

Les Baugh
County Member
James Yarbrough
City Member
Francie Sullivan
City Member
Lary Farr
City Member Alternate

Irwin Fust
Special District Member
Pam Giacomini
County Member Alternate
Brenda Haynes
Special District Member



Dick Fyten
Public Member
David Kehoe
County Member
Stephen Morgan
Special District Alternate

Bob Richardson
Public Member Alternate
George Williamson
Executive Officer
James M. Underwood
General Counsel
Kathy Bull
Office Manager

October 10, 2016

The Honorable Gregory Gaul
Presiding Judge, Shasta County Superior Court
1500 Court Street, Room 205
Redding, CA 96001

Re: Shasta LAFCO Response to Fiscal Year 2015-2016 Grand Jury Report – REVISED

Dear Judge Gaul:

The Shasta Local Agency Formation Commission (LAFCO) appreciates the Grand Jurors' dedication and has reviewed their report: Shasta LAFCO – No Laughing Matter. The following is the Shasta LAFCO response to the Grand Jury Findings and Recommendations contained in that report:

Findings

F1. Shasta LAFCO failed to take timely action over concerns regarding meeting deadlines for Municipal Service and Sphere of Influence Reviews and financial instability, resulting in a class-action lawsuit and budgetary crisis.

Response: The California statutes governing the preparation of municipal service reviews updating spheres of influence are directory and not mandatory. Despite this, Shasta LAFCO determined to commence a comprehensive update of spheres of influence (SOI) for all special districts within Shasta County in 2013 in the manner permitted by the applicable statutes. The plan for these updates, including the preparation of municipal service reviews (MSR) for each affected local agency, was adopted and the updates were therefore commenced before a civil lawsuit was commenced by a citizen of Shasta County alleging LAFCO non-compliance with the governing statutes. That lawsuit was dismissed soon after its filing, by agreement of the plaintiff, with no court determination that Shasta LAFCO had failed to meet its statutory obligations.

While extraordinary LAFCO resources were expended to complete the MSR/SOI update process between 2013 and 2015, Shasta LAFCO was able to complete all such work and meet its other statutory obligations within its budget, and therefore without asking affected local funding agencies for any additional financial contributions. As a result, there was not a "budgetary crisis" and Shasta LAFCO has since continued to function fully within its means, without increasing its operating budget, while performing all of its statutory functions. For these reasons Shasta LAFCO respectfully disagrees with the above stated Grand Jury finding.

*Reviewed 10.14.2016
to Gaul. RJ*

F2. Shasta LAFCO violated Government Code Section 56381(a) when it made sharp decreases to staffing in its 2015/16 budget without first finding that reduced staffing will nevertheless allow the Commission to fulfill the purposes and programs required of Shasta LAFCO.

Response: Shasta LAFCO did temporarily reduce staff support toward the end of Fiscal Year 2015/16, but in doing so did not violate Government Code Section 56381(a). In FY 2015/16 LAFCO's efforts to finish its MSR/SOI update plan using an independent consultant did result in extraordinary expenses that required the Commission to minimize its activities toward the end of that year to stay within budget. However, in so proceeding Shasta LAFCO fulfilled all "purposes and programs" required of this agency. For these reasons Shasta LAFCO respectfully disagrees with the above stated Grand Jury finding.

F3. Shasta LAFCO has not updated its fee schedule since 2013, leaving the possibility that it is not charging sufficient fees for its services.

Response: Shasta LAFCO has not changed its fee schedule since 2013 but there is no reason to conclude that Shasta LAFCO is not charging sufficient fees for its services. Shasta LAFCO is updating its fee schedule, as stated in the Recommendation 3 response below. For these reasons Shasta LAFCO disagrees partly with the above stated Grand Jury finding.

F4. Shasta LAFCO has failed to take advantage of additional revenue sources by not charging for Municipal Service or Sphere of Influence Review updates.

Response: Shasta LAFCO cannot charge members for Municipal Service Review and Sphere of Influence Updates but has added pre-application agreement charges as an additional revenue source. For these reasons Shasta LAFCO respectfully disagrees with the above stated Grand Jury finding.

F5. Shasta LAFCO has exposed itself to potential future risk of litigation by adopting its current five year plan to conduct Municipal Service and Sphere of Influence Review updates without consideration of recent instability of the Executive Officer position.

Response: A new Municipal Service Review and Sphere of Influence Update schedule is in effect as of July 1 2016. However, it should be kept in mind, as further explained in the response to recommendation R5, that Municipal Service Reviews (MSRs) and Sphere of Influence (SOI) updates are not mandated by statute. For these reasons Shasta LAFCO respectfully disagrees with the above stated Grand Jury finding.

