

MENDOCINO

Local Agency Formation Commission

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COMMISSIONERS

Tony Orth, Chair

Brooktrails Township CSD

Scott Ignacio, Vice-Chair

Point Arena City Council

Gerald Ward, Treasurer

Public Member

Matthew Froneberger

Regular Special District

Gerardo Gonzalez

Willits City Council

Glenn McGourty

County Board of Supervisors

Maureen Mulheren

County Board of Supervisors

Jenifer Bazzani, Alternate

Ukiah Valley Fire District

Richard Weinkle, Alternate

Public Member

John Haschak, Alternate

County Board of Supervisors

Mari Rodin, Alternate

City Member

STAFF

Executive Officer

Uma Hinman

Analyst

Larkyn Feiler

Commission Clerk

Kristen Meadows

Counsel

Scott Browne

REGULAR MEETINGS

First Monday of each month
at 9:00 AM in the
Mendocino County
Board of Supervisors
Chambers
501 Low Gap Road, Ukiah

Approved by the Committee on May 11, 2021

Policies and Procedures Committee Meeting Minutes

April 13, 2021, 10:00 a.m.

Meeting held remotely via Zoom due to pandemic.

1. CALL TO ORDER & ROLL CALL

The Executive Officer called the meeting to order at 10:01 a.m.

Members Present: Commissioners Froneberger, Gonzalez, and Mulheren

Staff Present: Executive Officer Hinman, Analyst Feiler, Legal Counsel Browne

2. MATTERS FOR DISCUSSION & POSSIBLE ACTION

2a) Selection of a Committee Chair

Upon motion by Commissioner Gonzalez and second by Commissioner Froneberger, the selection of Commissioner Mulheren as Committee Chair was approved by unanimous vote.

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

2b) Approval of the December 28, 2020 Policies & Procedures Committee Minutes

Chair Mulheren noted that the composition of the Committee has changed since the last meeting and two of the three current members were not present at the December meeting in order to vote on the minutes. Counsel Browne explained that the new members can vote on the prior minutes based on a review of the draft and conferring with staff and the roll-over member for accuracy since there is no recording of the meeting. The new Committee members did not identify any questions or concerns and the roll-over member did not request any changes to the draft minutes.

Upon motion by Commissioner Gonzalez and second by Commissioner Froneberger, the minutes of the December 28, 2020 Policies & Procedures Committee Meeting were approved by unanimous vote.

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

2c) Policy Development to Address Indemnity Limitations

Per prior request, the Committee agreed to hear comments on Agenda items 2c, 2e, and 2f from Philip Williams, Special Counsel for the City of Ukiah, due to a timing conflict with a prior obligation. Mr. Williams expressed concern related to several areas of recent engagement with LAFCo including City applications, City MSR/SOI Update, indemnification, and policy revisions. Mr. Williams noted that the rules need to be made clear, rules have significant policy implications requiring robust dialogue, and expressed disappointment in not receiving more staff engagement than statutory notice for the meeting. Related to Item 2c, Mr. Williams supported Option 4 and the indemnity language in Attachment 2. Related to Item 2e, Mr. Williams noted the heavy involvement of the City of Ukiah in the November and December Committee meetings,

that LAFCo has not provided a written response to comments from the Cities of Ukiah and Fort Bragg or conducted further outreach with stakeholders, and the overall effort to seek a balance of basis in law, cost concerns, and legal liabilities. Related to Item 2f, Mr. Williams explained that there are a number of significant issues that have been stacking up that warrant an efficient, transparent, and constructive forum to hear from all sides on facts, law, and policy implications and requested a Committee Workshop prior to the next Commission meeting on May 3, 2021.

Commissioner Gonzalez explained that LAFCo has been waiting for new members to be seated to hold the next Committee meeting and was not an attempt to undermine the stakeholder engagement process. EO Hinman clarified that the intent of Item 2c was to discuss a workshop option. Mr. Williams expressed concern with the upcoming fire season and the need to move forward with an application to annex City territory to the Ukiah Valley Fire District (UVFD) and EO Hinman offered to connect with Mr. Williams to discuss specific application issues.

Commissioner Froneberger inquired about the applicability of the SOI policy to special districts and EO Hinman confirmed that the policy applies to all local agencies. Craig Schlatter, Community Development Director for the City of Ukiah, expressed concern regarding discrepancies between the application submittal checklist and additional requirements identified during application review resulting in an application being deemed incomplete. EO Hinman encouraged the City to apply for the UVFD annexation application even if it is incomplete to allow LAFCo to initiate the tax exchange process per Revenue and Taxation Code Section 99(b). Chair Mulheren noted the recent creation of a Tax Share Ad Hoc Committee at the County level to address this important process.

Item 2c: EO Hinman presented four options for Committee consideration in response to a recent court case limiting LAFCo's authority to require indemnification agreements for applications. Counsel Browne explained that the Commission has considerable risk of litigation, limited reserves to self-insure, and is not required to defend against every lawsuit. The Committee acknowledged that Option 2 requiring a deposit or bond of \$100,000 places a significant burden on applicants, especially small districts. Discussion ensued regarding the current legal services contract, current legal reserves balance and policy, apportionment fees calculation, and the goal to incrementally build legal reserves from \$35,000 to \$100,000 over time. Commissioner Froneberger noted that LAFCo needs prudent reserves likely closer to \$250,000. Counsel Browne encouraged building legal reserves for situations in which the Commission desires to defend against a lawsuit. Mr. Schlatter noted support for Option 4.

Upon motion by Commissioner Gonzalez and second by Commissioner Froneberger, recommendation of Option 4 (voluntary indemnity agreement) for Commission consideration was approved by unanimous vote.

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

2d) Electronic Signature Policy Development

EO Hinman presented the draft electronic signature policy and noted that Counsel has not had an opportunity to review the draft policy language to date.

Upon motion by Commissioner Froneberger and second by Commissioner Gonzalez, recommendation of the draft electronic signature policy, subject to Counsel review and revision, for Commission consideration was approved by unanimous vote.

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

2e) Policy Development for Spheres of Influence

EO Hinman presented background on prior meetings and the intent to put current practices into written policy and requested Committee direction regarding next steps for stakeholder outreach and timing of a SOI Policy Development Workshop. Counsel Browne noted in response to the request for clarity on the rules from the City of Ukiah that the more outreach is conducted the longer the process to define the rules will take. Chair Mulheren noted that a workshop offers the most opportunity for the most people to participate. Commissioner Gonzalez explained that it would be difficult to provide sufficient advance notice of the workshop and an opportunity for

agencies to meet with staff prior to the workshop if scheduled before the May 3rd Commission meeting. Commissioner Froneberger concurred that more time is needed to prepare for the workshop. Mr. Schlatter requested that a workshop be scheduled as soon as possible per Commission direction at the January meeting. EO Hinman noted that LAFCo has limitations and recent efforts of part-time staff have been focused on budget development. Counsel Browne noted the issue of making major boundary changes based on outdated spheres and the decision of the best service provider is made at the SOI level which then guides boundary changes.

Upon motion by Commissioner Gonzalez and second by Commissioner Froneberger, direction to schedule a SOI Policy Development Workshop the second week of May was approved by unanimous vote

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

2f) Other Policy & Procedure Update Discussions and/or Recommendations

There were no additional policy and/or procedure topics for future meetings discussed.

3. INFORMATION AND REPORT ITEMS

3a) Executive Officer Report

EO Hinman had no items to report.

4. CLOSED SESSION

4a) Conference with Legal Counsel – Potential for Exposure to Litigation: 1 case

A closed session was not held.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:21 a.m. by Chair Mulheren.