

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolafco.org | Web: www.mendolafco.org

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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 on February 16, 2023

Policies and Procedures Committee DRAFT Meeting Minutes

May 11, 2021, 3:00 p.m.

Meeting held remotely via Zoom due to pandemic.

1. CALL TO ORDER & ROLL CALL

The meeting was called to order by Chair Mulheren at 3:00 p.m.

Members Present: Commissioners Froneberger, Gonzalez, and Mulheren

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

2. PUBLIC EXPRESSION

Philip Williams, Special Counsel for the City of Ukiah, noted that he provided six points for clarification on the LAFCo-City MOU regarding City-funded consultant preparation of the City of Ukiah MSR/SOI Update study and had not received a response.

Elizabeth Salomone, General Manager for the Russian River Flood Control District, provided an update on drought conditions and preparedness educational resources.

3. MATTERS FOR DISCUSSION & POSSIBLE ACTION

3a) Approval of the April 13, 2021 Policies & Procedures Committee Minutes

Upon motion by Commissioner Gonzalez and second by Commissioner Froneberger, the minutes of the April 13, 2021 Policies & Procedures Committee Meeting were approved by unanimous vote.

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

3b) Workshop on Proposed Sphere of Influence Update Policies

Executive Officer (EO) Hinman provided a powerpoint presentation regarding MSRs, SOIs, Work Plan Budget, the current practice of the Commission related to outdated spheres and application processing, SOI policy development history, and the following Workshop goals: (1) receive additional feedback on proposed policies, and (2) develop policy changes for consideration of the Committee in making a recommendation to the Commission under Agenda Item 3c. A brief summary of comments and questions from the SOI Policy Workshop are organized by topic below for ease of review.

Special District Involvement

The Workshop was attended by representatives of all four cities and a few districts. Chair Mulheren expressed interest in hearing more voices on the issue and EO Hinman explained agency outreach conducted for the Workshop since the April 13th meeting.

Change in Committee Members

Chair Mulheren noted that the composition of the Committee had changed, two of the three current members were not present at the November and December meetings, and robust dialogue was needed to bring the new Commissioners up to speed.

Prior Committee Meetings

Sage Sangiacomo, City Manager for the City of Ukiah, commented that the Cities had provided a lot of written input on the policy and a number of the concerns raised were not addressed in the current version, which was revised since the December Committee meeting. Mr. Sangiacomo commented on the heavy involvement by the cities in the November and December Committee meetings and lack of further outreach with stakeholders and requested a clear response from LAFCo staff related to the substantial input from the cities provided to date.

Philip Williams, Special Counsel for the City of Ukiah, commented that he understood the purpose of the Workshop to be discussion of the December policy version, of which the City went to great expense to prepare redline revisions, and there has not be sufficient time to provide thoughtful feedback on the new policy version.

Craig Schlatter, Community Development Director for the City of Ukiah, commented that at the December meeting, the Committee directed staff to meet with the cities for more in-depth stakeholder engagement before consideration of the proposed policy.

CEQA Compliance

Dusty Duley, Community Development Director for the City of Willits, commented that actual environmental impacts occur at the boundary change level and requested clarity on whether the proposed policy would allow LAFCo to override the level of CEQA review completed by an applicant as Lead Agency.

Mr. Sangiacomo commented that SOIs are a tool to plan for the potential delivery of services and actual service provision is initiated upon application for boundary changes which is when CEQA applies, the proposed policy is overly complicated, would required \$10,000-\$100,000 to prepare environmental review for a hypothetical service plan, and ultimately would result in coterminous spheres and amendments with each application.

SOI Update Required for Boundary Changes

Chair Mulheren inquired about whether Policy 9.12.2 is common in other LAFCos and Counsel Browne responded that it is an important issue for the nine LAFCos he represents and the fundamental question is whether an SOI is relevant forever or whether there are consequences when an SOI becomes outdated. Counsel Browne further explained that the Legislature gave LAFCo broad discretion to apply LAFCo law in light of local circumstances.

Mr. Williams commented that LAFCo law anticipates that SOIs will be updated, the implication of an outdated sphere, as determined by staff, is that an agency cannot rely on the existing SOI for proposed boundary changes, and the basis of the policy is that merely the passage of time nullifies an existing SOI. Mr. Williams further commented that a relevant SOI is likely more accurately measured by changes in circumstances than in time alone. Mr. Williams also commented that Policy 10.1.3 is the appropriate place for focusing and guiding review of SOIs every 5-years and without the definition of an outdated sphere, which is arbitrary and may not apply.

