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November 14, 2018
 Agenda Item 8

November 14, 2018 (Agenda)

Contra Costa Local Agency Formation Commission
 651 Pine Street, Sixth Floor
 Martinez, CA 94553

Policies and Procedures Update

Dear Members of the Commission:

This is a report from the LAFCO Policies & Procedures Subcommittee presenting proposed revisions to LAFCO Policies and Procedures (aka “Commissioner Handbook”) relating to *Rules and Procedures, CALAFCO, Roster of Cities and Special Districts, City Annexations and Detachments, and District Annexations and Detachments* as shown below and in the attachments. Also, the subcommittee is providing a status report on the LAFCO *Agricultural & Open Space Preservation Policy (AOSPP)* (Attachment 5). See discussion below for details.

DISCUSSION

Section 1.4 – RULES AND PROCEDURES

This section covers a variety of rules and procedures relating to selection of officers, meetings, voting, public comment, public hearing procedures, conducting authority proceedings, commission representation, commission representation, ethics training and legislative policy. The proposed amendment relates to public comment and reflects current practice, as shown in the excerpt below:

12) Public Comment

- At each regular and special meeting, the Commission must allow any member of the public to address the Commission on a matter within its jurisdiction.
- The Chair may establish reasonable regulations including, but not limited to, limiting the amount of time allocated for public testimony on particular issues and for each speaker (i.e., three minutes). An allocated time limit of three minutes per speaker may be **changed at the discretion of the Chair** ~~overridden on a majority vote of Commissioners.~~

Section 1.8 - CALIFORNIA ASSOCIATION OF LAFCOs (CALAFCO)

The LAFCO Policies & Procedures includes a section on CALFCA which provides information about the association – its purpose, membership, composition and other services.

In 2010, CALAFCO created four regions within the association (central, coastal, northern and southern). Contra Costa LAFCO is part of the coastal region. The primary goals of forming the regions were to facilitate communication among the LAFCOs, provide opportunities to share resources and knowledge, and encourage greater participation and input into CALAFCO activities. Today, all 58 LAFCOs are members of CALAFCO.

Contra Costa LAFCO's current section on CALAFCO is outdated and does not include reference to the regions and 100% membership in the association. The proposed amendments, as shown in Attachment 1, are intended to update the CALAFCO information current.

Section 1.9 – ROSTER OF CITIES AND SPECIAL DISTRICTS

This section includes a listing of all cities and special districts (dependent and independent). The changes include an updated list of special district and various district names changes as shown on Attachment 2.

SECTION 3.4 – CITY ANNEXATIONS AND DETACHMENTS

This section provides information on initiation of proceedings, basic requirements, commission proceedings, protest proceedings, election requirements and special provisions relating to city annexations and detachments. A new section relating to "boundaries" is proposed to clarify LAFCO's preferences regarding logical and orderly boundaries and inclusion of roads and right-of-ways as shown on Attachment 3.

SECTION 3.5 – DISTRICT ANNEXATIONS AND DETACHMENTS

This section provides information on initiation of proceedings, basic requirements, commission proceedings, protest proceedings, election requirements and special provisions relating to district annexations and detachments. A new section relating to boundaries is proposed to clarify LAFCO's preferences regarding logical and orderly boundaries and inclusion of roads and right-of-ways as shown on Attachment 4.

SECTION 2.1 – POLICIES AND STANDARDS – SUBSECTION O. AGRICULTURAL AND OPEN SPACE PRESERVATION POLICY – Following an 18-month process, and various revisions, the Commission adopted an Agricultural and Open Space Preservation Policy (AOSPP) in December 2016 (Attachment 5). There was significant outreach and public engagement throughout the process.

The LAFCO AOSPP includes information relating to LAFCO's authority, definitions, goals, policies, guidelines, and observations relating to LAFCO applications that involve agricultural and open space lands. In conjunction with the AOSPP, LAFCO amended its sphere of influence and change of organization/reorganization applications to include an Agricultural and Open Space Impact Assessment. The assessment requires the applicant to identify and address the effects of the proposal on agricultural and open space lands.

