852), as an exercise of its legislative and political power (see *San Miguel Consolidated Fire Protection Dist. v. Davis, supra*, 25 Cal.App.4th at 152).

The two questions presented for resolution concern alternative members of a LAFCO. May they participate in public hearings and deliberations and attend closed sessions when not serving in the place of regular members? We conclude that they may attend and participate in public hearings and deliberations but may not attend closed sessions.

1. Public Hearings and Deliberations

The first issue to be resolved is whether an alternate member of a LAFCO may participate in a public hearing and in deliberations when he or she is not serving [*4] in place of a regular member.

While the Act provides for differing compositions of LAFCOs in different counties (§§ 56326-56332), section 56325 is the basic statute we may consider in examining the responsibilities of an alternate member. Section 56325 provides:

"There is hereby continued in existence in each county a local agency formation commission. Except as otherwise provided in this chapter, the commission shall consist of five members selected as follows:

"(a) Two representing the county, appointed by the board of supervisors from their own membership. The board of supervisors shall appoint a third supervisor who shall be an alternate member of the commission. *The alternate member may serve and vote in place of any supervisor on the commission who is absent or who disqualifies himself or herself from participating in a meeting of the commission.*

"If the office of a regular county member becomes vacant, the alternate member may serve and vote in place of the former regular county member until the appointment and qualification of a regular county member to fill the vacancy.

"(b) Two representing the cities in the county, each of whom shall be a city officer, appointed [*5] by the city selection committee. The city selection committee shall also designate one alternate member who shall be appointed and serve pursuant to Section 56335.

"(c) One representing the general public appointed by the other four members of the commission. The other four members of the commission may also designate one alternate member who shall be appointed and serve pursuant to Section 56331." (Italics added.)

Accordingly, an alternate member "may serve and vote" in place of a regular member when the regular member is absent or is disqualified from participating in a meeting of a LAFCO. (§§ 56325, subd. (a), 56331, 56335.)

Superficially, it would appear from the language contained in section 56325 and similar language contained in sections 56331 and 56335 that the absence of a regular member or his or her disqualification is a condition precedent to the alternate member's participation. "The alternate member may serve and vote in place of . . . [the regular member] who is absent or disqualifies himself or herself from participating in a meeting of the commission." Unless one of these conditions occurs, it could be argued that an alternate member could not "serve" at all. [*6]

In 50 Ops.Cal.Atty.Gen. 120 (1967) we considered a somewhat similar situation in which only one constitutional officer was permitted to be represented by a deputy at a meeting of the State Teachers' Retirement Board, but where two deputies were actually present in place of two constitutional officers. We concluded:

"Since the meetings of the State Teachers' Retirement Board are required to be public . . . we see no objection to the deputies of each of the two constitutional officers being present and participating in discussions, at least to the extent allowed to the general public. The vote of only one may be counted." (Id., at p. 123.)

In a Louisiana case, *Cook v. Metropolitan Shreveport Bd. of App.* (La.App. 1976) 339 So.2d 1225, the court considered the effect of the participation of alternate members of a local board of appeals. The court observed:

"We perceive no legal objection to participation by both regular and alternate members in the hearing and deliberative proceedings. When taking formal action, the alternate members have no power

to act if a quorum of the regular members [*7] is present. The alternate members should not have voted on the application in this case since a quorum of regular members was present. Nevertheless, the application was approved by a vote of four to one by the regular members present at the meeting in which the decision was made. It was not shown that the presence of and participation by the alternate members in any way affected the outcome of the decision or in any way prejudiced the rights of appellants. The error was harmless and does not affect the legality of the Board's action." (Id., at p. 1232.)

The Act requires that "it shall be liberally construed to effectuate its purposes." (§ 56107.) A LAFCO is expressly authorized to "adopt written procedures for the evaluation of proposals" (§ 56375, subd. (i)) and "may make and enforce regulations for the orderly and fair conduct of hearings by the commission" (§ 56375, subd. (k)). These statutory provisions reflect the parliamentary rule that "every governmental body has an inherent right to regulate its own procedure subject to provisions of the constitution, statutes, charters or other controlling authority." (Mason, Manual of Legis. Proc. (Cal. State [*8] Printing Office 1975) pp. 30-31.)

Undoubtedly, it would be beneficial for alternate members to be present at all the hearings of a LAFCO since proposals are commonly considered at more than one meeting. Attendance by all alternate members would allow them to be fully informed if and when they must replace the regular members who are absent or disqualified. n2 Moreover, to permit alternate members to participate in the hearings and deliberations to the same extent as regular members (except voting) would enhance a fuller discussion and consideration of each proposal. In short, LAFCOs and the public would benefit by having alternate members present at all public hearings and participate in the deliberations.

n2 This is analogous to alternate members of a jury, who must hear all the evidence so that they may immediately replace any disqualified juror. (See Pen. Code, § 1089.)

We believe that a LAFCO, both under its statutory rule-making powers and inherent parliamentary powers, has the authority to adopt rules permitting [*9] participation of alternate members at public hearings as well as in deliberations on proposals, short of voting. Such a rule would not contravene the Act's provisions that alternate members may serve in place of absent or disqualified regular members. A permissive duty placed upon alternate members by statute does not negate the authority of a LAFCO to also grant alternate members the right to participate in proceedings and deliberations, short of voting. We would construe the local rule in harmony with the statutory grant of power. (See *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1389; *Industrial Indemnity Co. v. City and County of San Francisco* (1990) 218 Cal.App.3d 999, 1008-1009.)

We thus conclude in answer to the first question that an alternate member of a LAFCO, when not serving in place of a regular member, may participate in public hearings and deliberations of the commission.

2. Closed Sessions

The second issue to be resolved concerns whether an alternate member of a LAFCO may attend a closed session of the commission when not serving in place of a regular member.

The Ralph [*10] M. Brown Act (§§ 54950 - 54962) requires the "legislative body" of a "local agency" to hold its meetings open to the public unless a specific statutory exemption is applicable (see §§ 54951, 54952, 54953, 54962). LAFCOs fall within the statutory definition of "legislative body" as a board or commission of a local agency. (§ 54952.)

