
**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT**

AGENDA ITEM NO. 9

DATE: October 13, 2021
TO: Fresno Local Agency Formation Commission
FROM: David E. Fey, Executive Officer 
BY: George Uc, Senior LAFCo Analyst
SUBJECT: Westside Resource Conservation District Workshop.

Recommendation: Conduct Workshop and provide direction as needed.

Purpose

To receive a five-month progress report and receive direction.

Background

On January 21, 2015, the Westside Resource Conservation District ("District") board adopted resolution 2015-01: *Authorizing District Dissolution and Disposition of Assets*. A copy of District's board minutes and resolution 2015-01 (Attachment A) was then forwarded to LAFCo along with an incomplete application that did not have the appropriate signatures, indemnification form, or the applicable LAFCo application fees. LAFCo staff informed the applicant of the necessary items to make his application complete. The applicant has not provided LAFCo with the necessary items to fulfil the District's request.

On May 12, 2021, the Commission discussed and conditionally updated the 2021 Municipal Service Review ("MSR") prepared for the District. Prior to unanimously voting to adopt the MSR, the Commission added the following condition to the MSR File No. MSR 21-6:

"Direct the District to make substantial progress within six months on reactivation of the Westside Resource Conservation District or modification of the District such as consolidation with Tranquillity Resource Conservation District."

Following the May 12, 2021, Commission meeting, LAFCo staff mailed correspondence to the last two known individuals associated with the District to inform them of LAFCo's direction (Attachment B). LAFCo staff has not received any response to the correspondence.

Discussion / Analysis

A special district is formed to perform one or more public services for landowners and/or residents in its boundaries. When the services are no longer needed, or the special district is no longer capable of funding these services it becomes "obsolete." Though a board of directors of a district may adopt a resolution to initiate dissolution proceedings, by itself this act does not complete the dissolution proceedings. LAFCo law authorizes the Commission to dissolve special districts by either of the following methods: LAFCo initiated, district initiated, or by initiated by petition.

The Commission has completed MSRs of the District in 2007, 2011, and 2021 pursuant to Government Code section 56430. All three MSRs determined that the District was not active.

The 2021 MSR determined that the District had not provided services in over a decade and did not have employees nor board members in place. The 2021 MSR along with the District's resolution to apply for dissolution, provide the Commission with the foundation to consider a resolution to dissolve the District at its November 10, 2021 hearing.

The purpose of this workshop is to present the Commission's 2021 MSR determinations and receive direction regarding the anticipated dissolution proceedings prior to LAFCo's November 10, 2021 hearing.

If the Commission wishes to advance the dissolution of the District, LAFCo staff will prepare the following items for the Commission's consideration at its November hearing, or soon thereafter:

1. Determine that the board of directors of Westside Resource Conservation District initiated the dissolution proceedings by adopting District resolution 2015-01.
2. Accept the District's application to LAFCo as complete.
3. Consult with agencies, financial institutions, and individuals to identify the District's most recent finances, debt, or assets, if any exists.
4. Draft a resolution for LAFCo to initiate dissolution proceedings.
5. Provide a 21-day notice of proposed Commission action to all interested parties and affected agencies of the November 10, 2021 hearing and its intent to consider a resolution to dissolve the District.
6. Adopt the Commission resolution to dissolve the District subject to the proceedings outlined in Government Code section 57077.1(c)(1).

Because the Commission has previously considered the District's longstanding inactivity and recommended dissolution in the 2021 MSR, and the District board has initiated the

dissolution proceedings by resolution, pursuant to GC sec. 57077.1(c)(1) permits the Commission to “*immediately approve and order the dissolution without an election or protest proceedings.*” An excerpt of this section is provided in Attachment C.

Outreach

On September 23, 2021, LAFCo staff contacted representatives of Westlands Water District, Clerk to the County of Fresno Board of Supervisors, and Fresno County Election Department to enquire whether these agencies have received information of any qualified individuals willing to serve on the District’s board. As of September 24, 2021, there is no evidence from these agencies of substantial progress to reinstate the District’s governing board.

On October 4, 2021, LAFCo staff consulted with the California State Controller’s Office (“SCO”) to enquire about their annual list of Inactive Special Districts which is published every November 1st by the SCO.¹ According to the SCO, the District is not listed as inactive because the District has a fund balance that precludes them from meeting the definition of an inactive special district per GC section 56042.

The Costs of an Inactive Special District

Even if no district funds are expended, an “inactive” special district constitutes an illogical expenditure of public funds by other regulating agencies. For example, other agencies are required by their respective statutes to conduct periodic activities associated with special districts, including but not limited to:

- County Elections staff expends time and resources to interact with “inactive” special districts in compliance with Election Laws. A non-responsive special district in many instances does not notify the County Elections regarding upcoming elections.
- Clerk to the Board staff expends time and resources to contact inactive special districts to gather board members’ Form 700s in compliance with the Political Reform Act.
- County Auditor-Controller / Treasurer-Tax Collector (“ACTTC”) expends staff time and resources to notify the inactive special districts regarding annual financial filing requirements prescribed in GC sections 26909, filing annual audited financial statements with the County ACTTC.

¹ Senate Bill (“SB”) 448 (Weickowski) was passed in 2017 for creating a streamlined process for LAFCOs to dissolve inactive special districts. SB 448, codified as GC section 56879, specifies that on November 1, 2018, and every year thereafter, SCO is required to create a list of inactive districts, post the list on their website, and notify LAFCOs of the list. The commission is then required to initiate dissolution of inactive districts by resolution within 90 days of receiving the notification from SCO, unless the commission determines the special district(s) does not meet the criteria set forth in the inactive district definition.

- California SCO expends staff time to research and identify special districts that should be listed on the SCO's annual list of Inactive Special Districts and provide notice to LAFCo pursuant to SB 448; and
- LAFCo staff expend time on an MSR to determine that a special district is inactive; and in the case of the Westside RCD, staff has also spent time to locate the last known district representative/s in an attempt to secure a complete application to dissolve the district.

In most cases, a special district can maintain a minimum level of performance that demonstrates activity by:

- complying with its principal act;
- maintaining a quorum of board members and conducting regular meetings in compliance with the Brown Act;
- filing Form 700s for board members and administrative staff with the Clerk to the County Board of Supervisors;
- complying with statutory reporting requirements of the County ACTTC; and
- adopting an annual work plan.

Conclusion

A fundamental goal of LAFCo is to ensure the efficient and effective provision of municipal services in an accountable manner. As noted in the 2021 MSR, the dissolution of the subject special district would eliminate the need for State and County agencies as well as LAFCo staff to continue to expend public funds on this inactive special district.

Attachments

Attachment A – Westside Resource Conservation District Resolution 2015-01, Minutes, and Copy of Bank Statement

Attachment B – Fresno LAFCo Resolution MSR 21-06