

LOCAL AGENCY FORMATION COMMISSION OF LAKE COUNTY
MINUTES OF SPECIAL MEETING
September 5, 2012

PRESENT:

Ed Robey, Public Member
Frank Gillespie, Special Districts Member
Suzanne Lyons, City Member
Jim Comstock, County Member
Denise Rushing, County Member
Gerry Mills, Special District Member

ALSO PRESENT:

Jeff Smith, County Alternate
Jim Abell, Special Dist. Alternate
John Benoit, Executive Officer
Marsha Burch, Legal Counsel

1. Call to Order/Roll Call

The meeting was called to order at 9:35 a.m. There was a quorum present.

2. Approval of Minutes

Betsy Cawn raised concern regarding a possible inappropriate discussion that was held during the meeting under Item 7. A lengthy discussion followed. M. Burch stated that the discussion took place and is appropriately recorded in the minutes. The record is the record. Nothing inappropriate took place, and no action was taken. The minutes reflect what happened; as they should. There were no changes suggested.

Commissioner F. Gillespie moved to approve the July 18, 2012 minutes as presented, second by Commissioner J. Comstock; motion carried.

3. Public Comment – Ms. Betsy Cawn stated that the County needs a Natural Hazards Mitigation Plan. John will check into Lafco's role.

4. Consent Agenda

Commissioner J. Comstock moved to authorize payment of the July and August 2012 expenses, second by Commissioner D. Rushing; motion carried.

5. Biennial Review of Conflict of Interest Code

John stated that there are two reasons for this item. We are required to do a biennial review, and everyone receives a copy of the conflict of interest code to review. Staff recommends making no changes at this time and authorizing J. Benoit to send notice to the elections clerk.

Commissioner D. Rushing stated that the only comment is that the code for Lafco is different; more stringent.

Commissioner D. Rushing moved to authorize the Executive Officer to sign and transmit the 2012 Local Agency Biennial Notice to the County Clerk declaring LAFCO has reviewed its Conflict of Interest Code and finds an amendment is not required at this time, second by Commissioner F. Gillespie; motion carried.

6. Discussion of CEQA requirements for LAFCo Sphere Updates and discussion of direction on how the Commission wishes to proceed and set policy for future Sphere of Influence Updates and provide direction to staff.

M. Burch stated that when a Sphere of Influence Update is being done Lafco is the lead agency and has to ensure that CEQA requirements are being met. That is an expensive and time-consuming process. What kind of policy do you put into place so Lafco doesn't find itself in a situation where the budget is depleted doing an environmental review on a complicated SOI update? There are provisions in Cortese-Knox whereby the City can apply for an update. In that situation, the City can act as lead agency and Lafco as responsible agency. Many times when a City is doing a General plan update, they will include a SOI update in that Environmental Review. Technically, Lafco is not the lead agency if you are relying on an EIR that has been done by another agency.

From an efficiency standpoint, it seems wise to consider using a previous environmental document especially if it is not outdated. If there is an existing document, you can go through an abbreviated process to determine whether or not a supplemental document is necessary.

M. Burch suggested asking staff to draft a couple policy options so that the Commission has a starting point for discussion. There are SOI requirements and CEQA requirements, and both have to be taken care of. Discussion followed regarding the Lafco budget and costs associated with SOI updates and CEQA requirements.

John will work with S. Browne and M. Burch on some policy options. He will also talk with other Executive Officers to see what they are doing. M. Burch stated that an important point to remember is that this is an overarching policy that will address the legal requirements of SOI updates, lead agency, CEQA issues and how those apply in every situation. If you have a policy in place you are able to look at it and say who is the lead agency and what are the obligations. You can address the CEQA and Lafco obligations in a consistent way each time it comes up. M. Burch stated that there is no expiration date on an EIR. If a lead agency has done an EIR and it has not been challenged, a responsible agency is required to treat it as a valid document. More discussion followed.

Alan Flora, County Administrative Office – Mr. Flora stated that in relation to the fiscal side, which is our concern, we don't feel it seems reasonable that we would bear a large portion of the financial responsible for another entity such as one of

the Cities. Our understanding is that the County shares about 45% of the Lafco budget. In the event that the Cities come forward with a proposal and Lafco is responsible for preparing the EIR, we don't feel that it's reasonable for the County to pay 45% of that share.

J. Benoit clarified that the County's cost sharing for Lafco is now 33 1/3%.

B. Cawn cautioned that we end up talking about this case and not generally.

Richard Knoll, City of Lakeport – Mr. Knoll asked if there is a mandatory requirement for an EIR for a SOI. M. Burch responded that a SOI, like any other project, would go through the steps that you go thru for CEQA. A SOI, because it affects such a large area, often times does end in an EIR and more often than not is connected with a general plan update so it is almost always an EIR. However, she imagines there are instances where a negative declaration is done.

Mr. Knoll stated then that there is not a mandatory requirement to do an EIR. It sounded like there was an understanding that an EIR had to be done when a sphere is amended. There could be a finding that there are no significant impacts with a sphere amendment and a negative declaration could be adopted or a mitigated negative declaration could be adopted or it could go to the next level and EIR could be required or a determination made even before you start the process that there is enough here to do an EIR. There is a mandatory requirement for Lafco to do sphere reviews. The Cities are not required to do sphere amendments. So, that then goes to this issue of transferring the financial burden. The bottom line is that everybody is in the same position with respect to financial impact. The City of Lakeport doesn't have the budget just like Lafco doesn't. Lakeport is not in the position to pay the cost for a \$100,000 or \$200,000 SOI.

