

Shasta County Grand Jury

Shasta Local Agency Formation Commission Shasta LAFCO: No Laughing Matter



(Image Source: shasta.lafco.ca.gov)

SUMMARY

The Shasta Local Agency Formation Commission (Shasta LAFCO) has endured legal battles, staffing challenges, and budgetary crises in recent years due to Shasta LAFCO's failure to adequately monitor and respond to operational issues. Shasta LAFCO is on its third Executive Officer in as many years and is failing to fulfill its purposes and programs due to severe financial restrictions.

BACKGROUND

Local Agency Formation Commissions were established by the California State Legislature under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Each county Local Agency Formation Commission (LAFCO) is an independent agency that serves as watchdog over city and special district boundaries. LAFCO's three main purposes are to discourage urban sprawl, encourage orderly governmental boundaries, and preserve open-space and prime agricultural land.

Shasta LAFCO serves a vital function to the citizens of Shasta County, yet many people may have never heard of it. Recently, the City of Anderson annexed land into its city limits. Where did it go to do that? Shasta LAFCO. In 1993, Shasta Lake City became an official incorporated City; this year, Mountain Gate Community Services District revised its service area in northern Shasta County. Where did they turn? Shasta LAFCO. Shasta LAFCO, through its responsibilities, affects cities, fire districts, water districts, cemetery districts, and all other independent special districts located within Shasta County. Every citizen in Shasta County is impacted by the actions of Shasta LAFCO.

The 2015/16 Shasta County Grand Jury began this investigation due to recent concerns over activities of Shasta LAFCO Executive Officers, financial problems, a class action lawsuit filed against Shasta LAFCO, and other ongoing legal battles.

METHODOLOGY

- Interviewed members of Shasta LAFCO Administrative and Legal staff.
- Interviewed a member of Shasta LAFCO's Commission
- Interviewed a member of the City of Anderson's Administrative staff

Shasta County Grand Jury

- Reviewed Governor's Office of Planning and Research LAFCO Municipal Service Review Guidelines
- Reviewed California Government Code Sections 56000-57550 (Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000)
- Reviewed Shasta LAFCO 2013/14, 2014/15, and 2015/16 budgets
- Reviewed Shasta LAFCO's five year Proposed MSR/SOI Update Plan & Cost Estimate
- Reviewed Shasta LAFCO's Policies & Procedures
- Reviewed Shasta LAFCO's Commission meeting minutes January, 2014 - April, 2015 (the most recent available)
- Attended Shasta LAFCO Commission and Finance Committee meetings
- Visited Shasta LAFCO's office in Redding

DISCUSSION

Shasta LAFCO is comprised of seven commissioners, with four alternates. Two members and one alternate are appointed by the Shasta County Board of Supervisors, two members and one alternate are selected collectively by elected officials representing the cities of Redding, Anderson and Shasta Lake, and two members and one alternate are selected from the legislative bodies of independent districts within Shasta County. The seventh member and one alternate are selected from the general public by the other Commission members. Each member serves a four year term. The office is run by a contracted Executive Officer, contracted legal counsel, and two part-time office staff.

Over the past two years, Shasta LAFCO has experienced difficulties with its Executive Officers. During this period, two Executive Officers have come and gone, leading to lawsuits and complaints filed with the California Labor Board. Effective in April, 2015, Shasta LAFCO's contracted legal counsel stepped in to also serve as the interim Executive Officer. In January, 2016, Shasta LAFCO entered into a six month contract for Executive Officer duties with Planwest Partners, a firm located in Eureka. Planwest Partners provides similar services for the LAFCOs of Humboldt, Del Norte, and Mendocino counties. Government Code Section 56384 only requires a LAFCO to have an Executive Officer and legal counsel. Shasta LAFCO has complied with this requirement.

A major obligation for every LAFCO is to conduct Sphere of Influence (SOI) reviews every five years for each entity it serves in its respective county. An SOI is the physical boundary and service area of a district or city. Before LAFCO can review an SOI, it must first complete a Municipal Service Review (MSR). An MSR is a comprehensive study conducted to determine the adequacy of services being provided by a district or city. Existing law requires that SOIs be reviewed every five years and updated, if necessary. Because MSRs must be completed for each SOI update, MSRs must also be updated at least every five years.

During the years 2001 to 2012, Shasta LAFCO was not conducting SOI or MSR updates as required. Minutes from multiple Shasta LAFCO Commission meetings reflect that there have been discussions of concern over meeting deadlines for those reviews, as well as concerns

Shasta County Grand Jury

regarding the financial viability of Shasta LAFCO. However, no action was taken to address those concerns. As a result, in 2013, a class-action lawsuit was filed against Shasta LAFCO to compel it to complete the required reviews and updates. Shasta LAFCO spent the majority of 2014 racing to complete approximately 50 overdue reviews. The last of those reviews was finally completed in early 2015.

Due to the large volume of additional work related to the updates, Shasta LAFCO did not have sufficient funds to complete the fiscal year ending June 30, 2015. To cope, it drastically restricted hours it was open to the public and reached an agreement with contracted legal counsel to delay payment of approximately \$30,000 in legal fees until the next fiscal year. To cover these payments, while continuing operations in the 2015/16 fiscal year, Shasta LAFCO chose to reduce many costs across the board, the most severe cut being \$40,000 from its personnel budget.

