

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

AGENDA ITEM No. 7

DATE: October 14, 2015

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer 

BY: George W. Uc, LAFCo Analyst

SUBJECT: Consider Adoption – Municipal Service Review and Sphere of Influence Update Prepared for the Raisin City Water District

Recommendations:

- A) Acting as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that prior to adopting the written determinations, the Municipal Service Review and Sphere of Influence determination under consideration are Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15306, "Information Collection" and Section 15061(b)(3), "General Rule Exemption."
- B) Find that the Municipal Service Review and Sphere of Influence Update prepared for the District are complete and satisfactory.
- C) Find that the written determinations within the Municipal Service Review and Sphere of Influence Update satisfy State Law.
- D) Pursuant to Government Code Sections 56425 and 56430 make the required determinations for the Municipal Service Review and District Sphere of Influence, adopt the Municipal Service Review prepared for the District, and update the Sphere of Influence for said District by reaffirming the current boundaries.

Executive Summary

The initial draft Municipal Service Review (MSR) determined (among other things) that the Raisin City Water District provides no services to its constituency and owns no facilities or infrastructure and recommended that the Commission determine a "zero SOI" for the District and schedule a public hearing to initiate dissolution proceedings. The District has since made demonstrable improvements to its administration and has informed LAFCo that it is engaged in planning for irrigation storm water capture, providing information services, and representing District landowners in the implementation of the state's Sustainable Groundwater Management Act. Evidence of these activities is attached to this report.

In consideration of the actions and improvements made by the District it is recommended that the Commission conditionally approve the MSR and consider a sphere of influence (SOI) update with no modification to the service area or SOI.

Attachments to this Report

- Raisin City Water District Municipal Service Review
- Appendices:
 - A. District Financial Statements For Fiscal Year Ending June 30, 2013
 - B. District Financial Statements For Fiscal Year Ending June 30, 2014
 - C. District Comments
 - D. District Progress Reports - June 30, 2015 and July 31, 2015

District Description

The District was formed in 1962 to provide irrigation water to lands within its boundaries. To date the District has not secured a source of surface water. Landowners within the District rely solely on groundwater pumping.

The District's principal act is California Water Code section 34000-38500 which authorizes formation of California Water Districts "to acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for the production, storage, transmission, and distribution of water for irrigation, domestic, industrial, and municipal purposes."¹

The District's service area is approximately 51,719 acres and its SOI includes approximately 80,125 acres.

Fresno LAFCo Policy 107-03 designates the District as a "level three" special district that provides "non-municipal" services to its constituency. Level three non-municipal special districts are considered by LAFCo to provide services that in of themselves do not facilitate or induce population growth. Non-municipal special districts typically do not request or experience modifications to their district service area or request updates to the Commission adopted SOI for the agency.

District Powers and Functions: Active v. Latent

GC sec. 56425(i) states, "(w)hen adopting, amending, or updating a sphere of influence for a special district, the commission shall establish the nature, location, and extent of any functions or classes of services provided by existing districts."

All other services, facilities, functions or powers enumerated in the District's principal act are herein determined to be "latent," meaning that they are authorized by the principal act under which the district is formed, but are not being exercised. Activation of these latent powers and services not currently provided by the District will require LAFCo authorization.²

Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCo to review and update, as necessary, special district Spheres of Influence (SOIs) every five years.

¹ California Water Code sec. 35400 *et seq.*

² GC section 56050.5, "Latent service or power."

Prior to, or in conjunction with an agency's SOI update, LAFCo is required to conduct a MSR for each agency. The Commission adopted its first RCWD MSR on August 22, 2007.

Pursuant to GC section 56425 (g), on June 3, 2014, LAFCo sent notice to the District informing the agency of the scheduled MSR Update. The District was asked to review and provide LAFCo the necessary information to begin the evaluation of the agency's service provisions. LAFCo requested the District's adopted by-laws, budget information, current financial audits, and other information relevant to the review. On June 19, 2014, LAFCo received a copy of the District's Financial Statements and Independent Auditor's Report for fiscal year ending on June 30, 2013.

On August 22, 2014, LAFCo staff requested additional information from the District. LAFCo requested assistance on multiple sections of the 2007 District MSR that required comprehensive review, refinement, and clarification from the District. Limited District participation prolonged LAFCo staff's timeline in adequately collecting information.

Because of the limited participation by the District in the preparation of the first draft of the MSR, staff resorted to finding secondary sources of data with which to prepare the review. These sources included past Commission records, County of Fresno records, and the California State Controller's Office. LAFCo staff met with the then-district secretary on February 5, 2015, to explain the Commission's MSR Policy and provide a MSR questionnaire in compliance with the Commission's Municipal Service Review policy. A follow-up meeting with the then-district secretary occurred April 7, 2015, to collect District responses to the questionnaire.