F6. Shasta LAFCO is not fulfilling its purposes and programs due to severe budgetary restrictions, partially because it has failed to sufficiently explore and act on all cost saving opportunities.

Response: LAFCO no longer faces severe budget restrictions, as evidenced by completing FY 2015-16 operations under budget, and as confirmed by the Fiscal Committee is operating under budget for the first quarter of FY 2016-17. Shasta LAFCO is also pursuing costs savings in areas such as shared space. On October 1 2016 Shasta LAFCO moved their offices to the SRTA building. For these reasons, and

because even during recent budget challenges Shasta LAFCO has continued to fulfill its purposes and programs, LAFCO respectfully disagrees with the above stated Grand Jury finding.

F7. Shasta LAFCO's actions violate its own Policies & Procedures, because their policies and procedures have not been updated to reflect their actual practices.

Response: Policies & Procedures are being updated, see response to recommendation 7 below. This finding is unclear for lack of specificity as to purported "violations" and for this reason Shasta LAFCO disagrees the above stated Grand Jury finding, but it intends to proceed to review the agency's policies and procedures for update where appropriate.

Recommendations

R1, The Grand Jury recommends that Shasta LAFCO take action within 30 days of becoming aware of financial or staff concerns, and complete a comprehensive review of contracted Executive Officer performance at least bi-annually, commencing no later than December 31, 2016.

Response: Shasta LAFCO agrees that there should be periodic financial reviews and at least annual reviews of Executive Officer job performance. The Fiscal Committee meets at least monthly to review financial reports prepared by the office manager, and fiscal reports are included in commission meeting agenda packets. Should the Fiscal Committee become aware of any financial or staff concerns, this concern shall be scheduled for Commission review and action within 30 days, even if a special meeting is required. The Executive Officers job performance review has been incorporated into the Executive Officers FY 2016-17 Scope of Services as follows:

Executive Officer Performance Review – The Executive Officer will participate in bi-annual performance review with the Commission, with initial review scheduled for December 2016 meeting. Subsequent reviews shall occur every six months. The Executive Officer will provide a performance review form for commission use.

For these reasons Shasta LAFCO has already taken steps to implement this recommendation.

R2, The Grand Jury recommends that Shasta LAFCO revise its budget to return to prior year staffing levels to allow the Shasta LAFCO office to be open Monday through Friday, 9:00 am to 5:00 pm, and to full comply with Government Section 56381 (a) no later than September 30, 2016.

Response: LAFCO does not agree that the LAFCO office must be open Monday through Friday, 9:00 am to 5:00 pm. LAFCO has complied with Government Code Section 56381(a) requirements, concerning budget adoption and staffing sufficient to fulfill the purposes and programs required to be performed by this agency, and will continue to do so. There is no Government Code provision for minimum office hours, and those wishing to contact LAFCO may do so by email and through the website in addition to phone and office access.

The Commission conducted public hearings on the proposed and final budget, approving the FY 2016-17 Budget on June 2 2016. At that same meeting the Commission approved a staffing services agreement with Planwest Partners Inc. for FY 2016-17. LAFCO Access is described in the Executive Officers FY 2016-17 Scope of Services as follows:

Public Access –The Office Manager will maintain office hours Monday - Thursday, 9:00 AM to 4:00PM (closed lunch hour) and make arrangements to provide Executive Officer contact information for staffing services on voice mail and website, for hours on Fridays. Hours shall be posted on the LAFCO website and office door.

For these reasons this Grand Jury recommendation will not be implemented because it is in compliance with Government Code Section 56381(a) and the recommendation is therefore not warranted.

R3: The Grand Jury recommends that Shasta LAFCO review its current Fee Schedule and make revision as needed no later than December 31, 2016.

Response: LAFCO currently has a fee schedule and agrees that the schedule should properly reflect the actual estimated cost of performing fee-based services and conduct periodic reviews. This periodic review has been incorporated into the Executive Officers FY 2016-17 Scope of Services as follows:

The Executive Officer will review and where appropriate recommend fee schedule adjustments. Update to include deposits and charges for applications and budget for next cycle of MSR/SOI Updates Provide draft schedule for commission consideration at the October commission meeting and a final fee schedule at the December 2016 meeting.

For these reasons Shasta LAFCO has already taken steps to implement this recommendation.

R4. The Grand Jury recommends that by no later than December 31, 2016, Shasta LAFCO establish a fee schedule to charge for Municipal Service and Sphere of Influence Review updates.

