

MEMORANDUM

TO: Local Agency Formation Commission

FROM: Stephen Lucas, Executive Officer
Jill Broderon, Management Analyst

SUBJECT: Agenda Item 4.8 – Review and Update of Commission Bylaws

DATE: July 2, 2013 for the Meeting of July 10, 2013

Background

Prior to 2000, LAFCO staffing and administration was provided by Butte County. While under County administration, the Commission adopted an Operations Manual that included:

- Bylaws (First adopted March 4, 1993)
- Policies and Procedures (First adopted in 1981 and revised most recently in May 2010)
- California Environmental Quality Act (CEQA) Guidelines, adopted March 4, 1993

In 2000, the Commission transitioned to a semi-independent status with dedicated staffing and in 2008 became a fully independent agency in all respects. This transition to independence has caused the need to revisit and update the Commission's Operations Manual, most notably with the adoption of Personnel Policies in 2007 in reaction to newly independent staffing. With several years of independence to guide us, staff is now undertaking the process of reorganizing the Operations Manual beginning with an update of the Commission's Bylaws to remove outdated terminology and references to prior County administration as well as conform references to current state law.

Next Steps

Staff has begun a process in which it will reorganize the existing Operation's Manual to more accurately reflect current practices and provide a sound administrative foundation to guide future agency decisions and address organizational needs. Staff proposes the Operations Manual to be divided into the following four chapters:

- Butte LAFCO Bylaws (Update Existing)
- Administrative Policies and Procedures (New Chapter - In Progress)
- Personnel Policies (Update Existing)
- Project Processing Policies and Procedures, which will also include CEQA Guidelines and Practices (Update Existing)

The overall Operations Manual review will begin with the update Commission's Bylaws. The Bylaws simply govern the internal affairs of the agency and the protocols under which it operates and conducts its business. The Bylaws do not effect policies for project review or establish policies for administrative practices or personnel rules.

By in large, the update is intended to remove outdated terminology and references to prior County administration as well as conform references to current state law.

Upon completion, the intent for the reorganized Operation's Manual is to provide one unified, current and comprehensive resource document to better inform LAFCO, its staff, public agencies and citizens of Butte County about the operations, responsibilities and functions of Butte LAFCO.

Updated Bylaws

Staff has reviewed the Bylaws for consistency issues and accuracy of information therein and has also reviewed numerous other bylaws and administrative practices from LAFCOs around the state for comparison. The basic outline of the Bylaws has been maintained as have the fundamental procedural functions related to the conduct of meetings, selection of commissioners, selection of officers, voting protocols and the like. Overall, the Bylaws have been re-dressed in current terms and references to state law. In doing so, staff consulted with the Commission Chair as to how the updated document should best be presented. It was determined that given the considerable updates required, that staff would present the document, as revised, in its entirety, as a whole, for the Commission's review and adoption. With this direction, the revised draft Bylaws are attached to this report for review and staff will collaboratively walk the Commission through the document and respond to questions from the Commission at the meeting.

ACTION REQUESTED:

Adopt Resolution No. 17 2013/14 approving recommended changes to the Bylaws.

Attachments:

Exhibit A - Revised Bylaws

Exhibit B - Draft Resolution No. 17 2013/14

**Butte Local Agency Formation Commission
OPERATIONS'S MANUAL
Chapter 1 - Bylaws**

**Original Adoption Date: March 4, 1993
Revisions: 7/10/2013**

ARTICLE I - GENERAL

1.1 TITLE

The Commission shall be known as the Butte Local Agency Formation Commission ("Commission").

1.2 LEGAL ADDRESS

Butte Local Agency Formation Commission
1453 Downer Street, Suite C
Oroville, California 95965

Telephone: (530) 538-7784
Facsimile: (530) 538-2847

Web Page: www.buttelafco.org

1.3 PURPOSE

The Commission is an independent, countywide agency created by state statute that the courts have referred to as the legislatures "watchdog" over local government agencies for the purpose of discouraging urban sprawl, preserving open space and prime agricultural lands, efficiently extending the delivery of government services, and encouraging the orderly formation and development of local agencies (§56301). These directives are achieved by coordinating logical and timely changes in local government boundaries; conducting studies on the effectiveness of local government agencies and identifying ways to reorganize, simplify and streamline governmental structures; and preparing spheres of influence for each city and special district within the County (§56425).

