



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 7d (Action)

TO: Local Agency Formation Commission

FROM: Dawn Mittleman Longoria, Assistant Executive Officer

MEETING DATE: October 2, 2023

SUBJECT: Consider Options to Amend the Agreement for the Provision of Support Services

RECOMMENDATION

It is recommended the Commission provide formal direction to staff with respect to pursuing any amendments to the Agreement for the Provision of Support Services (“the Agreement”) with representatives of the County of Napa. It is also recommended the Commission consider establishing an ad hoc subcommittee with two appointed members to assist staff in this process.

BACKGROUND AND SUMMARY

Why Neutral and Independent?

The original formation of LAFCOs in 1963 envisioned a State agency serving as the Commission. State organizations such as the California State Association of Counties (CSAC) and the League of California Cities (“the League”) objected. The concern was a lack of local control if a state agency made boundary decisions for local government. It was determined that counties would fund LAFCOs, including the provision of staffing and legal counsel. Notably, this all occurred prior to Proposition 13.

Over the years, a variety of organizations such as the League, Grand Juries, and local activist groups complained that this arrangement created a conflict of interest. In many cases it was apparent that county staff and county legal counsel were unable to provide neutral/independent analysis and recommendations given their jobs depended on the county. In some counties, LAFCOs became “independent”, while others remained “dependent” upon the county. In the 1990s, changes occurred to the law governing LAFCOs (Cortese-Knox-Hertzberg Local Government Reorganization Act). Provisions in this law included the “independence” of LAFCOs from counties with respect to staffing, legal counsel, and office arrangements.

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In 2003, Napa LAFCO transitioned from “dependent” to “independent” as an agency. The Commission entered into a formal agreement for the provision of various administrative services by the County of Napa. The Agreement clearly anticipates regular review, but review has not occurred with the exception of regular amendments for adjusting the rates charged by County Information Technology Services.

Previous Commission Discussion

On January 12, 2015, the Commission held a workshop for discussion of the Commission’s view of its role and potential effectiveness in Napa County’s network of local governments. The “independence” of staff and the Commission from the County’s administration was a general theme within the workshop, including the provision of independent legal services.

On February 2, 2015, the Commission appointed then-Commissioner Wagenknecht and then-Commissioner Joan Bennett to an ad hoc subcommittee (“the Committee”) work with staff on reviewing the Agreement and drafting updates. The Committee and staff, including legal counsel, met to identify issues and discuss changes to the text of the Agreement.

On April 6, 2015, the Committee presented draft amendments to the Commission and it was determined that the best course of action was to continue development of a revised agreement with representatives of the County, including updated job descriptions for LAFCO staff. Shortly thereafter, LAFCO staff transition occurred, and other activities took higher priority. Amendments to the Agreement have since been on hold.

Current Status

Following the workshop in 2015, the Commission entered into a contract for independent private legal counsel. However, several issues with the Agreement persist, including the “dependent” status of staff. The issue of independent staff became a significant issue over the past year. In June 2022, the Commission approved the budget to include new staff positions (Assistant Executive Officer and Clerk/Junior Analyst). These positions were necessary for LAFCO’s operations after the retirement of the part-time Secretary. LAFCO’s legal counsel advised that the contract included provisions that the County is obligated to provide the staff determined by the Commission and with the approved budget. However, it took over nine months and numerous meetings with County staff to fill these positions. It was very difficult to convince County staff that LAFCO is an independent agency from the County. LAFCO’s work program suffered due to staffing shortages during this time.

Another matter is the amount of LAFCO staff time to comply with the County’s bookkeeping system. The system is designed for the needs of a large organization with dedicated staff. LAFCO has minimal bookkeeping needs and staff time for this function.

The current contract includes 10 amendments to the Agreement, which are cumbersome and can cause confusion and frustration for representatives of both LAFCO and the County. Staff recommends incorporating all the amendments into a new amended and restated agreement.

Further, it is LAFCO's responsibility to provide independent analysis and decision-making. The Agreement should clearly state LAFCO is an independent agency, and it should be clear that the Commission alone has the authority to adopt its budget, determine staffing and office operations, to rely on independent legal counsel, and whether to contract for services with the County.

The Commission recently conducted a Strategic Planning workshop as part of a special meeting on July 10, 2023. One of the goals of that plan is LAFCO's independence from the County. The plan is on today's agenda for formal adoption as item 7b.

LAFCO staff has researched the approach used by various LAFCOs to address the functions that allow them to be independent.

With all of this in mind, staff recommends the Commission discuss the Agreement and consider providing direction to staff to work with County representatives on amendments. The Commission may wish to consider establishing an ad hoc subcommittee to assist staff in this endeavor.

ATTACHMENTS

- 1) Agreement for the Provision of Support Services with County of Napa and 10 Amendments
- 2) LAFCO Staff Report Dated April 6, 2015