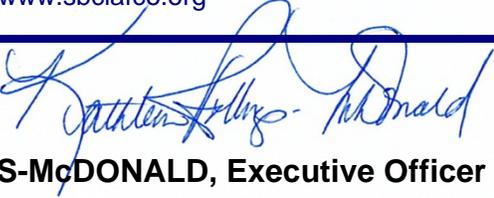


LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: AUGUST 12, 2013 
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item 6 – Discussion of Policy and Procedure Manual Updates

RECOMMENDATION:

Staff recommends that the Commission approve the revisions to the following Rule of Order and Policy as follows:

1. **RULE OF ORDER #5 -- APPOINTMENT OF STANDING, AD HOC, AND SPECIAL COMMITTEES** (*Amended August 21, 2013*)

The Chairman shall appoint such standing, ad hoc, and special committees as may be deemed necessary. Each Fiscal Year the Chairman shall determine the need for an ad hoc committee to review Audit and Budgetary matters and identify the membership.

2. **POLICY 9 – ACCOUNTING AND FINANCIAL POLICIES – REFUND OF LAFCO FILING FEE**

LAFCO FILING FEE REFUND (*Originally Adopted May 21, 1991 as part of the Fee Schedule; Added to Policy Manual on May 17, 2006; Amended August 21, 2013*)

If withdrawal of an application is requested, the LAFCO Filing Fee paid for processing will be refunded in the following manner:

- a. Following issuance of the Notice of Filing but prior to the commencement of the property tax negotiations for changes of organization or Department Review Committee consideration for sphere of influence amendment: 75% refund.

- b. Following commencement of the property tax negotiations or Department Review Committee process but prior to the advertisement of the Commission's consideration: 50% refund.
- c. Following advertisement of the Commission's consideration but prior to the Commission's consideration: 25% refund.
- d. Following the Commission's consideration: no refund.

Deposits are subject to individual refund procedures outlined on the Schedule of Fees, Deposits, and Charges.

BACKGROUND:

At the June 2012 Commission hearing, the LAFCO Policy and Procedure Manual was reorganized and updated. As a part of that discussion, Item #7 of the recommendation was to:

Establish an annual review of the Policy and Procedure Manual to be undertaken in August or September of every year to ensure that the document remains current and relevant.

Today is the first of the annual updates for the Commission's Policy and Procedure Manual. Over the past year, two policies and a rule of order have come to staff's attention for review.

1. **RULE OF ORDER ON APPOINTMENT OF STANDING AND SPECIAL COMMITTEES:**

Since 2001 the Commission has maintained a subcommittee that was called upon to review audit and budget issues as a part of the annual preparation of the budget. The process was initiated annually through the Chair. In 2006, the Rules of Order were amended to identify this Committee as "standing committee" as follows:

The Commission shall appoint such standing and special committees as it may deem necessary. As of January 1, 2001, the Commission has appointed a standing Finance and Administrative Committee made up of the Chair, Vice-Chair, and the most recent past Chair or other Commission member determined by the Chair.

Over the last year, several questions have arisen in the CALAFCO Executive Officer group regarding whether this type of committee would be subject to the Brown Act. The consensus is that since it was defined as an ongoing standing committee it would be, contrary to the perception of the Commission and staff at the time the Rule of Order amendment was proposed in 2006. The issue relates

to the word “standing” versus an “ad hoc” committee which is called upon when needed. In reality, the Finance and Administrative Committee is an ad hoc committee only called upon to meet if the Commission’s auditors feel it necessary to provide direct information, or when specific budgetary issues need to be vetted for consensus on direction. Therefore, staff is proposing a language revision to return the Rule of Order to a non-Brown Act ad hoc committee status. The proposed revision reads as follows:

The Chairman shall appoint such standing, ad hoc, and special committees as may be deemed necessary. Each Fiscal Year the Chairman shall determine the need for an ad hoc committee to review Audit and Budgetary matters and identify the membership.

The recommended language has been reviewed with LAFCO Legal Counsel.

2. **FILING FEE REFUND POLICY:**

The policy related to refunds of the LAFCO filing fee for withdrawn applications is outdated and requires non-substantive amendment. The amendments proposed include more appropriate milestones within the application process, updated references to other documents and deposits, as well as clarifying language. The amended policy is shown below with additions identified in red and deletions identified in red strikeout.

LAFCO FILING FEE REFUNDS (*Originally Adopted May 21, 1991; Added to Policy Manual on May 17, 2006; Amended August 21, 2013*)

If withdrawal of an application is requested, the LAFCO Filing Fees paid for processing will be refunded in the following manner (~~Legal Counsel, Environmental Review, Registrar of Voters, Landowner Notification and Protest Proceeding fees are subject to their own refund procedures outlined on the Fee Schedule~~):

- a. ~~If withdrawal is requested~~ Following issuance of the Notice of Filing but prior to the ~~processing commencement~~ of the property tax negotiations for **changes of organization or Department Review Committee consideration for sphere of influence amendment** ~~for the item~~; 75% refund. ~~of the LAFCO Filing Fee will be refunded.~~
- b. ~~If withdrawal is requested~~ Following commencement of the ~~property tax negotiations~~ **or Department Review Committee** process but prior to the advertisement of the Commission’s consideration; 50% ~~refund. of the LAFCO Filing Fee will be refunded.~~
- c. ~~If withdrawal is requested~~ Following advertisement of the Commission’s consideration but prior to the Commission’s consideration; 25% ~~refund. of the LAFCO Filing Fee will be refunded.~~

- e. ~~If withdrawal is requested~~ Following the Commission's consideration: ~~continuance or deferral of the application,~~ no refund ~~shall be provided.~~

Deposits are subject to individual refund procedures outlined on the Schedule of Fees, Deposits, and Charges.

3. **LEGAL COUNSEL CONFLICT:**

At the time that the Notice of Filing was published, staff and Legal Counsel were reviewing the language of the Legal Counsel Conflict policy item. It was determined during the discussions that no change was appropriate for the item and it was removed from consideration.

Staff recommends that the Commission approve the updates to the Rule of Order and the Policy Item for Refunds and direct staff to post the updated Policy and Procedure Manual and circulate the changes to affected and interested agencies. Should the Commission have any questions, staff will be happy to answer them prior to or at the hearing.

KRM