1.4 AUTHORITY

The conduct of the Commission is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Section 56000 et seq. of the California Government Code, as amended, and hereinafter referred to as the "CKH Act." The provisions of these bylaws are not intended to preempt state law set forth in the CKH Act, in the event of policy conflicts the provisions of the CKH Act shall prevail as interpreted by the Commission.

1.5 POWERS

The Legislature and the courts have given the Commission broad discretion to implement the CKH Act with the most basic power being to review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization that primarily result in jurisdictional boundary adjustments.

1.6 FUNDING

The Commission is funded pursuant to the CKH Act which directs the Commission to establish an annual budget to be funded by its member agencies. Pursuant to a Memorandum of Understanding (MOU) adopted in 2001, the formula in which the County, Cities and Special Districts fund LAFCO's adopted expenditures are as follows:

Butte County	Forty-Five Percent (45%)
Cities	Forty-Five Percent (45%)
Special Districts	Ten Percent (10%)

Pursuant to the MOU, this funding formula shall automatically renew each fiscal year unless any party gives notice to the other parties prior to March 1 of any year that it wishes to terminate or renegotiate the terms of the MOU.

The Commission's budget shall be adopted annually, following noticed public hearings. A proposed budget shall be adopted by May 1 and final budget by June 15. The County Auditor shall apportion the Commission's net operational costs to the County, the cities and the independent special districts according to the established formula (§56381). In no case shall the Commission's annual budget be reduced from the prior year unless the Commission can determine that its purposes and programs under state law can be fulfilled (§56881(a)).

ARTICLE 2 - ORGANIZATION

1.7 COMPOSITION

The Commission consists of seven regular members and four alternate members (§56325; §56332). All commissioners must be residents of Butte County.

1.8 SELECTION/APPOINTMENT

The LAFCO Executive Officer shall maintain a roster of Commission appointments and terms of office and promptly notify the affected appointing authority of anticipated vacancies on the Commission.

- A. County: The County Board of Supervisors shall appoint two regular commissioners and one alternate commissioner from the Board's membership to serve on the Commission (§56325).

- B. Cities: The City Selection Committee shall designate two regular commissioners and one alternate commissioner to serve on the Commission, each of whom shall be a mayor or city council member from one of the County's incorporated communities (§56325). Such appointments shall be made in accordance with the procedures established by the City Selection Committee as described in the rules and regulations of that body.
- C. Special Districts: Through an election process conducted by the LAFCO Executive Officer (§56332(c)(1)), two regular commissioners and one alternate commissioner are selected from the Special Districts.
- D. Public Member: The public member shall be appointed by the other six commissioners (§56325(d)). The other members of the commission may also designate one alternate member (§56331).

1.9 TERMS OF OFFICE

- A. The term of office of each Commission member shall be four years, expiring on May 31st in the year in which the members' term expires.
- B. Any member may be removed at any time and without cause by the body appointing that member. If a member who is a County, City or Special District representative ceases to hold that position during his or her term, that member's seat on the Commission shall become vacant (§56337).
- C. Any vacancy in the regular membership of the Commission shall be filled for the unexpired term by appointment by the body that originally appointed the member whose office has become vacant. The alternate member in that category shall serve in his or her place until such time as a new regular member has been appointed (§56334).
- D. In the case of the Special District representatives, should an election be held and not generate a quorum of participating special districts, the vacant Special District seat shall remain filled by the currently selected Special District alternate until such time a valid election can be concluded.

1.10 ROLES

- A. Members serving on the Commission shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority (§56325.1; AG Opinion 98.802).
- B. In each member category, the alternate member shall serve and vote in place of the regular member who is absent or who disqualifies himself or herself from voting on a matter before the Commission (§56325). Alternate members are encouraged to attend all Commission meetings, even if the regular member(s) is (are) present. As a matter of policy, because Alternate members may at any time be called upon to vote in place of a

regular member, Butte LAFCO encourages alternate members to participate in discussion of issues before the Commission, any of its subcommittees and to attend close sessions, even when they may not vote.

