

# **FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)**

## **“MINUTES”**

### **LAFCo MEETING – MARCH 12, 2014**

**Call to Order:** Chairman Silva called the meeting to order at 10:00 a.m.

**Members Present:** Commissioners Deborah A. Poochigian, Mario Santoyo, Armando Lopez, Henry Perea, and Robert Silva

**Staff Present:** David E. Fey, AICP, LAFCo Executive Officer  
Ken Price, LAFCo Counsel  
Candie Fleming, Commission Clerk

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

Chairman Silva called the meeting to order at 10:00 am.

#### **2. Pledge of Allegiance**

Chairman 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 reported.

#### **5. CONSENT AGENDA**

**A. Minutes from the Regular LAFCo Meeting of February 12, 2014**

**B. Malaga County Water District “Graham Annexation” (LAFCo File No. AD-14-1)**

A motion was made by Commissioner Lopez to approve the consent agenda per staff's recommendations. The motion was seconded by Commissioner Poochigian and was unanimously approved.

## **PUBLIC HEARING**

### **6. Calendar Change**

This item was pulled by the applicant prior to the hearing.

### **7. Executive Officer Employment Agreement**

Executive Officer Fey presented staff's report and was seeking clarification of wording in his employment agreement. Fey said that the way his employment agreement read, the Commission would contribute up to 7.5% of his *contribution* towards retirement; however, \$7,500 was budgeted towards the EO's retirement based on his annual salary. Executive Officer Fey also asked for direction regarding the amount the Commission would contribute towards an employee's health insurance premium. Commissioner Silva asked if Counsel Price recalled the discussion. Counsel Price responded that he couldn't find any notes on the discussion and stated it is usually a percentage of an employee's compensation not their contribution. Commissioner Poochigian asked to remove the "match up to" language. Commissioner Santoyo said it is typical for an agency to offer a percentage of the salary and a secondary "matched up to" portion of the employee's contribution and said it seems like a mix up in the wording in this case. Counsel Price offered two options: one is to set aside a percentage based on the Executive Officer's salary to be applied to his retirement; and two would be to match dollar for dollar what the Executive Officer contributes up to a certain amount. Commissioner Santoyo asked why this wasn't discussed during the employment negotiation. Counsel Price stated though it was discussed at that time it did not appear in the agreement. Commissioner Poochigian stated the agreement should read "the Commission will contribute 7.5% of the Executive Officer's salary" because that is what they discussed at the time the agreement was entered into. Commissioner Santoyo asked if it should read salary or gross salary. Counsel Price asked for the discretion to use the defined term in the agreement because he believes it should be compensation. Commissioner Perea asked if the contribution would be figured on the base pay or if it would include additional compensation. Commissioner Poochigian said it should be the base pay. Counsel Price said it would be the established level of compensation.

Commissioner Poochigian asked why LAFCo had to use the same contribution amount for health premiums as Fresno County. Commissioner Poochigian said Tulare County is a part of SJVIA and isn't as generous as Fresno County. Executive Officer Fey responded that the model presented was based on the County's health benefit contribution but the Commission can decide what it wants to contribute. Commissioner Poochigian asked the mayors if they provided dependent coverage. Chairman Silva responded that Mendota does. Commissioner Lopez responded that Parlier no longer provides dependent coverage only employee coverage. Commissioner Poochigian felt that the County's benefits are very generous. Commissioner Santoyo stated that, at least for this year, it should be based on the County's benefits system. Commissioner Poochigian requested that LAFCo's benefits not be tied to the County's.

A motion was made by Commissioner Santoyo to amend the Executive Officer's agreement per staff's recommendations and as discussed by the Commission and authorized a health insurance contribution similar to but not contingent on the County's system. The motion was seconded by Commissioner Lopez and was unanimously approved.