Outdated Sphere Definition

EO Hinman explained that approximately 8 agencies would meet the proposed definition for outdated spheres.

Mr. Sangiacomo commented that there has been no determination to date of an outdated sphere for the City and there is a discrepancy between the 20-year SOI planning horizon and the 10-year timeframe for outdated spheres.

Mr. Schlatter commented that the applicable timeframes for SOIs are defined by statute; a planning horizon of 20-years with updates every 5-years, which does not apply only when LAFCo decides that the SOI is not relevant. Mr. Schlatter further commented that a specific timeframe of when the SOI becomes irrelevant is arbitrary and is not the best course of action.

Mr. Williams commented that LAFCo legal expert Michael Colantuono has provided written clarification that LAFCo law is abundantly clear that there are no outdated spheres, so an agency either has a sphere or does not, and it does not seem appropriate for local policy to address something not included in LAFCo law.

Chair Mulheren suggested removing the reference to 10-years in the outdated spheres definition because the timeframes vary by agency.

Mr. Sangiacomo commented that the number of years is already defined in LAFCo law; 5-years as necessary.

Mr. Williams commented that the law matters and the rule of law should govern the conversation.

Impacts on Other Agencies

Commissioner Froneberger inquired about the exception, in 9.12.2, to the SOI consistency requirement for minor applications that normally would not create adverse impacts on the subject agency or affected agencies, and EO Hinman responded that it is preferable for agencies to reach agreement amongst themselves on service provision.

Chair Mulheren inquired about the process when agencies do not reach agreement, and EO Hinman responded that the Commission makes the ultimate decision, but typically gives great weight to terms of agency agreement.

Current Practice

EO Hinman clarified that the intent is to put into written policy the consistent practice of the Commission for 10-15 years requiring larger agencies to contribute to CEQA costs for SOI expansions (larger than a coterminous sphere) and not accepting as complete applications based on outdated SOIs. EO Hinman explained that the proposed policy includes a provision to allow minor applications to proceed prior to updating an outdated SOI.

Mr. Schlatter commented that the City has multiple applications in process and the informal practice of staff is a discretionary interpretation that is really more of a policy decision for the Commission.

Chair Mulheren noted that application processing is continuing during the SOI policy development process.

SOI Update Schedule

EO Hinman explained that many LAFCos focus on the “as needed” language in the 5-year SOI Update requirement in LAFCo law and prepare SOI Updates closer to every 8-12 years, based on a CALAFCO survey. EO Hinman further explained that the LAFCo Work Plan Budget line item amount is limited to lessen the burden on smaller agencies and emphasize cost recovery from larger agencies needing a higher level of service and the Work Plan is normally accomplished by in-house staff at lower rates and is not feasible when heavy workloads demand reliance on RFPs for consultant prepared MSR/SOI Update studies. EO Hinman noted the attempt to coordinate the MSR/SOI Update for the City of Ukiah with their General Plan Update, which has been delayed due to the pandemic, and the need to address current development pressures sooner.

Commissioners Froneberger inquired about whether preparing an SOI Update every 5-years is a significant amount of work and EO Hinman responded that it depends on changes in the law and local circumstances since the last study was prepared. Counsel Browne further explained that the new MSR/SOI study builds upon the prior study, and if the prior study was done well then subsequent updates are more readily achieved.

Chair Mulheren noted the limited ability of local agencies to afford SOI updates every 5-10 years and potentially shifting the timeframe to 20-years to tracks along with General Plan Updates.

Workshop Continued

The Committee members informally agreed to continue discussion at another SOI Policy Workshop, to remove the specific timeframe of 10-years in Policy 10.1.2.d, and to distribute policy revisions to stakeholders for review.

The Committee members expressed appreciation for everyone’s effort and involvement to date, emphasized the need for new Commissioners to become familiar with the issues involved and hear from all agencies on the matter, and encouraged additional stakeholder engagement including an opportunity for agencies to meet with staff prior to the next workshop.

3c) Proposed Sphere of Influence Update Policy Recommendations

This item was continued along with agenda item 3b.

4. INFORMATION AND REPORT ITEMS

4a) Executive Officer Report

EO Hinman had no items to report.

ADJOURNMENT

There being no further business, the meeting was adjourned at 5:00 p.m. by Chair Mulheren.