- C. The Commission further encourages alternate members to take an active role in Commission business including discussions and deliberations on project proposals, CALAFCO legislative activities and training workshops, interagency coordination and communication, and participation in policy development and other working groups.

1.11 OFFICERS

A Chair and a Vice Chair shall be the officers of the Commission, chosen by the current regular members of the Commission.

- A. The Chair and Vice Chair shall be elected each year at the May meeting, or the next regular meeting thereafter, and shall take office immediately. If a vacancy occurs in any Commission office during the year, it shall be filled by election at the next regular meeting following the occurrence of the vacancy.
- B. The term of office for the Chair and Vice Chair shall normally be twelve months or until the officer's membership on the Commission terminates.
- C. The Chair shall preside at all meetings of the Commission and shall conduct the business of the Commission pursuant to, and in compliance with, the procedures prescribed in these rules. The Chair shall preserve order and decorum, set time limits for speakers if desired, and shall decide all questions of order and procedure, subject to the action of a majority of the Commission.
- D. The Chair has the authority to act outside a meeting, in consultation with the Executive Officer, on procedural and administrative matters that cannot reasonably be deferred to the next Commission meeting. The Chair's authority shall include the signing of contracts for urgently needed goods and services if the Executive Officer is unavailable.
- E. The Chair has authority to appoint members of the Commission to standing committees and has the authority to create special-purpose committees not named in these Bylaws.
- F. The Chair shall sign all resolutions approved by the Commission regardless of attendance at the meeting at which an action was taken. Should the Chair be unable or unavailable to sign resolutions, the Vice Chair may act in his/her place.
- G. In the event of the Chair's absence, or inability to act as the Chair, the Vice Chair shall have all the powers and duties of the Chair.
- H. In the event both the Chair and the Vice Chair are absent from the Commission meeting at which a quorum is present, the voting members shall select one of themselves by majority vote to act as Chair pro tempore for that meeting.

1.12 REMOVAL OF MEMBERS

The Commission may recommend to the appointing authority that a member be removed for the following reasons:

- A. The absence of that member from three consecutive meetings or more than half of the meetings in any 12 month period.
- B. Malfeasance of office, dereliction of duty, or the demonstration of the inability to act independently on behalf of the public as a whole.
- C. Failure to complete required financial disclosure documents in a timely manner.

1.13 COMPENSATION

- A. Commission members and alternates are not employees of Butte LAFCO and receive no salary or employee benefits.
- B. Commission members and alternates are eligible to receive a meeting stipend as set by the Commission. Should the Commission set a meeting stipend, a W2 Form (IRS Wage and Tax Statement) shall be issued to each Commissioner no later than January 31st of each year.
- C. Commission members and alternates shall be reimbursed for the actual amount of their reasonable and necessary expenses incurred in attending meetings and in performing the duties of their office (§56334) provided the expenses are previously known to, and approved by the Commission or the Executive Officer.

1.14 CALAFCO

The Commission shall be a member of the California Association of Local Agency Formation Commission (CALAFCO). The Commission shall support and actively participate in the State association through its' payment of dues, participation in elections and allocation of staff to support and to serve in CALAFCO roles.

1.15 FINANCIAL DISCLOSURE

- A. LAFCO members are subject to the requirements of the Levine Act and California Fair Political Practices Commission (FPPC), including annual filing of the Statement of Economic Interests (Form 700) with the County Clerk-Recorder's Office by the date determined by the FPPC (§87200).
- B. Any member of the Commission not in compliance with this requirement is subject to the fines and penalties established by the FPPC.

1.16 EXECUTIVE OFFICER

The Commission shall appoint an Executive Officer who shall conduct the day-to-day business of the Commission to include all administrative matters. The Executive Officer shall hire and discharge all other employees of the Commission as may be necessary to effectively facilitate the business of the Commission and pursuant to the Commissions personnel policies and practices

1.17 LEGAL COUNSEL

The Commission shall appoint legal counsel to advise it. Legal counsel shall attend all meetings of the Commission; give all requested advice on legal matters and represent the Commission in legal actions unless the Commission specifically makes other arrangements.