Since adoption of LAFCO's AOSPP, LAFCO has processed two applications where the Agricultural and Open Space Assessment and AOSPP were beneficial (Montreux and Chang boundary reorganizations). With both proposals, at LAFCO's request, the landowners agreed to mitigations to permanently preserve additional open space lands and to special provisions relating to fire prevention and habitat preservation.

RECOMMENDATIONS:

1. Review and approve revisions to the LAFCO policies and procedures relating to sections 1.4 - *Rules and Procedures*, 1.8 - *CALAFCO*, 1.9 - *Roster of Cities and Special Districts*, 3.4 - *City Annexations and Detachments*, and 3.5 - *District Annexations and Detachments* with any amendments as desired; and
2. Receive a status report on the LAFCO *Agricultural & Open Space Preservation Policy* (AOSPP) and provide comments and direction as desired.

Respectfully submitted,

Don Tatzin and Don Blubaugh

c: Distribution

Attachments:

- 1 - Proposed Amendments to Section 1.8 – CALAFCO
- 2 – Proposed Amendments to Section 1.9 - Roster of Cities and Special Districts
- 3 - Proposed Amendments to Section 3.4 – City Annexations and Detachments
- 4 - Proposed Amendments to Section 3.5 – District Annexations and Detachments
- 5 – Agricultural & Open Space Preservation Policy

1.8 CALIFORNIA ASSOCIATION OF LAFCOS (CALAFCO)

A. General Provisions

The California Association of LAFCOs, or CALAFCO, was formed in 1971 as a voluntary association. It provides a means of sharing information, coordinating LAFCO activities throughout the State, and representing LAFCO interests before the Legislature.

The membership of CALAFCO consists of ~~all 57 of the~~ 58 LAFCOs in California, along with an associate membership of firms and agencies, which support the educational mission of the organization.

Commissioners are encouraged to participate in CALAFCO activities depending upon their interests to ensure closer coordination and information exchange with the statewide association.

B. CALAFCO Board of Directors

The Association is governed by a ~~total of 19 members, including Board composed of 15-6 voting members elected from among~~ LAFCO Commissioners ~~as follows:-~~ four City members, four County members, ~~three~~four Public members and four Special District members. ~~Each of the four regions (Central, Coastal, Northern and Southern) elects one city, one county, one public and one special district member.~~

~~In addition to the 16 Board members,~~ ~~A~~ an Executive Officer, ~~the~~ Executive Director and ~~a~~ Legal Adviser serve as non-voting members of the Board.

Annual membership dues are specified in the Association Bylaws.

C. CALAFCO Newsletter

The Association's newsletter details matters of interest to LAFCOs including significant litigation and legislation. Copies are sent to all members of the Commission.

D. Conferences and Workshops

The CALAFCO Annual Conference is held in the Fall at locations alternating ~~among the regions between northern and southern California~~. It features discussions, workshops, presentations and informal activities of interest to LAFCOs and local governments.

CALAFCO also sponsors a staff workshop in the Spring and various other seminars and workshops.

E. Annual Business Meeting

A business meeting is held in conjunction with the Annual Conference. Each LAFCO in good standing has one vote when members of the Board are selected and other items of Association business decided. Prior to the annual CALAFCO business meeting, the Commission shall appoint its voting delegate ~~and an alternate voting delegate~~.

For more information regarding CALAFCO please visit their website at www.calafco.org.

1.9 ROSTER OF CITIES AND SPECIAL DISTRICTS

County

County of Contra Costa

Cities

City of Antioch
City of Brentwood
City of Clayton
City of Concord
Town of Danville
City of El Cerrito
City of Hercules
City of Lafayette
City of Martinez
Town of Moraga
City of Oakley
City of Orinda
City of Pinole
City of Pittsburg
City of Pleasant Hill
City of Richmond
City of San Pablo
City of San Ramon
City of Walnut Creek

Special Districts

INDEPENDENT DISTRICTS

Cemetery Districts

Alamo-Lafayette Cemetery District
Byron-Brentwood-Knightesen Union Cemetery District

Community Services Districts (CSDs)