The initial draft MSR update noted operational inefficiencies in the agency's administration, communication within the community, lack of agency transparency, practices to collect unpaid assessments, difficulty contacting the District, board meetings occurred infrequently, and meeting minutes that did not reflect material presented on meeting agendas. On April 20, 2015, Fresno LAFCo concluded its assessment and sent notice to the District informing the agency that the draft MSR was complete.

The draft MSR was made available for a 21-day public review, between April 21 and May 11, 2015. LAFCo received 33 landowner letters in opposition to staff's initial recommendation. The District requested additional time to adequately address LAFCo's concerns.

At the Commission's June 3, 2015 hearing, staff recommended that the Commission consider a "zero SOI" determination³; and schedule a public hearing to initiate District dissolution proceedings. At the conclusion of the public testimony, the Commission continued the hearing to October 14, 2015, to grant additional time for the District to address concerns raised by the public and Commission members. Since then, the District has demonstrated improvement in its administration, transparency to the public, amended its by-laws to relocate the District office, board meeting place and frequency of meetings, piloted community outreach meetings, and clarified its activities—namely as a landowner representative in the State's implementation of the Sustainable Groundwater Management Act (SGMA). Additional information on these activities is provided in Appendix D of the MSR (attached).

³ Because all determinations by the Commission must be consistent with the agency's SOI, by removing a SOI (aka, zero SOI) LAFCo is indicating its interest in a near-term change of organization for that agency including consolidation, dissolution, merger, etc.

Based on information provided to LAFCo since June 3rd, staff is no longer recommending the initiation of dissolution proceedings. However, in light of staff's concerns described above and the Commission's interest in orderly, logical, and efficient services provided--or to be provided--by the District, the MSR makes the following recommendations that the District completes the following fundamental actions:

- a) Immediately and continuously hereafter, the District will adhere to state statutes that ensure that its affairs are conducted in an accountable, transparent, and accessible manner.
- b) Within the next six months, the District will offer a publically accessible District website that includes District information relating to, but not limited to, notices of District board meetings, board meeting agendas, board meeting minutes, and any information deemed appropriate to share publically.
- c) Within the next six months, the District will evaluate its property assessment practices and resolve whether adjustments to these practices are necessary or desirable.
- d) Within one year, the District will prepare and periodically maintain a master plan to identify District goals, describe activities and projects that fulfill these goals, estimate expenses and revenue sources, and provide a schedule of anticipated milestone dates; that this master plan will be a condition of a complete application for any subsequent annexation or sphere of influence amendment.

The District is advised that failure to perform these tasks, or to provide Fresno LAFCo with a record of their timely completion is may result in the Commission initiating proceedings leading to the dissolution of the District.

MSR and SOI Background

MSRs provide a comprehensive review of the services provided by a city or district and present recommendations with regard to the condition and adequacy of these services and whether or not modifications to a city's or district's SOI are necessary. MSRs can be used as informational tools by LAFCo and local agencies in evaluating the efficiencies of current district operations and may suggest changes in order to better serve the public.

State law requires that the Commission adopt written MSR determinations for each of the following seven criteria:

1. Growth and population projections for the affected area.
2. Location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
3. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including governmental structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by commission policy.

SOI updates may involve an affirmation of the existing SOI boundaries or recommend modifications to the SOI boundaries. LAFCo is not required to initiate changes to an SOI based on determinations and recommendations of the service review, although it does have the power to do so. As part of the SOI update, the Commission is required to consider the following four criteria and make appropriate determinations in relationship to each:

1. The present and planned land uses in the area, including agricultural and open-space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
4. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

Environmental Determination

The California Environmental Quality Act ("CEQA") requires that the Commission undertake and review an environmental analysis before granting approval of a project, as defined by CEQA. This MSR is categorically exempt from the preparation of environmental documentation under a classification related to information gathering (Class 6 - Regulation section 15306), which states: "Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded." Indeed, MSRs collect data for the purpose of evaluating municipal services provided by the agencies. There are no land use changes or environmental impacts created by such studies.

Furthermore, this MSR qualifies for a general exemption from environmental review based upon CEQA Regulation section 15061(b)(3), which states: "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." Additionally, the SOI update qualifies for the same general exemption from environmental review based upon CEQA Regulation section 15061(b)(3).

There is no possibility that this MSR and SOI update may have a significant effect on the environment because there is no land use changes associated with the documents. If the Commission approves and adopts the MSR and SOI update and determines that the project is exempt from CEQA, staff will prepare a notice of exemption as required by CEQA Regulation section 15062.