California Government Code Section 56381(a) requires, in part, that, “At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter.” With reduced staffing costs, Shasta LAFCO is only open to the public from 12:30 p.m. to 6:30 p.m., Monday through Thursday. By Shasta LAFCO making itself unavailable to the public in such a way, it is not fulfilling its purposes and programs. This is evidenced by frustrations voiced by City of Anderson staff in dealing with Shasta LAFCO during its recent land annexation, as well as by the failure of Shasta LAFCO staff to provide all requested documents to the Grand Jury for its investigation.

General operations of Shasta LAFCO are funded as follows: Shasta County contributes \$62,000 (1/3), the three cities share their portion of \$62,000 (1/3), and the districts share their portion of \$62,000 (1/3), for total funding of \$186,000. In addition, Shasta LAFCO charges fees for services it provides. The Grand Jury reviewed the most recent fee schedule, last updated in 2013, which may not accurately reflect changes in costs to provide services. Shasta LAFCO is not evaluating its fee structure, including its methodology for determining fees, cost of services versus fees, services that ratepayers are receiving for which they are paying, and availability of reasonable emergency reserves, among others.

There are additional funding and cost saving opportunities available to Shasta LAFCO. The LAFCO MSR Guidelines allow Shasta LAFCO to charge for the MSRs it prepares. Options could include allocating costs based on the size of a district, their budget, or revenue sources. Shasta LAFCO could also develop a cost estimate and negotiate on a case by case basis. It could also charge only some districts or cities for the MSR, and then give those paying entities priority in scheduling the reviews. The Grand Jury acknowledges that some smaller districts could struggle to pay additional money for their MSR. However, the above are examples of options for arranging charges for reviews without “gouging” small districts.

In 2015, Shasta LAFCO established a five year plan to ensure that all entities receive their MSRs within the required time, and at no additional cost to them. The plan is to stagger the reviews over a five year period, with no reviews beginning until 2017/18. In that year, Shasta LAFCO

Shasta County Grand Jury

will prepare 17 MSRs, followed by 18 in 2018/19, and the remaining 17 in 2019/20. By staggering the reviews, and only preparing them in the final three years, Shasta LAFCO anticipates being able to build up cash reserves sufficient to cover all costs.

This approach appears reasonable until considering that Shasta LAFCO is building reserves by not being open to the public. It is also not taking into consideration potential challenges with Executive Officers who oversee the MSR process. Given the recent history with Shasta LAFCO Executive Officers, it may be a risky approach to assume that there will not be problems in 2017, 2018, or 2019. Charging for MSRs would allow Shasta LAFCO to begin preparing them in the current year and each subsequent year without creating a backlog and the possibility of another class-action lawsuit should unanticipated problems arise in the future.

In addition, Shasta LAFCO has potential cost savings available, also outlined in detail in the LAFCO MSR Guidelines. These include joint agency practices such as shared insurance coverages, shared facilities, and availability of excess capacity to serve customers of other agencies, among many others. Minutes from 2014 and 2015 Shasta LAFCO Commission meetings show discussion of moving to shared facilities with Shasta Regional Transportation Agency. This has potential to save money on rent and shared employees while providing public access to Shasta LAFCO offices during normal business hours.

Although there has been discussion, Shasta LAFCO has not taken action on improving its hours of operation and public access. Shasta LAFCO staff asserts that current hours are sufficient because of the low volume of activity. However, if it was again fully staffed, Shasta LAFCO could actually provide services to other LAFCO offices and receive reimbursement, further offsetting costs. Also, the California Association of Local Agency Formation Commissions will host a county LAFCO's website at no charge. Taking advantage of this would allow Shasta LAFCO to save additional money.

As part of this investigation, the Grand Jury reviewed Shasta LAFCO's Policies & Procedures. This review revealed that portions have not been updated for over fifteen years and that they do not reflect current Shasta LAFCO operations. For example, Section 3 of Chapter 1 requires monthly Board meetings to be held on the first Thursday of the month, at 3:00 p.m., in the Shasta County Board of Supervisors Chambers. In reality, the monthly meetings are held at 9:00 a.m., and the location changes month to month between city and county facilities. Although this approach is equitable and provides equal access to all throughout the County, it is not reflective of currently stated policy. Having current and updated policies and procedures will help Shasta LAFCO staff stay on track and assist new Commissioners in familiarizing themselves with Shasta LAFCO.

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.

Shasta County Grand Jury

- 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.
- F3. Shasta LAFCO has not updated its fee schedule since 2013, leaving the possibility that it is not charging sufficient fees for its services.
- F4. Shasta LAFCO has failed to take advantage of additional revenue sources by not charging for Municipal Service or Sphere of Influence Review updates.
- 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.
- 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.
- F7. Shasta LAFCO's actions violate its own Policies & Procedures, because their policies and procedures have not been updated to reflect their actual practices.

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.
- 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 – 5:00 pm, and to fully comply with Government Code Section 56381(a) no later than September 30, 2016.
- R3. The Grand Jury recommends that Shasta LAFCO review its current Fee Schedule and make revisions as needed no later than December 31, 2016.
- 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.
- 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 Review updates to begin completing them in the 2016/17 fiscal year.

Shasta County Grand Jury

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 than December 31, 2016.

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

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the following responses are required:

From the following governing body (within 90 days):

- Shasta Local Agency Formation Commission: **F1, F2, F3, F4, F5, F6, F7 and R1, R2, R3, R4, R5, R6, R7**

The Grand Jury recommends that all governing bodies place their responses to all Grand Jury Reports on their Regular Calendars for public discussion, not on their Consent Calendars.

INVITED RESPONSES

The Grand Jury invites the following response:

NONE

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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