Diablo Community Services District
Dublin San Ramon Community Services District
Kensington Police Protection and Community Services District
Town of Discovery Bay Community Services District
Town of Knightesen Community Services District

Fire Protection Districts

Moraga-Orinda Fire Protection District
Rodeo-Hercules Fire Protection District

San Ramon Fire Protection District

Health Care Districts

Los Medanos Community Healthcare District

West Contra Costa Healthcare District

Irrigation Districts

Byron Bethany Irrigation District

East Contra Costa Irrigation District

Municipal Improvement Districts

Bethel Island Municipal Improvement District

Recreation & Park Districts (RPDs)

Ambrose Recreation & Park District

East Bay Regional Park District

Green Valley Recreation & Park District

Pleasant Hill Recreation & Park District

~~Rollingwood Wilart Park Recreation & Park District~~

Sanitary Districts

Byron Sanitary District

Central Contra Costa Sanitary District

Crockett-Valona Sanitary District

Ironhouse Sanitary District

Mt. View Sanitary District

Rodeo Sanitary District

Stege Sanitary District

West County Wastewater Districts

Mosquito and Vector Control Districts

Contra Costa Mosquito and Vector Control District

Reclamation Districts

Reclamation District 799 (Hotchkiss Tract)

Reclamation District 800 (Byron Tract)

Reclamation District 830 (Jersey Island)

Reclamation District 2024 (Orwood and Palm Tracts)

Reclamation District 2025 (Holland Tract)

Reclamation District 2026 (Webb Tract)

Reclamation District 2059 (Bradford Island)

Reclamation District 2065 (Veal Tract)

Reclamation District 2090 (Quimby Island)

Reclamation District 2117 (Coney Island)

~~Reclamation District 2121~~

Reclamation District 2122 (Winter Island)

Reclamation District 2137

Resource Conservation Districts

Contra Costa Resource Conservation District

Water Districts

[Castle Rock County Water District](#)

Contra Costa Water District

Diablo Water District

DEPENDENT DISTRICTS

County Service Areas

County Service Area D-2 (Walnut Creek)

County Service Area EM-1 (Countywide)

County Service Area LIB-2 (Rancho El Sobrante)

County Service Area LIB-10 (City of Pinole)

County Service Area LIB-12 (Town of Moraga)

County Service Area LIB-13 (Cities of Concord and Walnut Creek)

County Service Area M-1 (Delta Ferry)

County Service Area M-16 (Community of Clyde)

County Service Area M-17 (Tara Hills, Montalvin Manor, West Contra Costa)

County Service Area M-20 (View Park Subdivision)

County Service Area M-23 (Blackhawk Area, San Ramon, Danville)

County Service Area M-28 (Bethel Island)

County Service Area M-29 (San Ramon, Dougherty Valley)

County Service Area M-30 (Alamo)

County Service Area M-31 (Pleasant Hill BART RDA)

County Service Area P-2 (Zone A: Blackhawk; Zone B: Alamo)

County Service Area P-5 (Roundhill)

County Service Area P-6 (Unincorporated Area)

County Service Area R-4 (Moraga)

County Service Area R-7A (Alamo)

County Service Area R-9A (El Sobrante)

County Service Area R-10 (Rodeo)

County Service Area RD-4 (Vicinity of Bethel Island)

County Service Area T-1 (Public Transit, Alamo)

Fire Protection Districts

Contra Costa County Fire Protection District

Crockett-Carquinez Fire Protection District

East Contra Costa Fire Protection District

Healthcare Districts

[Concord Pleasant Hill Mt. Diablo](#) Healthcare District

Sanitary Districts

County Sanitation District No. 6

Delta Diablo

CONTRA COSTA LAFCO

3.4 City Annexations and Detachments

Initiation of Proceedings

Proceedings for annexation to or detachment from a city may be initiated by petition or by resolution of the governing body of any affected county, city, district or school district (56650). In addition, a LAFCO application is required.

