



# San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

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# 7b

**AGENDA REPORT**  
Business | Action

May 1, 2023

**TO:** Commissioners

**FROM:** Keene Simonds, Executive Officer

**SUBJECT:** **Proposed Policy Amendments |  
Amending Rule No. 2 and Votes Need to Carry a Motion**

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## SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider approving two related amendments to its adopted policies governing the conducting of meetings – Rule No. 2. The proposed amendments have been agendized at the request of the Chair and specific to subsections 6.2 and 6.7 and the existing language requiring five affirmative votes to carry any motion. The amendments would change the threshold to a majority of the quorum present. No other changes are proposed.

## BACKGROUND

### Current Policy on Votes Need to Carry a Motion

San Diego LAFCO’s Rule No. 2 subsections 6.2 and 6.7 collectively require no less than five affirmative votes from Commissions to approve any motion. This threshold applies irrespective of whether all eight voting members on the Commission are present. If a quorum of only five Commissioners are present, a successful action requires unanimous approval. LAFCO records show the policy has been part of Rule No. 2 since at least December 2000.

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**Barry Willis**  
Alpine Fire Protection

**David A. Drake, Alt.**  
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**Andy Vanderlaan**  
General Public

**Harry Mathis, Alt.**  
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## **DISCUSSION**

This item is for San Diego LAFCO to consider amendments to Rule No. 2 and its provisions in subsections 6.2 and 6.7 to change the threshold for successful votes from five to a majority of the quorum present. The proposed amendments have been requested by the Chair to allow the Commission to take actions consistent with the majority of the quorum when only six or five members are present and/or eligible to vote.

The proposed amendments to Rule No. 2 are shown in track-change as Attachment One.

## **ANALYSIS**

The proposed amendments purposefully align with the County of San Diego and its provisions to allow the Board of Supervisors to take actions consistent with the majority of the quorum present. The timing of the proposal follows the events leading up to the March 2023 meeting when it was uncertain whether more than five Commissioners were going to be present and able to act on an otherwise controversial item. The Executive Officer supports the proposed amendments.

## **RECOMMENDATION**

It is recommended San Diego LAFCO consider the proposed amendments to Rule No. 2.6 as requested by the Chair and approve.

## **ALTERNATIVES FOR ACTION**

The following alternative actions are available to San Diego LAFCO:

Alternative One (recommended):

Approve the proposed amendments to Rule No. 2 as shown in Attachment One with an immediate effective date.

Alternative Two:

Continue consideration of the item to a future meeting and provide direction to staff for additional information as needed.

Alternative Three:

Take no action.

## PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for action as part of the business calendar. The following procedures are recommended in the consideration of this item:

- 1) Receive verbal presentation from staff unless waived.
- 2) Commission discussion.
- 3) Consideration of the staff recommendation.

Respectfully,

Keene Simonds  
Executive Officer

Attachment:

1. Proposed Amendments to Rule No. 2 (Track-Changes)

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**RULES  
SAN DIEGO  
LOCAL AGENCY FORMATION COMMISSION**

**ARTICLE II  
MEETINGS**

- 2.1 Public Meetings
- 2.2 Regular Meetings
- 2.3 Adjourned Meetings
- 2.4 Special Meetings
- 2.5 Agendas of Regular Meetings
- 2.6 Quorum; Votes Needed to Carry a Motion; Effect of Failure to Approve a Matter
- 2.7 Matters Considered
- 2.8 Attendance at Meetings
- 2.9 Disqualification
- 2.10 Per Diems
- 2.11 Reimbursements
- 2.12 Electronic Tablet Use

**2.1 PUBLIC MEETINGS -**

All meetings and activities of the Commission shall be subject to the Ralph M. Brown Act.

**2.2 REGULAR MEETINGS -**

Regular meetings of the Commission shall be held on the first Monday of each month unless that Monday is a holiday, in which case that meeting will be held the following Monday. Meetings will commence at 8:00 a.m., in Room 302, County Administration Center, 1600 Pacific Highway, San Diego.

**2.3 ADJOURNED MEETINGS -**

Any meeting may be adjourned to a specific date, time, and place. The chairperson shall announce the date, time, and place of the adjourned regular meeting. A notice shall be posted at the Commission's regular place of posting specifying the date, time, and place of the adjourned regular meeting. Less than a quorum may adjourn a meeting. If all members are absent, the Commission clerk may adjourn the meeting to a specified date, time, and place, and post the required notice.

**2.4 SPECIAL MEETINGS -**

A special meeting may be called at any time by the chairperson, or by a majority of the members of the Commission, by delivering personally or by any other means, notice to each member of the Commission and to each local newspaper of general circulation, radio, or television station requesting notice in writing. The notice must be received at least 24 hours

before the time of the meeting as specified in the notice. The call and notice shall specify the date, time, and place of the special meeting and business to be transacted.

No other business shall be considered at such meetings by the Commission. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes, files with the clerk of the Commission a written waiver of notice. Such waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The call and notice shall be posted at least 24 hours prior to the special meeting at the Commission's regular place of posting.