ARTICLE III - MEETINGS/CONDUCT OF BUSINESS

1.18 REGULAR MEETINGS

- A. Regular meetings of the Commission are held monthly on the first Thursday of each month at 9:00 a.m. in the Board of Supervisors Chambers at the County Administration Center, 25 County Center Drive, Oroville, CA (§54954). The Commission may change the meeting schedule or location, add or cancel hearings as necessary to conduct Commission business.
- B. The Commission shall adopt a calendar detailing its annual meeting schedule for the following year at the regular Commission meeting in December. The meeting schedule shall be posted to the Butte LAFCO website.
- C. After consultation with the Chair, the Executive Officer is authorized to cancel an upcoming regularly scheduled meeting if there are no projects or items of substance expected to be heard before the Commission for that meeting. The Executive Officer shall provide a minimum five (5) days notice of the cancellation to the other Commissioners and the public.
- D. Notwithstanding any other provision of these Bylaws, all meetings of the Commission Shall be noticed and held in accordance with the Ralph M. Brown Act, the "Open Meeting Law," (§54950-54963).

1.19 SPECIAL MEETINGS

- A. After consultation with the Executive Officer, the Chair may call a special meeting of the Commission.
- B. Special meetings of the Commission shall be called in the manner as provided by the Brown Act (§54956). Required statutory notice shall be given to all regular and alternate members. The order calling the special meeting shall specify the time and place of the meeting and the business to be transactions at such meeting, and no other business shall be considered at the meeting.

1.20 NOTICE OF MEETINGS/AGENDAS

- A. The Executive Officer shall provide public notice of regular and special meetings in accordance with the provisions of the CKH Act, the Brown Act, and the California Environmental Quality Act, as applicable. The Executive Officer may provide public notice, above that required by law, when appropriate.
- B. In accordance with the Brown Act, the Commission may not take action on any items that do not appear on the Butte LAFCO agenda posted 72 hours prior to the meeting, unless an exception is made as permitted under §54954.2.
- C. A written agenda shall be prepared for each meeting which lists the various items being considered including the title, a brief description of the application, the requested action and LAFCO staff's recommendation, if applicable. Items may be placed on the agenda by the Commission as a whole, any member of the Commission after consultation with the Chair, or the Executive Officer.
- D. Though the order of business may vary slightly per the Executive Officer or Commission's discretion, agenda will include the following items:
 - 1. Call to Order and Roll Call
 - 2. Consent Agenda
 - 3. Noticed Public Hearings
 - 4. Regular Agenda
 - 5. Public Comment on Items not on the Agenda
 - 6. Reports and Communications
 - 7. Administration
 - 8. Adjournment
- E. Meeting agendas will be provided to LAFCO's established agenda mailing list as requested, project applicants and proponents, and interested parties requesting notice for a specific hearing.
- F. Meeting agendas will be posted at least 72 hours prior to the meeting in the following locations:
 - 1. Butte LAFCO website @ www.buttelafo.org; and
 - 2. Butte LAFCO, 1453 Downer Street, Suite C, Oroville, CA; and
 - 3. County Administrative Center, outside Board of Supervisors' Chambers, 25 County Center Drive, Oroville, CA.

- G. The Executive Officer shall complete a staff report, including his/her recommendations if appropriate, not less than five days prior to the hearing. Copies of the staff report, along with the agenda, shall be provided to each member of the Commission and to others parties as required by §56665, including:
1. Persons designated in the application;
 2. Each city and/or local agency whose boundaries or sphere of influence would be changed by the proposal or recommendations; and
 3. Each affected local agency which has filed a request for a report with the Executive Officer.
- H. Submission of written comments regarding an item on the agenda is encouraged to facilitate thorough and thoughtful consideration of issues. Written comments will be distributed in agenda packets if received prior to packet distribution; for comments received up to 48 hours prior to the meeting, the Executive Officer will copy and distribute such comments via email to each Commissioner and at the meeting; for comments submitted less than 48 hours before the meeting, the writer must provide at least 15 copies for distribution, or may directly distribute written comments and materials to the Commission any time prior to the end of the public hearing.