In the pamphlet, *The Brown Act, Open Meetings For Local Legislative Bodies* (Cal. Dept. of Justice, 1994), we examined whether various interested persons could attend a closed meeting under the Ralph M. Brown Act:

"In 46 Ops.Cal.Atty.Gen. 34 (1965), this office also concluded that meetings could not be semi-closed. Thus, certain interested members of the public may not be admitted to a closed session while the remainder of the public is excluded. Nor would it be proper for an investigative committee of a grand jury performing its duties of investigating the county's business to be admitted to a closed session. (I.L. 70-184.) *As a general rule, closed sessions may involve only the membership of the body in question plus any additional support staff which may be required* (e.g., attorney required to provide legal advice; supervisor [*11] may be required in connection with disciplinary proceeding; labor negotiator required

for consultation). Persons without an official role in the meeting should not be present." (*Id.*, at p. 29, italics added.)

Unless sitting in place of an absent or disqualified regular member, an alternate member may not attend a closed session without converting the session into an unauthorized "semi-closed meeting." A LAFCO may not enact parliamentary rules that contravene statutory law, in this case, the Ralph M. Brown Act. (See *Dyna-Med, Inc. v. Fair Employment & Housing Com.*, *supra*, 43 Cal.3d at 1389; *Morris v. Williams* (1967) 67 Cal.2d 733, 748; *Mason, supra*, at pp. 30-31).
n3

n3 Returning to the analogy of a jury, we believe exclusion from a closed session would be similar to alternate jurors being excluded from jury deliberations required by law to be conducted in closed session. (See Pen. Code, §§ 1089, 1137-1138; Code Civ. Proc., §§ 233-234.)

[*12]

In answer to the second question, therefore, we conclude that an alternate member of a LAFCO may not attend a closed session when not serving in place of a regular member.



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Les Baugh, Chairman
County Member

Larry Farr
City Member
Alternate

Irwin Fust
Special District Member
Alternate

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County Member
Alternate

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Patrick Jones
City Member

David Kehoe
County Member

Vacant
Public Member Alternate

Stephen Morgan, Vice Chair
Special District Member

Larry Russell
Public Member

John Day
City Member

Amy Mickelson
Executive Officer

Jan Lopez
P.O. Box 374
Igo, CA 96047

May 28, 2013

Ms. Lopez,

I am assuming from the email that I was cc'd on that you would like to review the Gore/Steiner Annexation application? That item is available for your review at the time you've indicated you're coming by the office this afternoon.

As to the Sphere of Influence proposals, they are not yet available. They will be complete and made available as a part of the agenda packet on June 7th. I believe that you already receive our agenda materials? If not, please make that request in writing to Marissa and we will gladly add you to our recipients list.

We hope this assists you in your ongoing research.

Best regards,

Amy Mickelson
Executive Officer

Marissa Jackson

From: Jan Lopez <jelopez19@jeffnet.org>
Sent: Tuesday, May 28, 2013 12:30 PM
To: Amy Mickelson-Beadle
Cc: Marissa Jackson
Subject: FW: LAFCO Committees request

Importance: High

Although you are on the mail list for the message below, I also meant to send you this message directly, as you will note from the references below. This is your formal copy. The Commission has already received their copy.

Thanks! I look forward to stopping by on Thursday.

Jan Lopez

Jan Lopez
LAFCO Consulting Since 1984
P.O. Box 374
Igo, CA 96047
530.396.2685

"How Wonderful it is that nobody need wait a single moment before starting to improve the world!"
~ Anne Frank

From: Jan Lopez [mailto:jelopez19@jeffnet.org]
Sent: Tuesday, May 28, 2013 12:18 PM
To: 'analyst@shasta.lafco.ca.gov'
Cc: 'Amy Mickelson-Beadle'; 'Brenda Haynes'; 'David Kehoe'; 'Irwin Fust'; 'John Day'; 'Larry Farr'; 'Larry Russell'; 'Les Baugh'; 'Pam Giacomini'; 'Patrick Jones'; 'Stephen Morgan'
Subject: RE: LAFCO Committees request
Importance: High

No, I didn't know that Amy was charged with that duty, but I always endeavour to copy Amy on any requests I send to you, just for a backup. Thank you, Marissa, for telling me and for forwarding my second request for this information. I presume you also forwarded my first request as well? And if this simple request must be considered a PRA request, then the ten days for your agency to respond expired on May 22nd.

Amy, must you require a Public Records Act request from me on everything? Including to receive a copy the sphere of influence study prepared for the south county fire districts and for the ACID annexation proposal as well? I don't believe that applies to this kind of situation.

This approach is setting up a very poor record for your agency. I am not a party to any lawsuit, potential, pending or otherwise. I am, however, a member of the public and a citizen-taxpayer of this county. I have the same right to review and notice as any other citizen here without having to submit a Public Records Request and be subjected to interminable delays.

I believe if I request notice and/or documents of something coming up for hearing, your agency has a duty to provide that information in a timely manner, i.e. in sufficient time before the hearing to be able to review them.

I realize that the related staff reports may not be ready until the Friday before the hearing when you publish the agenda, but the proposals certainly must be available now, since they have been advertised.

I can come in Thursday afternoon after 1:00 p.m. to view these files. I would also be quite happy to receive electronic copies of both the application and the draft sphere of influence project in advance of the staff reports.

Also, since you will be closed on Friday of this week, I can pick up the balance of the Employment request materials and the remaining Resolution materials at the same time thus hopefully concluding these two past due responses.

Please let me know that the office will be open on Thursday May 30th and if this works for you or Marissa, Amy.

Jan Lopez

Jan Lopez
LAFCO Consulting Since 1984
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530.396.2685

"How Wonderful it is that nobody need wait a single moment before starting to improve the world!"
~ Anne Frank

From: Marissa Jackson [<mailto:analyst@shasta.lafco.ca.gov>]

Sent: Tuesday, May 28, 2013 10:35 AM

To: 'Jan Lopez'

Cc: 'Amy Mickelson-Beadle'; 'Brenda Haynes'; 'David Kehoe'; 'Irwin Fust'; 'John Day'; 'Larry Farr'; 'Larry Russell'; 'Les Baugh'; 'Pam Giacomini'; 'Patrick Jones'; 'Stephen Morgan'

Subject: RE: LAFCO Committees request

As you know, the Executive Officer has been charged with answering Public Records Act requests and as such, I have not been instructed to wait ten days before responding to every single request you make.

To prevent delays for your future requests it may be wise to address them to the Executive Officer. I have forwarded this request to her.

