

August 10, 2022

9b | Commission
Discussion

REGULAR MEMBERS

CHAIR
Douglass Davert
Special District Member

VICE CHAIR
Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR
Derek J. McGregor
Public Member

Lisa Bartlett
County Member

Wendy Bucknum
City Member

James Fisler
Special District Member

Peggy Huang
City Member

ALTERNATES

Andrew Do
County Member

Kathryn Freshley
Special District Member

Lou Penrose
Public Member

Vacant
City Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer

SUBJECT: Alternate Members – Meeting Attendance

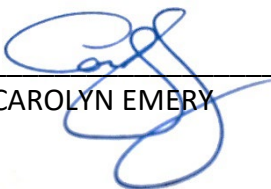
BACKGROUND

During the June 8 Regular Commission Meeting, the Commission directed staff to agendize for discussion the documentation in the minutes of alternate members' attendance at the regular meetings. To assist in this discussion, attached to this report are the "Bylaws of the Orange County Local Agency Formation Commission." As a note, key references relative to this matter may be found in Sections 1.17 (page 9) and 1.28 (pages 15-16) of the bylaws.

COMMISSION ACTION

1. Discussion of the item and provide direction to staff accordingly, if applicable.

Respectfully submitted,



CAROLYN EMERY

Attachment 1: "Bylaws of the Orange County Local Agency Formation Commission"

SECTION 1:
Orange County
LAFCO Bylaws

Bylaws of the Orange County Local Agency Formation Commission

ARTICLE - GENERAL¹

1.1 TITLE

This Commission shall be entitled and known as the Orange County Local Agency Formation Commission (“Orange County LAFCO”), hereinafter referred to as the “Commission.”

1.2 MISSION

Adopted November 10, 2021, the mission of Orange County LAFCO is as follows: “OC LAFCO serves Orange County cities, special districts, and the county to ensure effective and efficient delivery of municipal services..”

Orange County LAFCO ensures logical and timely changes in governmental boundaries (§56001); conducts special studies which review ways to reorganize, simplify and streamline governmental structures (§56301); and prepares spheres of influence for each city and special district within the county (§56425). The Commission promotes the provision of efficient and economical services while encouraging the protection of agricultural and open space lands (§56001 and §53000). Further efforts include discouraging urban sprawl and encouraging orderly formation and development of local agencies based upon local conditions and circumstances (§56301).

Local Agency Formation Commissions are independent commissions that are not a part of county government. While serving on the commission, all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division. 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. This section of the Government. Commissioners are not required to abstain on any matter, nor does Each commissioner is independent when weighing and reviewing information and when making determinations (§56325.1).

¹ Note: All code notations in the Bylaws refer to California Government Code unless otherwise noted.

1.3 AUTHORITY

The conduct of Orange County LAFCO is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Sections 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. In the event of a conflict between the provisions set forth in these bylaws and those set forth in the CKH Act, the provisions of the CKH Act shall prevail.

1.4 FUNDING

LAFCO annually adopts a budget in accordance with the provisions of the CKH Act. The County Auditor-Controller, in consultation with LAFCO staff, is responsible for apportioning the Commission's net operational costs to the County, the cities, and the independent special districts according to formulas established under Section 56381 of the CKH Act.

ARTICLE 2 - DEFINITIONS

- 1.5 Alternate Member: The person appointed to serve and vote in place of a regular member under any of the circumstances set forth in Section 1.15, below.
- 1.6 Board of Supervisors: The Orange County Board of Supervisors.
- 1.7 Chair: The person appointed annually by majority vote of the Commission to maintain order and decorum of Commission regular and special meetings and responsible for the appointment of members to agency subcommittees.
- 1.8 Vice Chair: The person appointed annually by majority vote of the Commission to perform the duties of the Chair if the Chair is absent or disabled.
- 1.9 Commission: The Orange County Local Agency Formation Commission.
- 1.10 Commissioners: All members of the Commission, both regular and alternate.
- 1.11 County: The County of Orange, California.
- 1.12 LAFCO: The Orange County Local Agency Formation Commission.
- 1.13 Members: All regular and alternate members of the Orange County Local Agency Formation Commission.