1.21 QUORUM

A quorum is the number of Commissioners that must be present to legally conduct business. Four members of the seven-member Commission constitute a quorum.

1.22 CONDUCT OF MEETING

- A. Each meeting shall begin with the Chair's call to order followed by the Clerk's roll call. Thereafter, the order of business shall follow as outlined in the agenda, as prepared by the Executive Officer.
- B. The usual order of business is as follows, though may vary according to the Executive Officer or Commission's discretion:
1. Call to Order and Roll Call.
 2. Consent Agenda.
 - a. Items placed on the consent agenda are those that do not require a public hearing and are voted on in a group with one motion.
 - b. If any member of the Commission, staff member or member of the public desires a separate vote be taken on an individual matter listed within the consent items, then that matter may be removed from the consent agenda and voted on separately.

- c. Discussion and public comment on any matter listed with the consent items may occur without removing that matter from the consent agenda for a separate vote.
3. Noticed Public Hearings. The Commission shall conduct matters noticed for public hearing as follows:
 - a. The title is read by the Chair and the Executive Officer or staff designee shall address the staff report. The report should describe the nature of the application, discuss all factors required in Section 56668 of the Government Code, and present the Executive Officer's recommendations if appropriate.
 - b. The Chair shall open the public comment period by first allowing the applicant three minutes to present issues. Other speakers are then allowed a maximum of three minutes each. The applicant may respond to issues for a maximum of five minutes. The Chair has the discretion to extend time limits. Commissioners may address either the applicant and/or participates in the proceedings.
 - c. The Chair shall close the public hearing. Members of the Commission may discuss the matter under consideration amongst them and/or take action on the matter. Discussion may or may not be preceded by a motion made by any voting member of the Commission and a second made by another.
 - d. Further testimony from the applicant or the public may not be accepted without reopening the public hearing, except that Commissioners may direct questions to specific members of the public who have already offered testimony in order to clarify any point made during the public hearing.
 - e. A vote of the Commission shall be taken on the issue at hand. If the motion is defeated the Chair may allow a subsequent motion(s) on the matter. If there are no subsequent motions, the Chair shall declare the issue as being defeated.
 - f. A roll call vote shall be taken on each action and shall be conducted by the Commission Clerk, with the Chair voting last.
4. Regular Agenda. The procedure as followed for "Noticed Public Hearings" shall be the same procedure following for the Regular Agenda.
5. Public Comment on Items not on the Agenda. An opportunity for public comment on any item not listed on an agenda will be provided at each meeting. Public comments are limited to no more than three minutes. Additional time may be granted at the discretion of the Chair. Only those issues which are brought up at the public hearing or in written correspondence delivered to the Commissioners prior at or prior to the hearing, may be raised in any legal challenge to actions taken by the Commission.

6. Reports and Communications. An opportunity for Executive Officer to report on project, staffing and/or committee activities, intergovernmental items, financial reports, correspondence, announcements and other relevant matters.
 7. Administration. An opportunity for Commissioners to discuss and provide direction to the Executive Officer on administrative matters relating to the operation of the Commission. No action or discussion by quorum of the Commission may be taken on off-agenda items unless authorized by law.
 8. Adjournment. Procedures for adjourned and continued meetings shall comply with the requirements of Sections 54955 and 54955.1 of the Government Code and any other applicable statutes.
- C. The Chair may allocate time for argument by interested parties and testimony by witnesses as may be necessary for the expedition of the Commission's business.
- D. Motions and Voting.
1. Any voting Commission may introduce or second any motion. The Chair may make or second any motions without relinquishing the Chair.
 2. The question of approval or denial of a proposal, whether it is the approval of a proposed annexation, incorporation, or formation or a procedural or organizational matter, may be voted upon by voice vote or may be put to the question by the Chair with a unanimous vote stipulated and recorded if there is no objection.
 3. A roll call vote shall be taken on any question upon the demand of any Commissioner. Roll call shall be conducted by the Commission Clerk, with the Chair voting last.
 4. An affirmative vote of four commissioners is required to make an action of the Commission, unless a more specific voting requirement is provided in the CKH Act. Proxy votes are not allowed.
- E. General Rules of Order
1. Except as herein provided, the rules of order governing the conduct of business at all meetings of the Commission shall be the latest addition of Robert's Rules of Order.