Marissa

Marissa Jackson

Analyst

Shasta LAFCO

530.242.1112

analyst@shasta.lafco.ca.gov

Marissa Jackson

From: Jan Lopez <jelopez19@jeffnet.org>
Sent: Tuesday, May 28, 2013 1:55 PM
To: Marissa Jackson; Amy Mickelson-Beadle
Cc: Les Baugh; Jim Underwood
Subject: LAFCO Committees
Attachments: Delivered LAFCO Committees.htm

My apologies for not being more clear. The original message went directly to Amy and Les Baugh. The follow up queries have gone to you since it seemed she was not responding to messages after a while. The receipt from Les Baugh is attached. Mr. Benoit was a recipient of a copy of the 5/13/2013 request, thus his name appears on the one you sent me.

I simply did not think providing the names of your committees was such a big issue for you folks, or required such a detailed response. If Amy deleted the message, that is fine with me. However, she did receive it on May 13th at 10:41 a.m. Every message I send is logged in as to receipt, whether or not the recipient notes they have read the message, and I do this to avoid just this kind of parry.

In any case, it appears that the question of committees is still outstanding. There is an Executive Committee, an Audit or Budget Committee, and perhaps some others? Let's just answer the question, please.

This is a receipt for the mail you sent to

"Amy Mickelson-Beadle" <exec@shasta.lafco.ca.gov> at 5/13/2013 10:41 AM

Your message has been delivered to the following recipients:

[Les Baugh](#)

Subject: LAFCO Committees

Jan Lopez

Jan Lopez
LAFCO Consulting Since 1984
P.O. Box 374
Igo, CA 96047
530.396.2685

"How Wonderful it is that nobody need wait a single moment before starting to improve the world!"
~ Anne Frank

Marissa Jackson

From: Amy Mickelson-Beadle <exec@shasta.lafco.ca.gov>
Sent: Thursday, May 30, 2013 10:19 AM
To: Marissa Jackson
Subject: Fwd: Published Notice for June 13th LAFCO meeting possibly defective

I'm guessing this communication wasn't intended to be sent to us?

Begin forwarded message:

From: Jim Underwood <jim.wuj@gmail.com>
Subject: Fwd: Published Notice for June 13th LAFCO meeting possibly defective
Date: May 30, 2013 9:10:07 AM PDT
To: Amy Mickelson-Beadle <exec@shasta.lafco.ca.gov>

Amy,

I am not sure if this was intended for me but I am forwarding it to you for consideration. Let me know if I can be of assistance with any of the issues raised.

Jim Underwood

James M. Underwood
Wilkins & Underwood
Attorneys At Law
(530) 623-2011 (Weaverville Office)
(530) 276-8246 (Redding Office)

ATTENTION:

The information contained in this message may be legally privileged and confidential. It is intended to be read only by the individual or entity to whom it is addressed or by their designee. If the reader of this message is not the intended recipient, you are on notice that any distribution of this message, in any form, is strictly prohibited. If you have received this message in error, please immediately notify the sender at (530) 276-8246 and delete or destroy any copy of this message.

Note: My new e-mail address is jim.wilkinsunderwoodlaw@gmail.com. Please make a note of this change. Thanks.

----- Forwarded message -----

From: **Barbara Briggs** <thebriggs@citlink.net>
Date: Thu, May 30, 2013 at 7:44 AM

Subject: RE: Published Notice for June 13th LAFCO meeting possibly defective
To: Jan Lopez <jelopez19@jeffnet.org>, Bob Braitman <bob@braitmanconsulting.com>, John Van den Bergh <johnv@impulse.net>
Cc: jereed <jereed@frontiernet.net>, Jim Underwood <jim.wuj@gmail.com>

I have several questions?

1. Did she also print the maps of the SOI expansion and Annexation for the ACID project as she did for Fall River and did she print it in more than one paper as she did for Fall River. She then charged us almost \$1200 for notice of publications? Instead of having the How much is ACID being charged?

2. The ACID project has this treatment: "The complete application, map and listing of individual parcels is on file and available for public review in the office of the Commission at 2516 Goodwater Avenue, Suite A, Redding, California" Why didn't she use this method for the FRVCSD and have the map, IF it were necessary,(we were not doing an annexation) posted in a public location. She could have posted our maps and other materials at the County Seats or some other location such as at the CSD Office, instead of incurring the most expensive method of publication in 4 different papers.

3. Can we see a copy of the bill that LAFCO will be submitting to ACID and compare the associated costs. Such as charging for staff time in attending meetings with the Boar, for communications with their own counsel, 'researching pertinent actions' (whatever THOSE are) or for reading the district minutes as they did for Fall River. Yet again several thousands of dollars in charges.

4. Who was the lead agency on the CEQA? When did they hold their required public meetings and when did they notice the CEQA and meetings in the paper. Is ACID being charged the \$715 for 'reviewing' the CEQA process/document as was Fall River despite we being the lead agency and despite her response being well beyond the required time line.

5. I do not see a MSR report listed on the Shasta LAFCO website. Is not ACID required to have an MSR as well? Or are they one of the favored "exempted" entities. THIS is what our lawsuit is all about. There are very very few exemptions under the law and I don't believe that ACID is one of these.

I don't want to pick on ACID. But either we all play by the same rules or else there is a clear demonstration of 'disparate treatment' or malice against one agency as opposed to how others are treated.

I want to see how they are charged. How they are being treated and make some comparisons.

Barbara

From: Jan Lopez [mailto:jelopez19@jeffnet.org]
Sent: Wednesday, May 29, 2013 5:58 PM
To: Bob Braitman; John Van den Bergh

Subject: Published Notice for June 13th LAFCO meeting possibly defective

Importance: High

Please take a look at the following notices and see what you think is missing from them? They were published on May 23rd for a June 13th public hearing.