## **2.5 AGENDAS OF REGULAR MEETINGS -**

At least 72 hours before a regular meeting, an agenda shall be posted at the Commission's regular place of posting that will contain a brief description of each item of business to be transacted or discussed at the meeting. The agenda shall also be posted on the Commission's website: [sdlafco.org](http://sdlafco.org). However, failure to post on the Commission's website will not invalidate any action of the Commission. Any person may speak to any item on the agenda. In addition, the agenda will include an item entitled "Public Comment" during which members of public may speak to any matter within the Commission's jurisdiction, but not on the agenda. The Commission will not make a final determination on any issue raised during the Public Comment period that is not included on the agenda. The Commission will have the option of referring the matter to staff or scheduling action for a future agenda. Each speaker shall be limited to no more than three minutes on any item unless extended by permission of the Chairperson.

## **2.6 QUORUM; VOTES NEEDED TO CARRY A MOTION; EFFECT OF FAILURE TO APPROVE A MATTER -**

1. Five members of the Commission constitute a quorum for the transaction of business.
2. An affirmative vote of the quorum of the Commission present is required to adopt any motion.
3. If a proposal for a change of organization or reorganization is wholly disapproved by the Commission, no further proceedings shall be taken on the proposal and no similar proposal involving the same or substantially the same territory, shall be initiated for one year after the date of adoption of the resolution terminating proceedings. The Commission may waive these requirements if it finds it to be in the public interest to do so.
4. If a proposal for a change of organization, reorganization or amendment of a sphere of influence is neither denied, continued nor approved at the meeting at which it is considered, it is deemed denied without prejudice to refiling a petition or resolution of application for the proposal at any time.
5. If a recommendation to adopt an original sphere of influence is neither approved nor continued at the meeting at which it is considered it is deemed automatically continued to the next meeting of the Commission.
6. If an application pursuant to Government Code Section 56895 to amend, modify or revise a resolution of the Commission is not approved or continued at the meeting at which it is considered, it is deemed denied and no further action shall be taken thereon.

and no further application for the same or a substantially similar amendment, recodification or revision shall be accepted.

7. Any other recommendation before the Commission is deemed denied if it does not receive affirmative votes of the quorum present or is not continued to another meeting.

## **2.7 MATTERS CONSIDERED -**

No matter requiring a determination by the Commission pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 shall be brought before the Commission unless it is first filed by the Executive Officer.

## **2.8 ATTENDANCE AT MEETINGS -**

1. Regular members of the Commission shall attend all meetings of the Commission. Alternate members are urged to attend all Commission meetings;
2. If a regular Commissioner cannot attend, s/he shall notify the Executive Officer one working day prior to the Commission meeting;
3. Each Commissioner is expected to remain for each entire meeting. Early departure is considered an absence for the purposes of these policies;
4. The Chairperson may excuse the absence of a Commissioner if s/he determines that the absence is due to sickness, personal emergency or attendance at another governmental function. All excused absences and the reasons for them shall be announced by the Chairperson at a regular meeting of the Commission; and
5. Inadequate attendance by a regular member of the Commission shall be considered non-performance of duties and shall result in the Chairperson notifying the appointing authority of the member's attendance record. Inadequate attendance shall consist of two unexcused absences, or three consecutive absences, for any reason, in any fiscal year.

## **2.9 DISQUALIFICATION -**

By law, the Commission must hold hearings on certain actions, including certain changes of organization and reorganization proposals, adoption of spheres of influence, city protests under the Williamson Act, and other matters. Because of the Commission's concern for the fair and orderly conduct of its hearings, the Commission adopts the following rules, pursuant to Government Code Section 56300:

1. From time to time, any commission member may determine to disqualify him or herself from participating in consideration of a proposal. The member should make every effort to announce his or her disqualification for any reason at the beginning of the Commission's consideration of the item. In those instances where the commission member does not become aware of the reason for disqualification until after the item is

before the Commission, the Commission member should disqualify him or herself as soon as s/he becomes aware of the reason for disqualification.

2. A Commission member who is absent from a hearing or a material portion of a hearing on a particular matter is disqualified from participation in the discussion and from voting on that matter unless the member:
  - (a) Listens to the tape recording made of the hearing or the portion of the hearing from which the member was absent;
  - (b) Examines the documentary material received by the Commission during the hearing or portion of the hearing from which the member was absent; and
  - (c) States in public session for the record that s/he has done both of the above.
3. When a member of the Commission is disqualified or determines to disqualify him or herself, the designated alternate member shall serve and vote in his or her place (Government Code Sections 56325, 56325(a), 56331, 56331.3, 56332, 56332(d), 56335 and 56336).

## **2.10 PER DIEMS –**

Pursuant to Government Code Section 56334, which permits LAFCOs to authorize payment of per diems to commissioners for attending meetings and in performing the duties of their office, the Commission has established a per diem rate of \$250. Per diems shall be provided to Commissioners (regulars and alternates) for each day in attendance at regular and special meetings. Per diems shall also be provided for each day in attendance at standing or ad hoc committee meetings as well as official meetings, conferences, and trainings organized by the California Association of LAFCOs or the Southern Region of LAFCOs. No Commissioner shall receive more than five per diems per month. All requested per diems shall be listed on the LAFCO reimbursement form no later than 30 days after the event.