

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

MEETING MINUTES  
MARCH 14, 2018

**Members Present:** Commissioners Silva, Quintero, Magsig, Santoyo, Robertson

**Members Absent:** Commissioner Parra

**Staff Present:** David Fey, LAFCo Executive Officer  
Ken Price, LAFCo Counsel  
George Uc, Senior LAFCo Analyst  
Juan Lara, LAFCo Analyst  
Amanda Graham, LAFCo Office Assistant

**1. Call to Order and Roll Call**

Chair Silva called the meeting to order at 1:30 p.m.

**2. Pledge of Allegiance**

Chair Silva led the Pledge of Allegiance.

**3. Comments from the Public**

There were no comments from the public.

**4. Potential Conflicts of Interest**

There were no conflicts of interest.

**CONSENT AGENDA**

**5-A. Minutes from the regular LAFCo meeting of February 14, 2018**

**5-B. City of Fresno "McKinley-Temperance No. 1 Reorganization"**

**5-C. City of Clovis "Ashlan-Highland Southwest Reorganization"**

Commissioner Magsig made a motion to approve consent agenda items 5 A-C, seconded by Commissioner Santoyo.

The commission approved the consent agenda items 5 A-C by a vote of 5-0.

## REGULAR AGENDA ITEMS

### **6. Preliminary Budget and Work Plan for Fiscal Year 2018-19.**

Executive Officer Fey presented staff's report; pursuant to CKH, the commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and a final by June 15. Any comments and direction will be incorporated into the proposed budget and work plan that will be presented to the commission on April 18, 2018. Staff will present the final budget to the commission at its May 9, 2018 hearing. The proposed budget and work plan will be distributed to the cities, the County and independent special districts for their review and comment before the final is adopted.

FY 17-18 authorized expenditures will close below the approved budget of \$571,336, largely due to lower personnel expenses. Application fee revenue is expected to close higher than projected. Preliminary FY 18-19 expenses are projected to be slightly lower than current fiscal year. The preliminary FY 18-19 revenue forecast is \$561,864 with an estimate of County and cities' contribution of \$234,788 and \$40,000 in application fees. The preliminary revenue includes an available fund balance contribution of \$52,288. The preliminary work plan contains ongoing assignments such as the MSR program, application processing and consultation and facilitation with local agencies and the public, as well as projects as directed by the commission. Staff recommends that the commission establish and maintain a one year recommendation check up period, so we can go back to those special districts where the recommendations and checkup.

Commissioner Magsig asked what kind of force LAFCo has to check up on the agencies to provide information.

LAFCo Counsel Price replied that the commission has limited ability to make public agencies behave in ways that they are not otherwise required to but it can compel them to provide public records under the California Public Records Act.

Commissioner Magsig added if we chose to check up on these agencies then are we also becoming a watchdog more so then we already are.

Price responded that it is interesting that Commissioner Magsig used the word watchdog because California Law categorizes LAFCo as the watchdog of California Public Agencies. There are limitations on LAFCo authority however; LAFCo is not required to only do an MSR every five years—it can also do it when there is an amendment to the sphere of influence. Price does not think it is an unusual request for LAFCo to want to follow up on its work.

Commissioner Magsig added he does not want to create unnecessary work, if we do not have the ability to force them to fix the problem, who do we turn them over "to drop the hammer" if it should become necessary.

Price added that LAFCo has some limited enforcement ability, LAFCo can “zero out a sphere” which means any time the entity desires to expand its operation or enter into an extension of service contract with LAFCo, and then LAFCo can prevent that from happening. LAFCo also has the ability to consolidate special districts through a process in the event that it determines that an agency is not functioning. It is a complicated process but there is no question that LAFCo has that ability. Typically, though we would turn them over to the California Attorney General and or the Fresno County District Attorney Office.

Fey added the strategic role of this commission relative to Municipal Service Reviews as was adopted in 2014 is to build and maintain an effective relationship between LAFCo and local agencies. We want to build a supportive relationship to work with them and guide them towards more order and logic efficiency of their operation.