NOTICE IS HEREBY GIVEN that on Thursday, June 13, 2013 at the City of Redding Council Chambers, 777 Cypress Avenue, Redding, CA 96002, the Shasta Local Agency Formation Commission will conduct a public hearing and consider adopting Sphere of Influence Updates for the following agencies: 1. Anderson Fire Protection District 2. Cottonwood Fire Protection District 3. Happy Valley Fire Protection District 4. Millville Fire Protection District. All affected agencies and interested parties may appear and testify at the public hearing. The hearing is officially set for 9:00 a.m. and will commence as soon thereafter as the business of the Commission will allow. For a copy of the staff report and the proposed SOI; or to submit written testimony, contact the Commission office at 2516 Goodwater Avenue, Suite A, Redding, CA 96002, or telephone (530) 242-1112. /s/ Amy Mickelson Amy Mickelson Executive Officer Shasta LAFCO May 23, 2013 6782074 **Publish Dates:** 5/23/2013 -6/6/2013 1

NOTICE OF A PUBLIC HEARING BY THE SHASTA LOCAL AGENCY FORMATION COMMISSION NOTICE IS HEREBY GIVEN that on Thursday, June 13, 2013, at 9:00 a.m. in the City of Redding Council Chambers, 777 Cypress Avenue, Redding, California, the Shasta Local Agency Formation Commission (LAFCO), will conduct a public hearing to consider the following proposal: **LAFCO File #2011-01, A.C.I.D. Gore/Steiner Annexation and Concurrent Sphere Amendment** Anderson-Cottonwood Irrigation District has submitted an application to LAFCO requesting initiation of proceedings for annexation of unincorporated lands in southeast Redding. The proposed reorganization area encompasses 2,286 acres. *The project is located in southeast Redding, Shasta County, California. The eastern boundary of the project site is approximately 0.5 miles east of State Highway 273, and is bordered to the north by Branstetter Road and to the south by Clear Creek Road. The project site is found on the Redding, California 7.5 minute U.S. Geological Survey quadrangle; Township 31 North; Range 5 West; Sections 21, 22, 23, 27, and 28; Mount Diablo Base & Meridian. (APN #s: 049-230-006, 049-280-001, 049-280-022, 049-280-025, 049-280-034, 049-340-004, 049-340-007, 049-340-008, 049-350-003, 049-350-005, 208-160-001, 208-160-002, 208-160-007, 208-160-008, 208-160-009, 208-170-001, and 049-340-009.)* The Gore Ranch property is outside of the incorporated city limits; the Steiner property is within the Redding city limits. The complete application, map and listing of individual parcels is on file and available for public review in the office of the Commission at 2516 Goodwater Avenue, Suite A, Redding, California. Please call the LAFCO office at (530) 242-1112 to make an appointment to view the application materials. All interested parties may appear and testify at the public hearing. The Commission requires that written testimony be submitted prior to the hearing. Written testimony must include your full name, the parcel(s) owned, a statement as to if you are a registered voter, as well as your position on the proposed annexation. The public hearing is scheduled for 9:00 a.m. and will commence as soon thereafter as the business for the Commission will allow. Written testimony can be mailed to LAFCO, 2516 Goodwater

Avenue, Suite A, Redding, California 96002. All comments received by May 30, 2013 will be included in the meeting packet for distribution to Commissioners and agenda packet recipients. All comments received thereafter will be provided to the Commissioners and attendees present at the LAFCO hearing. /s/ Amy K. Mickelson Amy K. Mickelson Shasta LAFCO Executive Officer May 21, 2013 May 23, 2013 6782156
Publish Dates: 5/23/2013 -6/6/2013 1

And how much time do you think it will take to correct these notices (do the missing work and republish)?

(Hint: CEQA?)

Jan Lopez

Jan Lopez

LAFCO Consulting Since 1984

P.O. Box 374

Igo, CA 96047

530.396.2685

“ Never doubt that a small group of thoughtful committed citizens can change the world: indeed it’s the only thing that ever has.” - Margaret Mead

"How Wonderful it is that nobody need wait a single moment before starting to improve the world!"

~ **Anne Frank**

Marissa Jackson

From: Jan Lopez <jelopez19@jeffnet.org>
Sent: Friday, May 31, 2013 8:30 AM
To: Amy Mickelson-Beadle
Cc: Marissa Jackson; Jim Underwood; Brenda Haynes; David Kehoe; Irwin Fust; John Day; Larry Farr; Larry Russell; Les Baugh; Pam Giacomini ; Patrick Jones; Stephen Morgan
Subject: Request to examine files re 06-13-2013 scheduled hearing
Importance: High

On May 23, 2013, you caused public notice to be given for two public hearings:

- Gore/Steiner Annexation into ACID
- South County Fire Districts SOI Updates

In the notice for the SOI project you state:

“For a copy of the staff report and the proposed SOI; or to submit written testimony, contact the Commission office at 2516 Goodwater Avenue, Suite A, Redding, CA 96002, or telephone (530) 242-1112”

In the notice for the ACID project you state:

“The complete application, map and listing of individual parcels is on file and available for public review in the office of the Commission at 2516 Goodwater Avenue, Suite A, Redding, California. Please call the LAFCO office at (530) 242-1112 to make an appointment to view the application materials.”

On May 28, 2013, (shown below) I asked to view both files for these projects when I came by your offices yesterday afternoon and was told you had left orders that the SOI file was unavailable. I was also left a letter by you stating “they are not yet available” and I could see them when they were posted with the Agenda for the June 13th meeting.

Amy, I specifically did NOT ask for your staff reports. I asked to view the files. Not only was the SOI Update file for the fire districts “unavailable” for viewing, I was not permitted to view the file for the ACID annexation. Marissa instead apparently had been instructed to search through the file to tell me whether something was there or not, and in the case of the Certificate of Filing (which was not in the file) she had to print that out from the computer.

Not only did I NOT have an opportunity to view these two project files, but you did NOT produce the remaining employment records from the April 4, 2013, Public Records Request.

Please do not think you are entitled to act with impunity. You are not. All such presumptions by unthinking people have both direct and indirect consequences.

I will be at your offices after 1:00 p.m. on Monday, June 3, 2013, and expect to:

- pick up the remaining employment-related documents from the April 4, 2013 PRA request (and subsequent emails), and
- be permitted to view the FILE on the Gore/Steiner annexation to ACID
- be permitted to view the FILE on the south county fire SOI updates

I will await your staff report on these two projects until you cause them to be posted with the Agenda on June 7th. Please have all the above materials ready and available on June 3rd.

Are you even aware of just how many violations of the Public Records Act you have stacked up over the past five months? I am certain the Commissioners are now more aware than ever of your incautious behavior in this regard.

Jan Lopez

Jan Lopez
LAFCO Consulting Since 1984
P.O. Box 374
Igo, CA 96047
530.396.2685

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~ Anne Frank

From: Jan Lopez [mailto:jelopez19@jeffnet.org]
Sent: Tuesday, May 28, 2013 12:30 PM
To: Amy Mickelson-Beadle (exec@shasta.lafco.ca.gov)
Cc: Marissa Jackson (analyst@shasta.lafco.ca.gov)
Subject: FW: LAFCO Committees request
Importance: High

Although you are on the mail list for the message below, I also meant to send you this message directly, as you will note from the references below. This is your formal copy. The Commission has already received their copy.