## **8. 2014-15 Preliminary Budget**

Executive Officer Fey presented staff's report. Chairman Silva stated that the EO is like the City Manager and is in charge of employee efficiency and professionalism and that the Commission would support any changes the EO feels would make LAFCo a better agency. Commissioner Santoyo stated he felt that the agency should be monitoring the special districts and making sure they were functioning and operating efficiently and would support the staffing change. Counsel Price stated that LAFCOs are there to watch but are not responsible for the districts and that the MSRs are designed to be an indicator of problems and to provide recommendations. Counsel Price said that LAFCo does not have the authority to enforce the recommendations. Commissioner Poochigian asked what the increase in the budget would be with the new position. Fey stated he didn't have the exact numbers but could be about 30% or up to \$15,000 more. Commissioner Poochigian asked if consultants would still be used for the MSRs. Fey said that the analyst would perform the MSRs and provide staff analyst level expertise and that consultants would only be used if necessary. Commissioner Poochigian asked if the districts would reimburse some of the salary for an analyst. Fey responded that some but not all districts pay for their MSRs and that the staff analyst would be responsible for the MSRs which would be an internal cost that LAFCo would cover. Commissioner Santoyo stated that this change would bring the expertise back to the staff so they could monitor the districts and help deal with any issues that come up. Commissioner Poochigian asked how an MSR could be objective if staff produces it and the Commission adopts it. Fey responded MSRs reflect the Commission's independent research and judgment and it is ultimately the Commission's document. Commissioner Poochigian asked where a district would go if they do not like the MSR. Fey replied that having an analyst prepare the MSRs will allow for a closer relationship with the districts than a consultant might have which would increase the effectiveness of the product over time. Commissioner Poochigian asked if there was a policy that required the districts to pay LAFCo for the MSRs. Executive Officer Fey responded that very few districts actually pay. LAFCo Clerk Candie Fleming stated that the smaller districts are charged \$300 per our fee schedule but do not always pay. Commissioner Poochigian asked who at LAFCo is currently preparing the MSRs. Fey answered that staff is preparing the MSRs. Commissioner Santoyo asked Commissioner Poochigian if she was concerned about a conflict of interest by having staff prepare the MSRs for the Commission's approval. Commissioner Poochigian said that neither the district nor LAFCo was happy with Fresno County Fire Protection District's MSR prepared by a consultant and wanted to know if an analyst could prepare an impartial report and whether it would be right to approve an MSR that the district wasn't happy with. Counsel Price responded that the Commission has the responsibility to adopt the MSR even if the city or district is not happy with it as long as the Commission is happy with it.

Commissioner Perea asked where the reserve account was now. Fey responded that the fund balance should be approximately \$186,000 at the end of the fiscal year that can go toward establishing an operating reserve. Commissioner Perea asked if LAFCo is going to have to come back in a few months and ask for more from the cities and the county because of the increase in personnel costs. Fey responded that the proposed budget shouldn't be significantly different than the preliminary budget primarily due to the savings in legal counsel and not having employees that are on contract from the County. Commissioner Perea stated he would not be supportive of any budget that would increase costs. Commissioner Perea asked if the Analyst would be an additional employee or replace existing staff. Fey responded that it would replace the technician position and because that employee is a County employee, they can transfer to another County department. Commissioner Poochigian asked for lease information on the Physicians Building. Fey responded that he would provide that information.

Direction and comment was given to staff. No formal action was taken.

#### **9. Executive Officer Comments/Reports**

There were no comments or reports from the Executive Officer

#### **10. Commission Member Comments/Reports**

There were no comments or reports from the Commission.

#### **CLOSED SESSION**

- 11. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**  
**Pursuant to Paragraph (1) of subdivision (d) of Gov. Code Section 54956.9**  
***Name of Case: City of Fresno v. Fresno County Local Agency Formation***  
***Commission***  
**(CASE NO. 13CECG00392)**

LAFCo Counsel Price reported that no reportable action was taken in Closed Session.

Commissioner Poochigian made a motion to adjourn the meeting and Commissioner Santoyo seconded the motion. The motion was unanimously approved and the meeting adjourned at 11:21 am.