B. Cawn stated that we are off topic again. Ms. Cawn asked about the Lafco budget and work program. She asked if there is an existing current requirement to do this within our laws today.

J. Benoit responded that Lafco is supposed to have all the spheres done by 2008, and we don't. This is not uncommon for most Lafco's.

Ms. Cawn asked if the Lakeport SOI is required to be updated by Lafco as of the law today. J. Benoit responded, yes. Ms. Cawn stated that you have to decide not just the policy, but how you are going to handle this in light of the current work requirements.

John stated that he will put them in writing. We are supposed to do SOI updates by 2008 and every 5 years thereafter; amended as necessary. In order to prepare a SOI update, we need a proper MSR. That is what the law says. John continued stating that Lafco develops a work program in March of every year. The other part of the work program is the budget. Due to constraints, we do a few updates

each year; which we have been doing. More discussion followed.

Commissioner J. Comstock moved to direct staff to develop policy options for future Sphere of Influence Updates including fiscal impacts, second by Commissioner D. Rushing; motion carried.

7. Discussion and update regarding the need and value to prepare a countywide municipal services review of community watershed protection and management activities.

John stated that the issue being discussed today is the need and value of preparing a county-wide review. John is not clear on who does what, where, when and why. A review of these programs could be beneficial. The fiscal implications are not included in this year's work program or budget. So, if we are going to do this, we need to re-allocate funds or wait until next budget year. The services reviews are to help us make decisions in the future.

Commissioner E. Robey asked if there is an urgency to do this this year. J. Benoit stated that the potential for an annexation or detachment from any of these districts is zero.

Scott De Leon, Director of Lake County Department of Water Resources - Mr. De Leon stated that he took this issue to the Board of Directors and was told to make an application to Lafco requesting that Lafco make a determination that Lake County DWR is not under Lafco's purview, and so, an MSR does not need to be done. Mr. De Leon stated that he was holding off on that until after today's meeting. He will follow through depending on today's outcome.

More discussion followed.

Commissioner D. Rushing stated that somewhere along the way it would be nice to have a summary of who does what. An outline of responsibilities would be helpful.

Commissioner D. Rushing asked for the definition of an SOI. John stated that an SOI is "a plan for the probable physical boundaries and service area of a local agency determined by the Commission".

Ms. Cawn stated that the public has a right to know what the services are, and this is the Commission that is designated to provide that information and oversee its operations not the BOS.

Commissioner D. Rushing moved to prepare a focused and organizational in nature county-wide Municipal Services Review of the community watershed protection and management activities, if budget is an issue staff to come back with options, second by Commissioner S. Lyons; motion carried.

10:55 – break

11:03 – meeting resumed

8. Policy Discussion Concerning Disadvantaged Unincorporated Communities.

J. Benoit stated that SB 244 requires identification of DUCs. City and County housing elements must be prepared along with land use elements to identify these disadvantaged unincorporated communities. Data for those that are 80% of median income is not available. So, we would be guessing when identifying DUCs. Housing elements may not be required to be updated for a few more years, and so, what happens in the interim.

J. Benoit recommends that Lafco develop a one-line policy stating that if we get an annexation to a city that is 5 acres or more adjacent to a DUC there needs to be documentation provided to Lafco for the Commission consideration. The agency will need to help us make a determination without having to do an income survey.

Commissioner D. Rushing feels that the policy can be simple. At time of an annexation, if it looks like there is a community around the annexation that seems as if they are avoiding it, then an analysis needs to be done.

M. Burch agreed that the policy could address in a simple way what the requirements are. There is an interim period. She thinks there will be an evaluation of this law; it will evolve a little. When an annexation application comes in, the policy should state that Lafco will look to see if there is a DUC next door, and the policy could identify who would do that analysis.

Ms. Cawn stated that the determination of the status of DUCs for every community in the upper Cache Creek Watershed is done; it's on a map. We need to be incorporating that kind of information.

The consensus of the Commission is for Staff to come back with a policy statement based on today's conversation.

9. LACOSAN Sphere Map

J. Benoit stated that a sphere map has been distributed in today's packets and has been before the Commission before. We are reducing it to areas served and planned to be served. John will prepare a sphere report for a future meeting and schedule a public hearing.

10. Executive Officer's report

Covered under Correspondence

11. Commissioner Reports

None

12. Correspondence

J. Benoit stated that one item was received last night. He will send e-mail copies to the Commission. The County wants to receive comments on the Lakeport Area Plan. They are implementing a zoning change in the Lakeport area. John would like Commissioners to send comments to him. There is a map included showing the Lakeport planning area (72 miles).

Ms. Cawn stated that there are no details on this map. The explanation is that zoning is being changed for a large number of parcels, and I think you should see what those parcels are. Lafco should understand that what they are proposing will be inadequate. Express this concern.

John provided information on a possible project in the Anderson Springs area.

John will provide a Legislative update after the conference.

Commissioner E. Robey stated that of all the area plans that were done, the Lakeport Area Plan was the most screwed up mess; the worst of the bunch. Take a look at the plan.

M. Burch stated that this is a summary; there is more to come. Ms. Cawn does not think there is more to come. Commissioner E. Robey stressed that everyone needs to look at this carefully.

The meeting was adjourned at 11:32 a.m.