Thanks! I look forward to stopping by on Thursday.

Jan Lopez

Jan Lopez
LAFCO Consulting Since 1984
P.O. Box 374
Igo, CA 96047
530.396.2685

"How Wonderful it is that nobody need wait a single moment before starting to improve the world!"
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From: Jan Lopez [<mailto:jelopez19@jeffnet.org>]

Sent: Tuesday, May 28, 2013 12:18 PM

To: 'analyst@shasta.lafco.ca.gov'

Cc: 'Amy Mickelson-Beadle'; 'Brenda Haynes'; 'David Kehoe'; 'Irwin Fust'; 'John Day'; 'Larry Farr'; 'Larry Russell'; 'Les Baugh'; 'Pam Giacomini'; 'Patrick Jones'; 'Stephen Morgan'

Subject: RE: LAFCO Committees request

Importance: High

No, I didn't know that Amy was charged with that duty, but I always endeavour to copy Amy on any requests I send to you, just for a backup. Thank you, Marissa, for telling me and for forwarding my second request for this information. I presume you also forwarded my first request as well? And if this simple request must be considered a PRA request, then the ten days for your agency to respond expired on May 22nd.

Amy, must you require a Public Records Act request from me on everything? Including to receive a copy the sphere of influence study prepared for the south county fire districts and for the ACID annexation proposal as well? I don't believe that applies to this kind of situation.

This approach is setting up a very poor record for your agency. I am not a party to any lawsuit, potential, pending or otherwise. I am, however, a member of the public and a citizen-taxpayer of this county. I have the same right to review and notice as any other citizen here without having to submit a Public Records Request and be subjected to interminable delays.

I believe if I request notice and/or documents of something coming up for hearing, your agency has a duty to provide that information in a timely manner, i.e. in sufficient time before the hearing to be able to review them.

I realize that the related staff reports may not be ready until the Friday before the hearing when you publish the agenda, but the proposals certainly must be available now, since they have been advertised.

I can come in Thursday afternoon after 1:00 p.m. to view these files. I would also be quite happy to receive electronic copies of both the application and the draft sphere of influence project in advance of the staff reports.

Also, since you will be closed on Friday of this week, I can pick up the balance of the Employment request materials and the remaining Resolution materials at the same time thus hopefully concluding these two past due responses.

Please let me know that the office will be open on Thursday May 30th and if this works for you or Marissa, Amy.

Jan Lopez

Jan Lopez
LAFCO Consulting Since 1984
P.O. Box 374
Igo, CA 96047
530.396.2685

"How Wonderful it is that nobody need wait a single moment before starting to improve the world!"
~ Anne Frank

From: Marissa Jackson [<mailto:analyst@shasta.lafco.ca.gov>]
Sent: Tuesday, May 28, 2013 10:35 AM
To: 'Jan Lopez'
Cc: 'Amy Mickelson-Beadle'; 'Brenda Haynes'; 'David Kehoe'; 'Irwin Fust'; 'John Day'; 'Larry Farr'; 'Larry Russell'; 'Les Baugh'; 'Pam Giacomini'; 'Patrick Jones'; 'Stephen Morgan'
Subject: RE: LAFCO Committees request

As you know, the Executive Officer has been charged with answering Public Records Act requests and as such, I have not been instructed to wait ten days before responding to every single request you make.

To prevent delays for your future requests it may be wise to address them to the Executive Officer. I have forwarded this request to her.

Marissa

Marissa Jackson
Analyst
Shasta LAFCO
530.242.1112
analyst@shasta.lafco.ca.gov

Marissa Jackson

From: Jan Lopez <jelopez19@jeffnet.org>
Sent: Saturday, June 1, 2013 1:25 PM
To: Brenda Haynes; David Kehoe; Irwin Fust; John Day; Larry Farr; Larry Russell; Les Baugh; Pam Giacomini ; Patrick Jones; Stephen Morgan
Cc: Amy Mickelson-Beadle; Marissa Jackson; Jim Underwood; Denise Black
Subject: IMPORTANT: Notice of Defective Vacancy Announcement for Shasta LAFCO position
Attachments: 2013 06-01 Defect in Vacancy Announcement.pdf; NOTICE OF OPPORTUNITY TO APPLY FOR APPOINTMENT -Public Member Alternate 04-19-2013.docx

Importance: High

When John Mathena resigned, he left the Public Member position on your commission vacant. I searched the published notices in the Record Searchlight and found the attached information (highlighted).

According to the published notice you are seeking a Public Member Alternate, and not a Public Member. To my knowledge, Larry Russell has not resigned from his position. In 2011 a similar notice was published for both the Public Member and the Public Member Alternate, so it is apparent that staff knows how cause the correct notice to be published. (Please see attach noticing information.)

If the Commission plans to fill the Public Member vacancy, according to the Brown Act the Commission must advertise that vacant position (the Brown Act directs you to your adopted policies). If both positions are vacant, then both positions are to be advertised. Neither your policies (2.2) nor state codes permit you to simply move a previously appointed alternate into the regular public member position.

It is unfortunate that Ms. Mickelson, in her staff report of May 23, 2013, informed your commission that Larry Russell has already moved into the position of Public Member. As noted in a previous letter to you dated May 23, 2013, the Commission had not met between April 4th and May 23rd and therefore it was impossible for Larry to be appointed to that position by a quorum of the Commission.

Please direct staff to re-advertise the vacancy of the Public Member position, so that you (1) will receive the widest number of applications for the correct position, and (2) you can schedule the appointment of the best candidate at a meeting in July or August, or the next scheduled public meeting --- other than June 13, 2013. There will be insufficient time between June 1, 2013 and June 13, 2013 to properly and successfully publish notice of this commission vacancy.

The Commission's actions have been under public scrutiny for some time now, and it would be a shame to try to force this issue rather than simply fix it. The Commission has been notified about this defect since May 23rd and there has been sufficient time to simply re-publish the corrected notice. As of June 1, 2013, no such notice has been published in the Record Searchlight.

I urge you to correct this situation as quickly as possible. It is simple, and it is doable.