1. Initiation by Petition
 - A. A petition initiating proceedings shall do all of the following (56700):
 - (1) State that the proposal is made pursuant to this part;
 - (2) State the nature of the proposal and list all proposed annexations and/or detachments;
 - (3) Set forth a description of the boundaries of the affected territory accompanied by a map showing the boundaries;
 - (4) Set forth any proposed terms and conditions;
 - (5) State the reason or reasons for the proposal;
 - (6) State whether the petition is signed by registered voters or owners of land;
 - (7) Designate no more than three persons as chief petitioners, setting forth their names and mailing addresses;
 - (8) Request that LAFCO consider this proposal pursuant to the Cortese-Knox-Hertzberg Act; and
 - (9) State whether the proposal is consistent with the spheres of influence of any affected city or district.
 - B. Signature Requirements
 - (1) A petition for annexation to a city shall be signed by either of the following (56767):
 - (a) not less than 5% of the number of registered voters residing within the territory proposed to be annexed; or
 - (b) not less than 5% of the number of owners of land within the territory proposed to be annexed who also own 5% of the assessed value of land within the territory as shown on the last equalized assessment roll.
 - (2) A petition for detachment of territory from a city shall be signed by either of the following (56768):

- (a) not less than 25% of the number of registered voters residing within the territory proposed to be detached; or
- (b) not less than 25% of the number of owners of land within the territory proposed to be detached who also own 25% of the assessed value of land within the territory, as shown on the last equalized assessment roll.

2. Initiation by Resolution

An adopted resolution of application by the legislative body of any affected county, city, special district or school district shall contain all the matters required in the petition except for signers and signatures (56653, 56654).

3. Pre-zoning

Cities are required to pre-zone territory prior to LAFCO consideration of a city annexation. The zoning designation assigned must remain in effect for two years following the completion of the annexation, unless the city council makes a finding that a substantial change has occurred in circumstances that require a change from the pre-zoning set forth in the application to LAFCO (56375). An application will not be considered complete unless the city has pre-zoned the area proposed for annexation, or LAFCO can make findings in accordance with 56375(a)(7).

4. Noncontiguous Territory

In general, cities may not annex territory unless the territory is located in the same county and is contiguous with the annexing city (56741). However, if approved by the Commission, cities may annex noncontiguous territory not exceeding 300 acres in area, which is located in the same county, owned by the city, and ~~is~~ being used for municipal purposes at the time Commission proceedings are initiated (56742). Cities may also annex noncontiguous territory that constitutes a state correctional facility or a state correctional training facility (56742.5).

5. Boundaries

Boundary descriptions of territory included in any proposal shall be definite and certain. If the Commission requires modifications (additions/deletions) to the subject territory, it may direct the County Surveyor to prepare a new boundary description. Boundaries that split lines of assessment or legal parcel lines, or create islands, strips, or corridors are discouraged. Boundaries which follow existing political boundaries and natural or manmade features such as rivers, lakes, railroad tracks, roads and freeways are preferred. Boundary lines of areas proposed for annexation, which include, where possible, land abutting both sides of a given street or right of way within the same entity are favored. When a boundary must follow a street or highway, the boundary will include the complete right of way for the entire street or highway.

Commission Proceedings

1. Contra Costa LAFCO may approve, modify, or deny the proposal. If approved, the Commission may also adopt terms and conditions for the annexation or detachment. Unless protest proceedings are waived, the proposal is scheduled for a conducting authority protest hearing

where no further modifications may be made. The Commission serves as the conducting authority for city annexations and detachments (56029).

2. If a proposal is submitted that includes a city detachment, it shall be placed on the next Commission agenda for information purposes and a copy of the proposal shall be forwarded to the detaching city from which the detachment is proposed. Within 60 days after the proposal is included in the Commission agenda, the affected city may adopt and transmit to the Commission a resolution requesting termination of proceedings. If such a resolution is adopted and transmitted within the prescribed timeframe, proceedings shall be terminated (56751).

Conducting Authority (Protest) Proceedings

The Commission is the conducting authority for an annexation or detachment.

