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**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)  
EXECUTIVE OFFICER'S REPORT**

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**AGENDA ITEM No. 11**

**DATE:** July 9, 2008

**TO:** Local Agency Formation Commission

**FROM:** Rick Ballantyne, Executive Officer  
Darrel Schmidt, Deputy Executive Officer

**SUBJECT:** **Consider Approval** - Adopt LAFCo Policies for the Destruction of LAFCo Public Records. To amend Section 700 (Commission Administration) of Fresno LAFCo Policies, Standards, and Procedures to include provisions for LAFCo Public Record Maintenance including standards and conditions necessary for the destruction of its public records.

**Background:**

In 1997, LAFCo staff, with the consent of the Commission, purged official records and microfilmed all files dated 1994 and older. At its June 4, 2008, hearing, staff reported to the Commission that its office would soon run out of available filing space to store additional files and documents and sought Commission authorization to archive LAFCo documents dated 1995 through 2003. Staff reported that, while the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (LAFCO Law) maintained provisions for destruction of LAFCO documents, Fresno LAFCO's *Policies, Standards, and Procedures* did not. Therefore, staff recommends that the Commission adopt policies for Fresno LAFCo's public record maintenance, including standards and conditions necessary for the destruction of its public records.

**Discussion:**

- LAFCo Law provides for relatively broad discretion with respect to destruction of Commission records. The Act requires that original documents be retained for a minimum of two years, with certain limitations. Specifically, Government Code Section 56382 (Destruction of Records) states:

*The Commission may authorize the destruction of any duplicate record, paper, or other document if the original or a photographic or electronic copy of the record, paper, or other document is retained in the files of the Commission, and the Commission may authorize the destruction of original records more than two years old if a photographic or electronic copy of the original record is made and preserved, provided that the following conditions are met:*

- (a) *The record is reproduced on a medium that does not permit additions, deletions, or changes to the original document, or reproduced in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management for recording of permanent records or nonpermanent records, whichever applies.*

(b) *The device used to reproduce the record is one that accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions or changes to the original document images.*

(c) *The reproductions are made as accessible for public reference as the original records were.*

(d) *A true copy of archival quality of the reproductions shall be kept in a safe and separate place for security purposes.*

- By instituting policies based upon these provisions of the LAFCo Law, staff does not intend to destroy records every two years (as permitted by State law), but rather when it becomes necessary to allow for additional storage space. It is likely that original documents will be retained many years beyond the present two-year requirement.
- Staff realizes that in cases where recordation of a change of organization or reorganization is not achieved timely and where extensions of time are granted, that the two-year time frame discussed in Section 56382 above, may not be appropriate. In such instances, it would be more appropriate that the time period be tolled from the time of recordation.
- Where changes in organization or reorganization are allowed to expire, the time to destroy the documents pursuant to this policy would be tolled from the date of original approval, or the date of the most recently granted time extension, if such extension(s) was granted.
- Prior to destruction of any records, staff believes it would be appropriate to place an item on the Commission's Consent Agenda that describes the types of files to be destroyed and identifies the years in which they originated. For example, staff does not recommend the destruction of originally signed resolutions. Review by LAFCo Counsel and the Commission's approval would be required before any records would be destroyed.
- Prior to destruction of any paper records, documents will be scanned by LAFCo staff and stored in PDF format on compact disks, or other appropriate medium and format as technology allows, in a locked "fireproof" box to be kept at the LAFCo offices. These same records will also be maintained on the County's "network" drive. If the Commission so desires, a second copy of the compact disks (or other medium) may be stored at an appropriate offsite location, as determined by the Commission.
- While audio recordings of Commission meetings are considered public records, such recordings are maintained electronically (website) and on compact disks that do not take significant filing space. These records are not proposed for destruction, but are to be maintained as a permanent record of Commission proceedings.
- Staff in preparing this report did review *Fresno County's Administrative Policy Number 6: Records Management* that is utilized by County Departments. The County's Policy discusses establishing records retention schedules, addresses the need for review and approval of these schedules by the County Counsel, the Auditor-Controller/Treasurer-Tax Collector and the County Librarian, prior to their presentation for approval to the Board of Supervisors, and discusses how documents will be stored and may be retrieved.
- Given the size and relative simplicity of LAFCo's records management needs (compared to the County's needs), staff believes that LAFCo's Destruction of Records Policies will adequately meet LAFCo's needs while maintaining compliance with Government Code Section 56382.

**Recommendation:**

Amend Section 700 of the Commission's Policies, Standards, and Procedures to include provisions for "Destruction of LAFCo Public Records" as identified in Exhibit "A".

If the Commission desires staff to perform additional review or investigation to be included within an addendum report, staff would recommend a second reading be scheduled for the Commission's August 13, 2008 hearing.

**EXHIBIT 'A'**

**730 DESTRUCTION OF RECORDS (Code Section 56382).**

Code Section 56382 sets forth the Commission's authority for destruction of LAFCo records.

- 01 Original records two years old or less shall be maintained in the LAFCo Office. The Commission may authorize the destruction of original records more than two years old if a photographic or electronic copy of the original record is made and preserved, provided that the following conditions are met:
  - A. Following review by LAFCo Counsel, the Executive Officer places on the Commission's agenda an item that describes the types of records to be destroyed and identifies the years in which they originated, and permission to destroy said records is granted by the Commission.
  - B. The records are reproduced on a medium that does not permit additions, deletions, or changes to the original document, or reproduced in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management.
  - C. The device used to reproduce the records is one that accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions or changes to the original document images.
  - D. The reproductions are made as accessible for public reference as the original records were.
  - E. A true copy of archival quality of the reproductions shall be kept in a safe and separate place for security purposes.
- 02 Original signed resolutions may not be destroyed.
- 03 The Executive Officer may destroy any duplicate record, paper, or other document if the original or a photographic or electronic copy of the record, paper, or other document is retained in the files of the Commission.
- 04 At least one copy of all electronic reproductions shall be stored on compact disks, or other appropriate medium as technology allows, in a locked "fireproof" box in the LAFCo offices. A second copy shall be maintained on the County's "network" drive and/or on compact disks or other medium at an appropriate offsite location, as determined by the Commission.

- 05 In the case of Commission approved changes of organization and reorganizations where recordation is not achieved timely and where extensions of time are granted, the two-year time frame identified in Policy 730-01, shall be tolled from the time the change of organization or reorganization is completed (recorded).
- 06 In cases where a change of organization or reorganization is allowed to expire, the two-year time frame shall be tolled from the original date of approval or the date of the most recent time extension, if such extension(s) was granted.
- 07 Audio recordings of all Commission meetings shall be maintained on compact disks or other appropriate medium as provided by State law and shall be stored in the manner as described in Subsection 04 above. These records are to be maintained as a permanent record of Commission proceedings.

Added: 7/9/2008