1.23 ADJOURNMENT AND CONTINUANCE OF MEETINGS AND PUBLIC HEARINGS

Procedures for adjourned and continued meetings shall comply with the requirements of the Government Code (§54955; §54955.1) and any other applicable statutes.

1.24 MEETING MINUTES

- A. The Executive Officer shall cause each regular meeting of the Commission to be electronically recorded for the purpose of guiding the preparation of the Commission's officially adopted written minutes.
- B. The Commission Clerk shall record and prepare written minutes of each meeting. The minutes shall record major actions and/or discussions of the Commission at the meeting, but are not intended to be a complete transcript of discussions. Upon approval, the minutes with any corrections thereto, shall become the official record of the action of the Commission.
- C. The electronic recordings of each regular meeting of the Commission shall be maintained for a minimum period of twelve months from the date of the written minutes of a meeting being officially adopted.

1.25 COMMITTEES

The Commission may establish any committee as deemed necessary for the conduct of its proceedings.. Committees deemed to be permanent standing committees are subject to the Brown Act. Committees deemed to be advisory committees, composed of less than a quorum of the Commission, are not subject to the Brown Act.

ARTICLE IV - AMENDMENTS

1.26 AMENDMENTS

- A. The LAFCO Operations Manual is reviewed and updated as necessary by the Commission. The Commission reserves the right to review, revise, add, or delete individual policies. Any changes/ additions/deletions made to the LAFCO Operations Manual will be noted in each individual chapter as well as on the individual policies.
- B. Amendments to the Operation's Manual may be initiated either by direction of the Commission or by recommendation of the Executive Officer.

1.27 APPLICABILITY

Rules adopted to expedite the transaction of business of the Commission in an orderly fashion are deemed to be procedural only, and the failure to strictly observe such rules shall not affect the jurisdiction of the Commission or invalidate any action taken at a meeting that is otherwise held in conformity with the law. Except as otherwise provided by law, these bylaws, or any one thereof, may be suspended by the order of the Commission and will be deemed suspended by actions not in accordance therewith taken by or with the consent of the Chairman or a majority of the Commission members.

PASSED AND ADOPTED BY THE BUTTE LOCAL AGENCY FORMATION COMMISSION on the 10th day of July 2013.

CARL LEVERENZ, Chair
Butte Local Agency Formation Commission

ATTEST:

STEPHEN LUCAS, Executive Officer
Butte Local Agency Formation Commission

RESOLUTION NO. 17 2013/14

**RESOLUTION REVISING AND ADOPTING THE
BUTTE LOCAL AGENCY FORMATION COMMISSION
BYLAWS**

WHEREAS, the Butte Local Agency Formation Commission was established in 1964 pursuant to state law and is authorized to conduct business by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Section 56000 et seq. of the California Government Code, as amended, and hereinafter referred to as the "CKH Act"; and

WHEREAS, the Commission first adopted a Policy Manual in 1981 and subsequently adopted Bylaws in 1993 while operating under the administration of the County of Butte; and

WHEREAS, the Commission formally separated from its administrative relationship with the County of Butte in 2008 and became a fully independent agency; and

WHEREAS, the Commission's current Bylaws contain references to prior County administrative processes and do not reflect the independent status of the Commission and are found to be in need of revision to reflect current language and practices of the Commission and changes in State law following the Commission's conversion to an independent agency; and

WHEREAS, the provisions of these bylaws are not intended to preempt state law set forth in the CKH Act, in the event of policy conflicts the provisions of the CKH Act shall prevail as interpreted by the Commission.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Commission hereby adopts Resolution No. 17 2013/14 revising the Bylaws for the Butte Local Agency Formation Commission, as presented in Exhibit A.

PASSED AND ADOPTED by the Butte Local Agency Formation Commission this 10th day of July 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINS:

Carl Leverenz, Chair
Butte Local Agency Formation Commission

ATTEST:

Stephen Lucas, Executive Officer