1. Within 35 days following the adoption of the Commission's resolution making determinations, and following the reconsideration period specified in 56895, the Commission sets the proposal for a protest hearing and gives notice of the hearing. The hearing shall not be less than 21 or more than 60 days after the notice is given (57002). If authorized pursuant to 56662, the proposal may be approved by resolution without notice, hearing and election (57002).
2. Unless the requirements for hearing are waived pursuant to section 56662, the Commission or, if delegated to the Executive Officer, the Executive Officer shall conduct a hearing to receive any oral or written protests and take one of the following actions (57000, 57050):
 - A. Inhabited territory
 - (1) The conducting authority must order the territory annexed without an election when protests are less than 25% of registered voters in the territory, and less than 25% of the landowners owning less than 25% of the assessed value of land in the territory (57075).
 - (2) The conducting authority must call an election on the question of an inhabited annexation when at least 25% or more (but less than 50%) of the voters in the territory, or at least 25% of the landowners owning at least 25% of the assessed value of land in the territory file a protest (57075).
 - (3) When 50% or more of the registered voters of an inhabited area proposed for annexation or detachment protest in writing, the proceedings are terminated (57078).
 - B. Uninhabited territory
 - (1) The conducting authority must approve uninhabited annexations with less than 50% assessed land value landowner protest (57075).
 - (2) When landowners owning 50% or more of the total assessed value of land within the affected territory protest in writing, proceedings are terminated (57078).

Special Provisions

1. Elections Requirements

In the case of an inhabited annexation to a city, the Commission shall require that an election be held in both the annexation area and the city when (56737):

- A. The assessed value of land within the annexation area equals one-half, or more, of that within the city prior to the annexation; or
- B. The number of registered voters within the annexation area equals one-half or more of that within the city prior to the annexation.

2. Distinct Communities

If a proposed annexation consists of two or more distinct communities and any one community has more than 250 registered voters, any protest filed shall be accounted separately for that community (57078.5). This provision does not apply if the proposal is an island annexation initiated in accordance with 56375.3.

3. Island Annexations

The Commission shall approve an annexation to a city and order the annexation without an election, and waive the conducting authority proceedings if the annexation is proposed by resolution of the affected city and the Commission finds that territory contained in the annexation meets all of the following requirements (56375.3):

- A. The territory does not exceed 150 acres in area, and the area constitutes the entire island.
- B. The territory constitutes an unincorporated island as defined by statute and local LAFCO policy.
- C. The territory is surrounded in either of the following ways:
 - (1) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and the county boundary or the Pacific Ocean; or
 - (2) Surrounded by the city to which annexation is proposed and adjacent cities.
- D. The territory is substantially developed, or developing. This finding shall be based on one or more factors, including, but not limited to:
 - (1) The availability of public utility services.
 - (2) The presence of public improvements.
 - (3) The presence of physical improvements upon the parcel or parcels within the area.
 - (4) It is not prime agricultural land as defined by Government Code §56064.
 - (5) It will benefit from the annexation or is receiving benefits from the annexing city.

At the option of either the city or the county, a separate property tax transfer agreement covering an island annexation may be agreed to by the city and the county without affecting any existing master tax sharing agreement between the city and the county.

These provisions do not apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

~~These special provisions are scheduled to expire on January 1, 2014, unless eliminated or extended by a superseding statute.~~

The island provisions do not apply to certain islands created after January 1, 2014 (56375.4).

4. Special Provisions for Williamson Act Territory (51233, 51243.5, 56738, 56752).

The Williamson Act provides that a property owner may enter into a contract with a county or city whereby the assessed property taxes are reduced in return for keeping the property in an agricultural preserve for a minimum of 10 years. Except as provided in Government Code section 51243.5, on and after the effective date of an annexation by a city of any land under contract with the county, the city shall succeed to all rights, duties, and powers of the county under the contract.

A city may refuse to succeed to a Williamson Act contract if either of the following conditions exist:

- A. Prior to December 8, 1971 the land being annexed was within one mile of the city boundary when the contract was executed and the city filed a resolution protesting the contract with the board of supervisors; or
- B. Prior to January 1, 1991: (a) the land being annexed was within one mile of the city boundary; (b) the city had filed a resolution protesting the contract with LAFCO; (c) LAFCO held a hearing to consider the protest; (d) LAFCO made a finding of inconsistency with future land use; and (e) LAFCO approved the protest.

Please refer to the applicable code sections for specific procedures regarding the annexation of Williamson Act territory.