ARTICLE 3 - ORGANIZATION**1.14 COMPOSITION**

The Commission shall consist of seven regular members and four alternate members (§56352, §56332). All commissioners must be residents of Orange County.

1.15 SELECTION/APPOINTMENT OF MEMBERS

- 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. City: The City Selection Committee shall appoint 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 procedure established by the City Selection Committee and described in the rules and regulations of that body.
- C. Special Districts: The Special Districts Selection Committee shall appoint two regular commissioners and one alternate commissioner from the special districts within the County (§56332). Such appointments shall be made in accordance with the procedure established by the Special Districts Selection Committee and described in the rules and regulations of that body.
- D. Public Member: The public member and one alternate public member are appointed by a majority vote of the Commission in accordance with §56325(d) and in the manner detailed in the policy and procedures adopted by the Commission.

1.16 TERMS OF OFFICE

- A. The term of office of each Commission member shall be four years, expiring on June 30 in the year in which the term of the member expires.
- B. Any member may be removed at any time without cause by the body appointing that member. If a member who is a city, County, or special district officer ceases to hold that position during his or her term, that member's seat on the Commission shall become vacant.
- C. Any vacancy in the 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. If a regular member seat becomes

vacant, the alternate member in that category shall serve in his/her place until such time as a new regular member has been appointed.

1.17 ROLE OF ALTERNATE MEMBERS

- A. In each member category, the alternate commissioner shall serve and vote in place of a regular member who is absent or disqualifies/recuses him/herself from voting on a specific matter before the Commission (§56331).
- B. All alternate members are expected 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, Orange County LAFCO encourages alternate members to participate in discussion of issues before the Commission. Alternate members are expected to be qualified to vote when called upon and to be briefed as to the potential litigation. Therefore, alternate members are considered covered by the attorney-client privilege and are expected to attend closed sessions.
- C. Orange County LAFCO further encourages alternate members to attend CALAFCO conferences and university courses.

1.18 COMMISSION OFFICERS

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

- I. The Chair and the Vice Chair shall be appointed by a majority vote of the Commission each year at the January meeting, or the next regular meeting thereafter, and shall take office immediately. If a vacancy occurs of a Commission officer during the year, it shall be filled by majority vote of the Commission at the next regular meeting following occurrence of the officer vacancy.
- II. 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, whichever occurs sooner. However, if either the Chair or Vice Chair rotates into an alternate position, he or she may serve on a pro tempore basis until the Commission appoints a successor.
- III. 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 by these rules. The Chair shall preserve order and decorum at all meetings and shall decide all questions of order and procedure, subject to the action of the majority of the Commission.

- IV. 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 the contracts for urgently needed goods and services if the Executive Officer is unavailable.
- V. The Chair, with the exception of the Executive Committee, shall appoint members to all committees of the Commission, including the authority to create special-purpose committees not named in these Bylaws.
- VI. The Executive Committee of the Commission shall generally be comprised of the current Chair, the Vice Chair, and immediate past Chair. The Executive Committee meets as needed to discuss preliminary agency budgets and other agency issues and serves in an advisory role to the full Commission.
- VII. 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.
- VIII. In the event both the Chair and the Vice Chair are absent from a Commission meeting at which a quorum is present, the Immediate Past Chair shall act as Chair pro tempore for that meeting.
- IX. In the event that the Chair, Vice Chair and Immediate Past Chair are absent from a Commission meeting at which a quorum is present, the voting members present shall appoint a member to act as Chair pro tempore for that meeting.

1.19 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 meeting in any twelve-month period.
- B. Malfeasance of office or dereliction of duty by that member.
- C. Failure to complete required financial disclosure documents in a timely manner.

1.20 COMPENSATION

- A. Each member in attendance at any Commission regular or special meeting, shall receive a stipend of \$100 per meeting, up to a maximum of \$200 per month. A W2 Form (IRS wage and tax statement) shall be issued to each

Commissioner no later than January 31st of each year.