Response: LAFCO agrees that the periodic municipal services reviews and sphere of influence updates (“MSR/SOI Updates”), are to be done in accordance with the applicable statute are a general LAFCO function. MSR/SOI Updates are funded by the affected Shasta County local agencies as part of Shasta LAFCO’s annual funding. However, when an affected local agency initiates a reorganization or files certain other applications that require a SOI amendment separate from the periodic MSR/SOI updates otherwise required by LAFCO, with additional time and resources to therefore be expended by LAFCO to process and consider the agency application, the applicant agency is responsible for paying for such services. This occurs based on the LAFCO adopted schedule of fees that is to reflect the estimated actual cost of services. A fee schedule review has been incorporated into the Executive Officers FY 2016-17 Scope of Services as follows:

The Executive Officer will review and where appropriate recommend adjustments to the current LAFCO fee schedule. Update to include deposits and charges for applications and budget for next cycle of MSR/SOI Updates Provide draft schedule for commission consideration at the October commission meeting and a final fee schedule at the December 2016 meeting.

For these reasons, with a fee schedule already in place and subject to periodic review, the Grand Jury recommendation will not be implemented.

R5. The Grand Jury recommends that by no later than December 31, 2016, Shasta LAFCO revise its five year plan for municipal Service and Sphere of Influence Reviews updates to begin completing them in the 2016/2017 fiscal year.

Response: LAFCO agrees to update its MSR/SOI Update schedule for the next cycle, by December 31, 2016. Although the applicable LAFCO statutes governing the preparation of MSR/SOI updates no less than every five (5) years is advisory rather than mandatory, LAFCO is committed to five year updates as a matter of sound public policy. Accordingly, it has recently completed MSR/SOI updates for all affected local agencies in Shasta County, and has adopted an MSR/SOI Update Plan, which includes a proposed means of funding the periodic extraordinary related costs of this process, to ensure that timely updates will occur on an ongoing basis. Scheduling for the next MSR/SOI Update cycle has been incorporated into the Executive Officers FY 2016-17 Scope of Services as follows:

The Executive Officer will work with the Fiscal Committee to prepare a schedule for completing the next five-year MSR/SOI Update cycle, through the FY 2019-2020, and assess the budget implications of doing so. Present MSR/SOI Updates schedule and budget information to the Commission at or before the December 2016 meeting.

For these reasons Shasta LAFCO has already taken steps to implement this recommendation.

R6. The Grand Jury recommends that Shasta LAFCO engage in cost saving efforts such as shared office space and personnel costs, shared insurance costs, reimbursement for costs from other agencies for providing them with assistance and turning to the California Association of Local Agency Formation Commissions for hosting its website no later the December 31, 2016.

Response: Shasta LAFCO agrees that it should constantly look for feasible means of performing its services in the most cost-effective way. Accordingly, it has in recent years engaged independent consultant services for the performance of Executive Officer functions, and to obtain related contract staff support, in a professional but cost-effective manner. LAFCO will continue to explore and implement other cost-effective opportunities for the performance of its services. This review has been incorporated into the Executive Officers FY 2016-17 Scope of Services as follows:

The Executive Officer will prepare a shared services plan that includes cost savings proposals for shared office space, member organization assistance reimbursements, web site hosting, insurance and other operating costs. Present shared services plan to the commission at or before the December 2016 meeting. Current local web hosting services shall be continued as CALAFCO no longer offers website hosting services to individual LAFCOs.

For these reasons Shasta LAFCO has already taken steps to implement this recommendation.

R7. The Grand Jury recommends Shasta LAFCO updates it Policies and Procedures no later than March 31, 2017.

Response: Shasta LAFCO agrees that its Policies and Procedures need to be periodically updates, and intends to undertake such a review and update in FY 2016/17. This review has been incorporated into the Executive Officers FY 2016-17 Scope of Services as follows:

The Executive Officer will review and where appropriate recommend policy and procedures updates for clear direction and consistent action in LAFCO operations and decision-making. Provide Policies and Procedures Update at the February 2017 commission meeting.

For these reasons Shasta LAFCO has already taken steps to implement this recommendation.

Sincerely,



James Yarbrough
Shasta LAFCO Commission Chairman

Cc: Shasta LAFCO Commissioners

SHASTA LAFCO
COMMUNITY DEVELOPMENT
ADMINISTRATIVE SERVICES
1000 W. MAIN ST. SUITE 100
REDDING, CA 96001
(530) 243-7100