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3.5 District Annexations and Detachments

Initiation of Proceedings

Proceedings for annexation to or detachment from a district may be initiated by petition or by resolution of the governing body of any affected county, city, district or school district (56650). In addition, a LAFCO application is required.

1. Initiation by Petition:
 - A. A petition of application shall do all of the following (56700):
 - (1) State that the proposal is made pursuant to this part;
 - (2) State the nature of the proposal and list all proposed annexations and/or detachments;
 - (3) Set forth a description of the boundaries of the affected territory accompanied by a map showing the boundaries;
 - (4) Set forth any proposed terms and conditions;
 - (5) State the reason or reasons for the proposal;
 - (6) State whether the petition is signed by registered voters or owners of land;
 - (7) Designate no more than three persons as chief petitioners, setting forth their names and mailing addresses;
 - (8) Request that LAFCO consider this proposal pursuant to the Cortese-Knox-Hertzberg Act; and
 - (9) State whether the proposal is consistent with the spheres of influence of any affected city or district.
 - B. Signature Requirements (56864):
 - (1) **Registered-voter district** (a district whose principal act provides that registered voters residing within the district are entitled to vote) petitions for annexation or detachment shall be signed by: (a) not less than 25% of the registered voters within the territory to be annexed or detached; or not less than 25% of the number of landowners who own not less than 25% of the assessed value of land within such territory.
 - (2) **Landowner-voter district** (a district whose principal act provides that owners of land within the district are entitled to vote) petitions for annexation or detachment shall be signed by not less than 25% of the number of landowners who own not less than 25% of the assessed value of land.

2. Initiation by Resolution (56654):

An adopted resolution of application by the legislative body of any affected county, city, special district or school district shall contain all the matters required in the petition except for signers and signatures.

3. Boundaries

Boundary descriptions of territory included in any proposal shall be definite and certain. If the Commission requires modifications (additions/deletions) to the subject territory, it may direct the County Surveyor to prepare a new boundary description. Boundaries that split lines of assessment or legal parcel lines, or create islands, strips, or corridors are discouraged. Boundaries which follow existing political boundaries and natural or manmade features such as rivers, lakes, railroad tracks, roads and freeways are preferred. Boundary lines of areas proposed for annexation, which include, where possible, land abutting both sides of a given street or right of way within the same entity are favored. When a boundary must follow a street or highway, the boundary will include the complete right of way for the entire street or highway.

Commission Proceedings

The Commission shall consider factors pursuant to sections 56668, 56668.3 and 56668.5 in its review of a district boundary change proposal.

If a proposal is submitted for a district annexation or a reorganization that includes a district annexation and the proposal was not initiated by the affected district, the proposal will be placed on the next Commission agenda for information purposes and a copy of the proposal shall be forwarded to districts to which annexation is proposed. Within 60 days after the proposal is included on the Commission agenda, any district to which annexation is proposed may adopt and transmit to the Commission a resolution requesting termination of proceedings. If such a resolution is adopted and transmitted within the prescribed timeframe, proceedings shall be terminated (56857).

LAFCO may approve, modify, or deny a proposal. If approved, the Commission may also adopt terms and conditions for the annexation or detachment. For example, an annexation can be conditioned on including additional parcels to avoid the creation of irregular boundaries or islands. Then the proposal is scheduled for a conducting authority hearing where no further modifications may be made. The Commission is the conducting authority for a district annexation or detachment (56029).

Special Provision for Special Districts that Furnish Gas or Electric Service (56129)

Districts cannot furnish gas or electric service within a service area for which a public utility has been granted a certificate of public convenience until an election is held on the question of the change of organization or the question of the gas and electric service has been called after the completion of proceedings for the change of organization.

Conducting Authority (Protest) Proceedings

1. Within 35 days following the adoption of the Commission's resolution making determinations, and following the reconsideration period specified in 56895, the Commission shall set the proposal for a protest hearing and give notice of the hearing. The hearing shall not be less than 21 or more

than 60 days after the notice is given (57002). If authorized by LAFCO pursuant to 56662, the proposal may be approved by resolution of the conducting authority without notice, hearing, and election (57002).