- B. Members appointed to committees shall receive \$50 for attendance at committee meetings, or half the amount paid for attendance at Commission meetings (as set forth in item “a,” above). As specified under item “a” (above), the maximum amount paid to any Commissioner in a given month shall not exceed \$200.
- C. Members will be reimbursed at the currently applicable IRS rates for reasonable and necessary mileage expenses incurred for meeting attendance and other Commission business, including committee meetings and CALAFCO functions. Mileage expenses are not included in the wage and tax statement.
- D. Commissioner attending CALAFCO functions (i.e., conferences, workshops, Executive Board meetings) shall be compensated for the expenses associated with conference registration, accommodations, parking, mileage, and car rental. Commissioners shall not receive a stipend for attending such functions. However, if a Commissioner serves as a CALAFCO Board Member, he/she shall receive a stipend for attending CALAFCO Executive Board meetings (as set forth in items “a” and “b” above).
- E. Commissioners are not employees of LAFCO and are not eligible for any employee benefits.

1.21 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 Orange County Board of Supervisors Office by the date determined by the FPPC.
- B. Any member of the Commission not in compliance with this requirement is subject to the fines and penalties established by the FPPC.

1.22 ELIGIBILITY OF COMMISSIONERS FOR STAFF POSITIONS

The Commission shall not accept the application of any current regular or alternate Commissioner for a LAFCO staff position unless such application is accompanied by the Commissioner’s signed letter of resignation.

1.23 EXECUTIVE OFFICER

- A. The Executive Officer shall be appointed by resolution of the Commission to serve at the pleasure of the Commission. S/he or her/his representative shall

prepare or cause to be prepared an agenda for each meeting and maintain a record of all proceedings as required by law and these bylaws, and as instructed by the Commission. S/he, or a designee, shall set all hearing dates, publish all necessary advertisements and any other notices as provided herein below, and shall oversee the performance of all other clerical and administrative services required by the Commission.

B. In addition, the Executive Officer shall:

1. Hire and discharge all other employees of the Commission as may be necessary to effectively facilitate the business of the Commission.
2. Call on other County departments for information as the need arises.
3. Approve all necessary forms used by the Commission and staff and cause to be prepared and safely kept all necessary records and Commission minutes.
4. Carry out all orders and directions as instructed by the Commission.

1.24 LEGAL COUNSEL

A. The LAFCO General Counsel shall be appointed by the Commission and shall serve at the pleasure of the Commission.

B. LAFCO General Counsel shall:

1. Attend all meetings of the Commission.
2. Give all requested advice on legal matters.
3. Represent the Commission in legal actions unless the Commission specifically makes other arrangements.

ARTICLE 4 - MEETINGS/CONDUCT OF BUSNIESS

1.25 REGULAR MEETINGS

A. Regular Commission meetings are held the second Wednesday of each month at 8:15 a.m. in the Planning Commission Hearing Room of the Orange County Hall of Administration, 10 Civic Center Plaza in Santa Ana, CA.

B. The Commission shall establish a schedule of its upcoming meetings for at least six months in advance. The Commission shall adopt a calendar detailing its annual meeting schedule for the following year at the regular Commission

meeting in November, or the next regular meeting thereafter. This meeting schedule will be attached to the monthly agenda mail-out and posted to the LAFCO website.

- C. 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," Government Code Sections 54950 - 54962.

1.26 SPECIAL MEETINGS

- A. The Chair or Executive Officer may call a special meeting of the Commission. Also, the Chair shall call a special meeting if requested by three or more commissioners.
- B. Special meetings of the Local Agency Formation Commission shall be called in the manner provided by Section 54956 of the Government Code. 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 transacted at such meeting, and no other business shall be considered at the meeting.

1.27 NOTICE OF MEETINGS/AGENDAS

- A. The Executive Officer shall provide notice of all regular and special meetings in accordance with the "Open Meeting Law," Section 54954.1 of the Government Code, and applicable provisions of the CKH Act.
- B. The Executive Officer, in consultation with the Chair, shall prepare the agenda for each meeting, which will serve as written notice of regular and special meetings of the Commission. Unless otherwise directed by the Commission, the Executive Officer shall set as many matters for hearing as can be reasonably heard. Each agenda item will specify a single subject to be considered.
- C. Though the order of business may vary slightly per the Executive Officer or Commission's discretion, agendas will include the following items:
1. Call to Order
 2. Pledge of Allegiance
 3. Roll Call
 4. Approval of Minutes
 5. Public Comments - an opportunity for members of the public to address

the Commission on items not on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken on off-agenda items unless authorized by law.