Cordially,

Jan Lopez

Jan Lopez
LAFCO Consulting Since 1984
P.O. Box 374
Igo, CA 96047
530.396.2685

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~ **Anne Frank**



Jan Lopez

LAFCO & Planning Consultant

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June 1, 2013

Local Agency Formation Commission
County of Shasta
2516 Goodwater Avenue, Suite A
Redding, CA 96002

RE: Defect in Vacancy Announcement; Premature Filling of Vacancy

Honorable Commissioners:

The Public Member position of your Commission is designed to represent the interests of the people in Shasta County, much the same as the city, district, and county members represent the interests of those agencies.

There are three issues I ask you to consider and correct before proceeding with this agenda item:

1. Order advertisement of the actual vacancy: the position of Regular Public Member;
2. Reverse the apparent automatic elevation of the current Alternate Public Member into the position of Regular Public Member to fill the unexpired term of Mr. Mathena without proper advertisement of the Regular Public Member vacancy and without following Shasta LAFCO policy 2.2 procedures for filling a vacancy; and

As noted in my email to the Executive Officer on May 16, 2013, (attached) an alternate commissioner does not automatically elevate into the vacant position of the regular member it supports, and, as noted in the above staff report, neither does an alternate automatically elevate into any office the regular member may have held at the time of their departure.

Shasta LAFCO policy 2.2, in pertinent part, states: "Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body that originally appointed the member whose office has become vacant." In this case, it is the Commission that appoints the public member, both the regular and the alternate members. It cannot be made by a committee or a staff member.

In reality, the problem appears to have begun with the defective announcement asking for applications for an Alternate Public Member vacancy. Inherent in that error was the assumption that the alternate public commissioner would automatically elevate into the vacant position; an assumption that is not supported by Shasta LAFCO policies.

The problem has now been compounded by the staff report's statement that Mr. Larry Russell has already filled Mr. Mathena's position. This actually is not possible because the Commission has not met since April 4, 2013, and Mr. Mathena resigned from the Commission shortly after that date. Today is the first day it would have been possible for the Commission to fill that vacancy. This also is contrary to the provisions of Shasta LAFCO policy 2.2.

Certainly Mr. Russell is most appropriately seated temporarily in the position vacated by Mr. Mathena until the Commission is able to appoint a successor to that position. However, to provide the widest public participation in the selection of a new Public Member, it is necessary to grant adequate time and notice to the public at large about the correct vacancy.

If, after considering all applications, the Commission determines to appoint Mr. Russell to that position, you can be assured you have complied with your policies and have had the opportunity to select the most qualified person to represent the public in this county.

With respect to the election of a replacement Vice-Chair, the staff report gives the erroneous guidance that you may proceed as described in the staff report without any further public survey for interested parties who might like to serve as the Regular Member of the Commission.

The Commission is free to fill that vacated office from the roster of existing regular Commissioners today, if it desires. Alternate Commissioners are not considered part of the regular Commission, unless temporarily filling the position in the absence of their regular Commissioner. Since Mr. Russell is still, technically, an Alternate Public Member sitting in effect in the place of the absent Mr. Mathena, he would not be eligible to be elected to the position of Vice-Chair at this time.

Please direct staff to make full notice (newspaper and website posting) of the vacancy for Regular Public Member on the Commission for the normal 21 days' notice, and table this portion of the agenda item for the June 13th Special Meeting, by which time you may have a number of applications to consider.

The portion of this agenda item regarding the election of a new Vice-Chair from existing regular Commissioners could proceed if the Commission so desires.

Thank you for correcting these important procedures. Please provide notice for all committee and Commission meetings and provide copies of all related draft documents on this topic.

Sincerely,

Jan Lopez
LAFCO Consultant

Attachments

Marissa Jackson

From: Jan Lopez <jelopez19@jeffnet.org>
Sent: Wednesday, June 5, 2013 3:52 PM
To: Brenda Haynes; David Kehoe; Irwin Fust; John Day; Larry Farr; Larry Russell; Les Baugh; Pam Giacomini ; Patrick Jones; Stephen Morgan
Cc: Amy Mickelson-Beadle; Marissa Jackson; Jim Underwood; Richard W. Simon; Douglas DeMallie; City of Anderson Clerk
Subject: Incomplete project-please remove from June 13 LAFCO Agenda
Attachments: Fire Agency SOI Update Is Incomplete-Please Cancel Hearing.pdf; Notices for Fire Agency SOI -ACID annex 06-13-2013.pdf

Importance: High

Attached is an explanation for why the Commission's consideration of the SOI Updates for the Anderson FPD, Cottonwood FPD, Happy Valley FPD, and the Millville FPD needs to be rescheduled in order to comply with applicable California codes and Shasta LAFCO policies and procedures. These fire agency proposals are incomplete and fully out of compliance as they stand, and the public notice itself is sorely defective. The May 23, 2013, published notice copied from the Record Searchlight is also attached.

I respectfully request you reschedule consideration of these proposals until such time as they comply with all the underlying California codes and Shasta LAFCO policies, and they are ripe for a public hearing. The affected agencies are also notified of this request.

Cordially,

Jan Lopez

Jan Lopez
LAFCO Consulting Since 1984
P.O. Box 374
Igo, CA 96047
530.396.2685

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June 5, 2013

Local Agency Formation Commission
County of Shasta
2516 Goodwater Avenue, Suite A
Redding, CA 96002

**Submitted Electronically on June 5, 2013
to all Commissioners, Regular & Alternates
(other cc'd submitted as noted)**

RE: SOI UPDATE PROJECT FOR SOUTH COUNTY FIRE AGENCIES INCOMPLETE;
PLEASE REMOVE THE PUBLIC HEARING FOR THIS ITEM FROM THE JUNE 13, 2013 AGENDA

Honorable Commissioners:

At the May 23, 2013, special meeting you were told by Ms. Mickelson that two public hearings would set for your June 13, 2013, special meeting. That same day the attached public notice was filed for both projects.

I am not opposed to the development of the sphere of influences designed on a map I was shown last Tuesday at your offices; although I am unclear from that map as to whether the Millville FPD's proposed SOI Update is proposed to be coterminous with its boundary or whether its sphere of influence boundary is off the displayed area of the map. I was only provided the small map to review; the file was said to be either unavailable or nonexistent.

I am opposed, however, to the complete lack of compliance with state codes and your own policies and procedures by your executive officer as evidenced in the following review of these SOI Update proposals. Not eight months ago your executive officer, consistently backed by this Commission, required a significantly different process of another local agency's SOI Update request, suggesting a rather extreme level of disparate treatment by the executive officer when deciding how to apply the requirements of law to essentially the same type of project: sphere of influence update.