2. Proceedings shall be terminated if written protests are filed and not withdrawn prior to the conclusion of the hearing by:
 - A. In the case of uninhabited territory, landowners owning 50% or more of the assessed value of land; or
 - B. In the case of inhabited territory, 50% or more of the voting power of voters residing in the territory (57078).
3. If no majority protest is filed, the Commission shall order the annexation or detachment either without or subject to an election. An election may only be waived [under any of the following circumstances](#)~~when~~:
 - A. In a registered-voter district, if inhabited and protests are filed by less than 25% of the voters, or less than 25% of the number of landowners owning less than 25% of the assessed value of land within the affected territory (57075).
 - B. In a landowner-voter district, if protests are filed by less than 25% of the number of landowners owning less than 25% of the assessed value of the land, or less than 25% of the voting power of landowner voters entitled to vote as a result of owning property within the territory (57076).
 - C. The Commission has waived election requirements pursuant to the provisions of Section 56662 (57002).
4. Pursuant to Section 56876, the Commission may order the election to be held only:
 - A. Within the territory; or
 - B. Within both the territory and all or part of the district outside of such territory.

Election and Completion of Proceedings

1. After the election, the Commission shall adopt a resolution confirming the order of the change of organization if a majority of the votes cast are in favor in either of the following circumstances (57176):
 - A. At an election called in the affected territory; or
 - B. At an election called within the affected territory and within the territory of the affected agency.
2. A resolution ordering an annexation or detachment shall describe the exterior boundaries of the territory annexed or detached, and shall contain all terms and conditions imposed upon such annexation or detachment (57100).
3. For the purpose of any action to determine or contest the validity of an annexation or detachment, the annexation or detachment shall be deemed to be completed and in existence upon the date of execution of the Certificate of Completion (56102).

4. If no effective date has been fixed in any of the terms and conditions, the effective date shall be the date of recordation by the County Recorder (57202).

2.1. POLICIES AND STANDARDS

O. AGRICULTURAL AND OPEN SPACE PRESERVATION POLICY

PREFACE

LAFCO's enabling and guiding legislation, the Cortese Knox Hertzberg (CKH) Act, begins with the following statement.

“The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services.” (§56001)

Beginning in the late 1800s, farmers and ranchers made Contra Costa County an important source of agricultural products. Much of the County has good soils, a mild climate, and adequate water. Western and central Contra Costa were used for agriculture well into the twentieth century. John Muir farmed and ranched approximately 2,600 acres in what is now Martinez, Concord, and the Alhambra Valley. While the County's population was increasing, by current standards, the County's population was small. The 1910 census recorded 31,764 residents, less than the 2015 population of Pleasant Hill.

Development, which began in earnest after World War II, transformed Contra Costa County. As urban and suburban development occurred, Contra Costa County experienced significant reduction in the amount and relevant economic importance of agricultural lands. Simultaneously, critical open space habitat for sensitive species declined. By 2010, the Census reported that Contra Costa had 1,049,025 people, representing 3,300% growth since 1910. Contra Costa County's 2040 population is forecast to be 1,338,400.

As a result of population and job growth, agricultural land was converted to houses, schools, commercial centers, job centers, and transportation corridors. In 2015, there were about 30,000 acres of active agricultural land in Contra Costa County, excluding rangeland and pastureland, most of it located in the eastern portion of the County. There are approximately 175,000 acres of rangeland and pastureland in the County.¹

The total gross value of Agricultural crops in Contra Costa County was is worth approximately \$1280,441,000.5 million (farm production value) in 2015. Agriculture and is an important economic sector in Contra Costa County. The value of agricultural production has fluctuated risen in recent years.² ~~However,~~ Some worry that Contra Costa's agricultural industry may

¹ 2017 Crop and Livestock Report, Contra Costa County Agricultural Commissioner

² 2008-2015 Crop and Livestock Reports, Contra Costa County Agricultural Commissioner

approach a tipping point beyond which agriculture becomes less viable due to a lack of labor, suppliers, and processors located nearby.³

The pressure on agricultural land also extends to wildlife and riparian areas. In some cases, conversion of these lands through development disrupts an ecosystem that used to depend on the now developed land as a travel route, or a seasonal or permanent source of food and water.