Fey observed that he is working on an update of the Commission’s Policies and Procedures manual and will present it to the commission because there were some subtle changes to the wording and format, though it has not been distributed or posted. However, it will be brought to the commission as a policy amendment later. Last month commission gave staff direction to include an inactive special district dissolution proceeding into the budget; Fey noted that SB 448 created a path for dissolution proceedings in the case that a district has no financial assets or liabilities. Looking at the regular process in statute if this commission decides to initiate dissolution proceedings for a special district that appears to be inactive but has assets then the property owners in that district have the option of protesting the dissolution. Which means the commission action could ultimately lead into a protest hearing and election. In order to avoid an election, which would be at the commission’s expense, staff is proposing to take inventory of independent special districts to consider for dissolution and initial outreach to those districts, to give a chance for discussion.

Chair Silva asked if a district is dissolved what happens to any money that was put into a special account for the district. Fey replied that would be part of the commission resolution to determine the disposition of those assets.

Commissioner Santoyo asked is there are many special districts in that category to be concerned in. Fey answered probably less than five that would qualify for the SB 448, then the dissolution question needs to be posed to between five or 10 special districts that may have assets but are otherwise inactive.

Commissioner Magsig asked how many special districts are in Fresno County. Fey answered 92 independent special districts, 30 dependent special districts.

Commissioner Santoyo asked if we have reached out to other LAFCos about their process. Fey answered he will reach out via the CALAFCO EO list serve; however there is always talk about what is new at conferences. We have a large inventory of independent special districts and I would encourage this commission to reduce the amount of unresponsive independent special districts.

Commissioner Magsig added that he would venture to say that there are more than ten that do not meet the requirements of producing financial information every year.

Commissioner Magsig expressed concern that again we are generating work when there is no change at the end of the day.

LAFCo Senior Analyst George Uc added when the MSR is performed LAFCo is informed by the State Controller's office that the MSR is usually the first document that pops up when they Google search a special district that has no website or budget filed. As Fey mentioned there are about 10 special districts based on our 2007 MSRs that have gone dormant.

Commissioner Robertson asked out of the 92 independent special districts how many collect public money. Fey answered essentially all of them.

Commissioner Robertson stated that is why this is important, LAFCo is here to safe guard the public money and make sure that these special districts are operating the way it should.

Commissioner Magsig added to Commissioner Robertson's statement out of the 92 independent special districts, all of them are required to have a Board that represents the public. What is our role as LAFCo to tell that independent elected body that they are not representing their constituents' well.

Fey added it sounds that some things are important and some things are vital to the commission. If it is vital, we can bring it back to the commission in recommendations for commission direction.

There were no other comments from the commission.

There were no comments from the public.

**7. Amendment of Sections 502 and 503 of the Commission's Policies, Standards, and Procedures regarding the election of Chairman and Chairman Pro Tempore.**

Chair Silva noted that this topic was brought up at the last hearing to come back as an agenda item. This is a discussion brought up to give everyone on this commission the opportunity to serve as chair and or chair pro tem.

Commissioner Magsig added that as long as the current chair pro tem, Sal Quintero, has the opportunity to serve as chair in June. He is in support of the amendment.

Price added for the record that the policies do not state that the chair pro tem would automatically be the chair, that has though certainly been the practice.

Commissioner Quintero added that having time to think about this, he is not in support of this amendment. We're the city and County elected officials and a public member is appointed by us, the practice should stay the way it has been regardless whether he was next in line or not.

Commissioner Santoyo asked Fey what the practice is of other LAFCo's around the state.

Fey replied that 22 LAFCo's responded to his EO list serve question on this topic and they all allow their public member to serve.

Commissioner Robertson added that he is in agreement with Commissioner Quintero. It is an important job that should be up to the elected officials.

There were no other comments from the commission.

There were no comments from the public.

Chair Silva made a motion to approve agenda item 7, seconded by Commissioner Magsig. The motion passed by a vote of 3-2.

#### **8. Executive Officer Comments**

Fey noted that the staff workshop is April 10-13 in San Rafael, office will be closed but staff is available by phone or email. The commission will be receiving their agenda packets early before staff leaves for the conference. The commission's application has been remapped as a fillable and posted to our website.

#### **9. Commission Comments/ Reports**

There were no comments from the commission. Executive officer performance evaluation in closed session was tabled.

#### **10. ADJOURNMENT**

Commissioner Magsig motioned to adjourn the meeting, seconded by Commissioner Santoyo. The motion passed on a vote of 5-0. The meeting was adjourned at 2:48 p.m.