6. Consent Calendar
 7. Public Hearing
 8. Commission Discussion and Action includes items requiring discussion and action from the Commission. Actions may include receive and file of reports or approval/adoption by the Commission.
 9. Commissioner Comments - an opportunity for commissioners to comment on items not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action or discussion by a quorum of the Commission may be taken on off-agenda items unless authorized by law.
 10. Executive Officer's Report
 11. Informational Items
 12. Closed Sections
 13. Adjournment
- D. The regular meeting agenda packet will be sent by electronic means or mailed or faxed upon request to at least the following:
1. Each Commission member and LAFCO staff
 2. Affected County agencies
 3. To any person or entity requesting a copy of the agenda in writing as follows:
 - a. LAFCO staff shall provide electronic access to the meeting agenda and agenda packet to any person who has filed a written request for such materials at the time the agenda is posted.
 - b. Upon request, LAFCO staff shall provide a written copy of the meeting agenda and agenda packet in accordance with Orange County LAFCO's established fee schedule.

A request for a written copy of the meeting agenda and agenda packet is valid for one calendar year in which it is filed and must be renewed with LAFCO staff following January 1 of each year.

- c. Failure of the requesting person to receive the agenda does not constitute grounds for invalidation of actions taken at the meeting.
 4. The Executive Officer shall provide additional notice of specific applications in the manner required by the CKH act for that application. Such notices shall be sent to the applicant, affected property owners or citizens, and other persons or entities as the Commission or the Executive Officer may deem appropriate.
- E. Meeting agendas will be posted at least 72 hours in advance of the meeting in the following locations:
1. On the Orange County LAFCO website at www.oclafco.org.
 2. On the bulletin board located inside the lobby of the Planning Commission Hearing Room (1st Floor) of the Orange County Administration Building, 10 Civic Center Plaza, Santa Ana, CA.
 3. On the bulletin board outside the Planning Commission Hearing Room located inside the Robert E. Thomas Hall of Administration Building located at 10 Civic Center Plaza, Santa Ana, CA 92701, as well as on the outside of the same venue on the bulletin board designated for LAFCO notices.
- F. The Executive Officer shall complete a staff report, including his/her recommendations, not less than seven days prior to the hearing. Copies of the staff report, along with the agenda, shall be furnished to each Commissioner and to other parties as required by the CKH Act (Section 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.
 3. Each affected local agency which has filed a request for a report with the Executive Officer.

1.28 QUORUM AND MAJORITY

- A. Four Commissioners present in person and entitled to vote shall constitute a

quorum.

- B. Commissioners may participate in commission meetings via video and/or teleconferencing and count towards the quorum as long as the requirements of Government Code Section 54953 are followed. In summary, Government Code Section 54953 requires:
1. Agendas must be posted at any location where a Commissioner is video and/or teleconferencing and each teleconference location must be identified in the meeting notice and agenda.
 2. Each video and/or teleconference location must be accessible to the public and members of the public must have an opportunity to address the Commission at each teleconference location.
 3. The video and/or teleconference location must be within the jurisdictional boundaries of Orange County.
- C. An affirmative vote of four or more commissioners is required to make an action of the Commission, unless a more specific vote requirement is provided in the CKH Act. Proxy votes are not allowed.
- D. All members of the Commission, including the city alternate, the county alternate, special district alternate and the public member alternate, shall attend all meetings of the Commission. The alternate members qualify to vote only in the place of the class of the Commission member to who s/he serves as alternate.