If the FRVCSA's SOI Update application was the gold standard for Shasta LAFCO, then all subsequent SOI Updates should match the standards set by LAFCO and the executive officer; if this is the case, then this project fails miserably in meeting the bare minimums of that inferred standard. The LAFCO files should be filled with documentation in response to development of their MSR and SOI Update boundaries. To the contrary, there reportedly are no such files available for public review.

As we have discussed many times over the past five month, there are steps that must be taken according to state codes and your adopted policies and procedures, before your Commission can consider the adoption of a SOI Update for any agency. This process applies whether LAFCO initiates the project or whether an agency or individual initiates the project:

1. A Request for Information is circulated to all affected agencies by LAFCO. (your policy)
2. A Municipal Service Review is developed for each agency involved in the SOI Update project.
3. LAFCO analyzes the received information, and the plans of the agency, and an appropriate sphere of influence boundary is ultimately designed (normal practice)
4. Once a boundary or boundaries are identified, the CEQA Process is initiated (state law):
 - a. An Initial Study (GC 56060 et seq.) of the proposal along with a Notice of Intent (GC 15070 et seq.) is published and circulated to Responsible and Affected Agencies, and interested persons requesting they provide comments. Includes a list of everyone sent public notice of the availability of these documents for comment.
 - b. There is a mandated circulation period of at least 20 days for a Negative Declaration (GC 15105).
 - c. Comments are received and responded to by the executive officer and made a part of the record.
5. The executive officer prepares a sphere of influence draft study evaluating the proposal and its consistency with state codes.
6. When the CEQA review process is concluded, the executive officer then schedules a public hearing and publishes notice of the hearing in a newspaper of general circulation in the area of the project, identifying (a) where the file for the project can be examined, (b) what proposed CEQA determination will be considered by the Commission, and (c) where the hearing will be held.
7. The executive officer prepares a staff report at least five days prior to the hearing making recommendations.
8. A public hearing is heard and a decision is rendered by the Commission.

This is a clearly identified and essential process used by LAFCOs throughout the state for updating the sphere of influence of their local agencies.

The proposed SOI Update scheduled before you on June 13th has yet to meet these basic requirements.

1. The executive officer is the sole staff member working on this project.
2. The CEQA review process was neither initiated nor accomplished by the executive officer:
 - a. No Initial Study with a proposed determination was prepared.
 - b. No circulation of an Initial Study, proposed determination, environmental checklist, map, or published announcement of the mandatory 20 day review period was prepared.
 - c. No opportunity for the public and/or responsible and affected agencies to comment on the proposed SOI Update has been afforded.

3. The notice published in the Record Searchlight on May 23, 2013, announced:
 - a. That the Sphere of Influence Updates for four fire agencies would be considered.
 - b. Where the hearing would be held.
 - c. That affected agencies and interested parties may appear and testify.
 - d. That, for a copy of the staff report and proposed SOI or to submit written testimony, people should contact the Shasta LAFCO office.

4. Matters absent from the published notice:
 - a. There is no reference to the type of the proposed CEQA determination being presented to the Commission for consideration.
 - b. The map(s) of the proposed SOI changes for these agencies was not published (your policy, selectively applied as determined by the executive officer)
 - c. There is no ability for interested persons to examine the files related to this project.
 - d. That a Municipal Service Review would be considered for the Millville Fire Protection District prior to consideration of a SOI Update. (This agency has yet to have one prepared by LAFCO. The other three fire agencies have previously approved MSR.)

I went to the office twice this week and asked to see the project file or files. The first time I was told it was unavailable. The second time I was told there was no file for the project, and that it was Ms. Mickelson's project. I wished to examine the information received and used for these proposals. From the published notice it was unclear whether they might be presented as one project or as four separate projects.

But at least the files for the SOI Update should have been made available, whether for each individual agency or for the four agencies as a group. A staff report does not present anything other than the executive officer's evaluation and recommendation. Without a study analyzing each district, there will be no evidence in the record to support any proposed recommendations made by the executive officer.

Sphere of Influence Updates are a project under CEQA. By law you cannot proceed with any of these four proposed SOI Updates until:

1. The CEQA review process is initiated, notice is published, and circulation and comment periods are completed;
2. Notice of the proposed CEQA determination decision is published in the public hearing notice;
3. The files for the proposed projects are made available for public review;
4. The MSR for the Millville Fire Protection District is completed and adopted prior to consideration of the proposed SOI Update for that agency; and
5. An accurate public notice is published in the newspaper, including:
 - a. a map of the project area;

- b. that MSRs for these agencies have been previously adopted or MSRs will be adopted prior to consideration of the SOI Update proposals;
- c. the type of CEQA determination that will be considered by the Commission; and
- d. Where the files, reports, and supportive documents may be reviewed by the public during the public comment period (minimum of 21 days prior to the hearing).

There is no method whereby these defects can be cured within the next week or two. Further, I inquired of staff on May 23, 2013, as to whether any CEQA review had occurred for these SOI Update projects and was told at that time that it had not occurred. I subsequently arranged to view the files for this and the ACID annexation.

As mentioned before, no information was available on the SOI Updates for the four fire agencies other than a small printed color map which I could look at but could not take with me. So, essentially I know no more today about the why the proposed SOI Update boundaries were designed as shown on the map than I did before I inquired.

Furthermore, the public has no idea about how the sphere of influence boundaries are proposed to be and which fire agency will be their "future" service provider. I know what to look for, but your average citizen does not because these processes are not seen as generally affecting their daily lives.