1.29 CONDUCT OF MEETINGS

- A. Each meeting shall begin with the Chair's call to order, followed by the pledge of allegiance, and then the roll call. Thereafter, the order of business shall follow as outlined in the agenda 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
 2. Pledge of Allegiance
 3. Roll Call
 4. Approval of Minutes

5. Public Comment

- a. Per Government Code Section 54954.3, any member of the public wishing to address the commission on a topic NOT listed on the agenda, but within the jurisdiction of the Commission, may do so during this section of the agenda.
- b. Those wishing to address the Commission during the public comment session may submit a speaker card to the Commission Clerk in advance of the Chair calling for public comments. Each speaker shall be allotted three minutes to address the Commission, subject to the discretion of the Chair.
- c. Except as permitted under the "Open Meeting Law" the Commission cannot discuss or act on an item that is not listed on the agenda.

6. Consent Calendar

- a. Consent items are voted on in a group with one motion.
- b. If any member of the Commission desires that a separate vote be taken on any individual matter listed with 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 within the consent items may occur without removing that matter from the consent agenda for a separate vote.
- d. A Commissioner may record an abstention on one or more matters listed on the consent agenda by so stating at the time the vote is taken.

7. Public Hearing

The Commission shall conduct matters noticed for public hearing as follows:

- a. The Executive Officer or staff designee shall present 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.
- b. Commissioners may address staff and ask questions concerning matters in the staff report.
- c. The Chair shall open the public hearing.

- i. Speaker cards are available for those wishing to address the Commission during the public hearing. Speakers may submit a speaker card to the Commission Clerk in advance of the Chair opening the public hearing.
- ii. Speakers are requested to identify themselves when presenting before the Commission. However, Government Code Section 54953.3 provides that no member of the public shall be required to register his/her name or provide other information.
- iii. The applicant/main proponent of an item and representatives of the affected agencies shall be allowed three minutes to address the Commission. Each additional speaker shall be allotted three minutes. Time limits are subject to the discretion of the Chair. Speakers will be called to address the Commission in the following order:
 1. The applicant or applicant's representative and representative(s) from the agency(ies) involved in, or affected by, the change of organization will be asked to speak first to add any pertinent data or testimony to the staff report.
 2. The public will then be invited to give testimony. When a group wishes to present before the Commission, the Chair may request that a spokesperson be chosen by the group to address the Commission.
- iv. Commissioners may question any participant in the proceedings.
- v. The Chair shall close the public hearing following the receipt of testimony and rebuttals.
- vi. Following closure of the public hearing, the members will discuss the matter under consideration among them and/or act 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.
- vii. Further testimony from the applicant or the public may not be accepted without reopening the public hearing, except that commissioner 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.

8. Commission Discussion

9. Commission Comments
 10. Executive Officer's Report
 11. Informational Items
 12. Closed Session
 13. Adjournment
- 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 & Voting
1. Any voting commissioner 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. The roll shall be called by the Commission Clerk, except the members making and seconding the motion shall be called first and second respectively, and the Chair shall be called last.
 4. The Chair may make or second any motions without stepping down from the Chair.

1.30 ADJOURNMENT & CONTINUANCE OF MEETINGS & PUBLIC HEARINGS

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.

1.31 MEETING MINUTES

The Executive Officer shall cause a member of his/her staff to take and transcribe the minutes of each meeting and distribute copies thereof to all members prior to the next meeting, when such minutes may be ordered by the Chair to be approved as distributed, unless there is an amendment to the minutes.

Rules adopted to expedite the transaction of business of the Commission in an orderly fashion are deemed 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 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 Chair or a majority of the Commission members.

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

I [Commission Clerk] of the Local Agency Formation Commission of Orange County, California, hereby certify the foregoing to be a full, true, and correct copy of the duly adopted bylaws of the Local Agency Formation Commission of Orange County, California, currently in effect on the date herein below set forth.

IN WITNESS WHEREOF, I have hereunto set my hand this [insert day, month, and year].

Commission Clerk

Original Adoption Date: Pre-1977
Date of Last Review: 11/8/2017
Revisions: 11/8/2017, 10/14/2015, 4/9/2014, 2/8/2012, 2/9/2011, 2/10/2010,
3/11/2009, 4/9/2008, 2/9/2005, 10/5/1988, 3/6/1985, 4/4/1984, 10/8/1980,
10/26/1977