But you, your staff, and a few others like myself are regularly exposed to and work with these issues, processes, and requirements, and therefore, we really need to be held to a higher standard than the average person when it comes to assuring that the public's interests are preserved and assured in projects such as these. That is the purpose of having specific processes for all LAFCOs. (See Government Code 56425, 56427, 56428, 56430)

At my best professional estimate, expecting that your staff would begin immediately, or at least by next week, to initiate and complete the CEQA process (including meeting all timing and noticing requirements), that you should be able to bring this project back to a public hearing by October 2013. Here is an estimate for that time frame:

- Prepare CEQA Initial Study & Environmental Checklist with Map – 5 days
- Prepare Notice of Intent to Adopt (probably a Negative Declaration) – 1 day
- Publish Notice of Intent and location of documents for review – minimum 20 days
- Circulate all CEQA documents and attachments to all Responsible and Affected Agencies providing services in the area of the proposed SOI Update, all interested parties, and all those who request notice – for a minimum of 20 days prior to conclusion of this CEQA comment period
- Respond to any comments received during this CEQA comment period – average 10-15 days after conclusion of the comment period
- Incorporate all comments and executive officer responses into the CEQA documents (they become part of the record) - 5 days after comment period ends and all comments have been answered
- Assure all MSRs are completed and adopted for each affected agency – could be 30 days or more
- Determine the next available hearing date before the Commission – one day

- Cause notice of the hearing date AND a map to be published (your policy), including the proposed CEQA determination the Commission will consider, and a notation that the MSRs for these agencies are either (a) previously adopted or (b) will be adopted prior to the consideration of the project – minimum of 21 days before the hearing (note where files and records can be reviewed, and the location of hearing.)
- Assure that all related files, reports, and records related to the proposal are available at your offices for public review during this public notice period – minimum 21 days in advance of the hearing
- Assure that all who request a copy of the executive officer's report and recommendation are notices of its availability and its location. Send mailed copies to those without internet access.
- Receive written comments at the hearing as well as before the hearing (GC 56425 et seq.)
- Permit attendees at the hearing a minimum of five minutes to speak to the issue to assure wide-based opportunities for the public to participate in this project.

The timing shown above can vary depending upon the executive officer's effort to resolve these issues; however, the process itself will still remain the same. You must provide the oversight to assure this work is properly accomplished according to applicable law and policy.

As mentioned above, once I am able to see the pre-analysis performed for the determination of the proposed sphere of influence boundaries for these four fire agencies (not just a staff report with an essentially four day review period prior to the hearing), I am sure I will have no problem with the proposed SOI Update boundaries.

What I do have a major problem with is the continued lack of compliance by the executive officer with the CEQA codes, LAFCO codes, Health & Safety codes, and the repeated failure of the executive officer to perform the mandated review processes outlined in the above codes and your own policies and procedures for the adoption of both MSR studies and their SOI Update studies.

A staff report is not a study; it is an analysis of a study or a proposal. The MSRs are an integral part of the SOI Update project and need to be part and parcel of the SOI Update study, especially such a coordinated effort as indicated by this four-agency proposal. It is a shame that a process so easily accomplished has been so ignored or omitted in an attempt to rush the proposal before the Commission for approvals. It would have been much easier to have simply followed these well-worn and long-established steps for SOI Update processes.

The public should not have to go to these extremes of effort to uncover what should be public information in order to understand and/or comment about proposals designed by law to have transparency and accessibility to all affected and interested people.

Please remove this tainted item from the June 13, 2013, agenda and ask for it to be brought back when all the above-mentioned provisions have been met and the project is ripe for Commission review. To proceed otherwise is sure in the long-run to present the Commission with severe legal consequences and incur updated interest from state agencies, as well as county agencies, in just how LAFCO operates in Shasta County and how little the rule of law is applied by the Commission and its staff to those operations and decisions.

Jan Lopez
LAFCO & Planning Consultant

Being fully independent of other agencies may have some benefits for LAFCO, but without adequate oversight being independent also has many pitfalls, many opportunities for abuse, and the Commission is responsible for providing significantly closer monitoring of its activities.

Cordially,

Jan Lopez

Jan Lopez
LAFCO & Planning Consultant since 1984

cc:	Anderson Fire Protection District	<i>(sent by USPS mail)</i>
	Cottonwood Fire Protection District	<i>(sent by USPS mail)</i>
	Happy Valley Fire Protection District	<i>(sent by USPS mail)</i>
	Millville Fire Protection District	<i>(sent by USPS mail)</i>
	Anderson-Cottonwood Irrigation District	<i>(sent by USPS mail)</i>
	City of Redding Planning Division	<i>(submitted electronically)</i>
	City of Anderson Planning Division	<i>(submitted electronically)</i>
	Shasta County Planning Division	<i>(submitted electronically)</i>
	Jim Underwood, LAFCO Counsel	<i>(submitted electronically)</i>
	Amy Mickelson, Executive Officer	<i>(submitted electronically)</i>
	Marissa Jackson, Analyst	<i>(submitted electronically)</i>

Marissa Jackson

From: Amy Mickelson-Beadle <exec@shasta.lafco.ca.gov>
Sent: Thursday, June 6, 2013 10:28 AM
To: Christopher Muehlbacher
Cc: Marissa Jackson
Subject: Re: Budget Letter dated May 23, 2013

Chris,

Unfortunately, the way the LAFCO budget works is that the cost for the scope of work is covered by the general budget . . . including paying for MSRs. Centerville CSD does indeed have an MSR on file, but that was also paid for out of the general budget, not specifically billed to Centerville. Centerville will also undergo an MSR update and Sphere of Influence review in the next 18 months. That will also be paid for out of the general LAFCO operating budget. The only exception to this may be Healthcare Districts, as they were legislatively exempted from paying into LAFCO's budgets; although the Commission has not specifically formed policy regarding this as of yet.

If you would like to discuss this further, please feel free to give me a call (although I am currently sick and have almost no voice!) or send me an email. If you would like to submit a letter to the Commission regarding this issue, please submit it to me via email prior to Wednesday, June 12th at 1:00 pm so that I can distribute it to the Commission as well as have copies made for the meeting.

Thanks so much,

Amy K. Mickelson
Executive Officer
Shasta Local Agency Formation Commission
2516 Goodwater Avenue, Suite A
530.242.1112
exec@shasta.lafco.ca.gov

On Jun 4, 2013, at 1:11 PM, Christopher Muehlbacher wrote:

Amy,

The District is in receipt of your letter dated May 23, 2013 regarding the Shasta LAFCO adopted Draft 2013-14 Budget as well as the potential of an additional line item to cover the costs of completing a MSR. Having already completed a MSR for Centerville CSD, I would like to confirm that this potential new line item for completing the MSRs would only apply to entities not having already completed a MSR.

Please confirm this at your earliest convenience.

Sincerely,

Chris Muehlbacher, P.E.
District Manager
Centerville Community Services District
8930 Placer Road
Redding, California 96001
cmuehlbacher@centervillecsd.com
Office: (530) 246-0680 Cell: (530) 638-5631 Fax: (530) 246-2254