The County and some cities are active in efforts to preserve agricultural and open space lands. For example, in the 1970s, the County created a County Agricultural Core to the east and south of Brentwood.

The City of Brentwood has an agricultural mitigation program that collected more than \$12 million in mitigation fees; and through conservation organizations, acquired the development rights over approximately 1,000 acres of agricultural lands. In 2006, the voters adopted Urban Limit Lines (ULLs) for the County and each municipality, and these actions helped protect undeveloped land outside the ULLs. Furthermore, the County adopted the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCCHCP/NCCP) that protects sensitive habitat for plants and animals in East Contra Costa.

LAFCO embraces its objectives of encouraging orderly growth and development while discouraging urban sprawl, efficiently extending government services, and preserving open space and prime agricultural lands. Through the review and approval or denial process of boundary changes and other applications, LAFCO has considerable authority to provide for the preservation of open space and agricultural land, and impose terms and conditions. (§§56885 - 56890).

While LAFCO has authority to achieve the objectives of the CKH Act, there are things that LAFCO cannot do, for example, directly regulate land use.⁴ LAFCO defers to agencies that have land use planning authority. Therefore, successful preservation of prime agricultural, agricultural and open space lands and of agriculture as a business requires that both applicants and other agencies also lead. At the end of this policy are observations about other opportunities facing residents, advocacy organizations, and governmental agencies that could also strengthen and preserve agriculture and open space lands.

Contra Costa LAFCO adopted this policy on November 9, 2016, with amendments on December 14, 2016, and agreed to review the policy in one year. [Minor amendments were approved on November 14, 2018.](#)

AUTHORITY OF LAFCO

³ *Sustaining our Agricultural Bounty: An Assessment of the Current State of Farming and Ranching in the San Francisco Bay Area – A white paper by the American Farmland Trust, Greenbelt Alliance and Sustainable Agriculture Education (SAGE), January 2011*

⁴ “A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements” [§§56375(6), 56886].

LAFCO's authority derives from the CKH Act. Among the purposes of LAFCO are to encourage planned, orderly, and efficient urban development while at the same time giving appropriate consideration to the preservation of prime agricultural, agricultural and open space lands (§56300). The CKH Act includes provisions that grant LAFCO the authority to consider and provide for the preservation of open space and agricultural lands. Among these provisions is §56377 which describes the intent of the legislation with regard to agricultural lands:

“56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the commission shall consider all of the following policies and priorities:

(a) Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the SOI of a local agency should be encouraged before any proposal is approved that would allow for or lead to the development of existing open space lands for non-open space uses that are outside of the existing jurisdiction of the local agency or outside of the existing SOI of the local agency.”

LAFCO is specifically charged in some instances with protecting open space and agricultural land. For example, an island annexation may not be approved if the island consists of prime agricultural land [§56375.3(b)(5)]. LAFCO may not approve a change to an SOI where the affected territory is subject to a Williamson Act contract or farmland security zone unless certain conditions exist (§§56426 and 56426.5).

When making a decision, LAFCO must consider whether an application and its effects conform to both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Sections 56377 and 56668(d). LAFCO must consider the effect of an application on maintaining the physical and economic integrity of agricultural lands [§56668 (e)]. LAFCO may also consider whether the public good served by a proposal outweighs the purposes of LAFCO policies.

An application for a change of organization, reorganization, the establishment of or change to a sphere of influence (SOI), the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act will be evaluated in accordance with LAFCO's adopted Agricultural and Open Space Preservation Policy.

PURPOSE OF THE POLICY

The purpose of this policy is threefold: 1) to provide guidance to the applicant on how to assess the impacts on prime agricultural, agricultural and open space lands of applications submitted to LAFCO, and enable the applicant to explain how the applicant intends to mitigate those impacts; 2) to provide a framework for LAFCO to evaluate and process in a consistent manner,

applications before LAFCO that involve or impact prime agricultural, agricultural and/or open space lands; and 3) to explain to the public how LAFCO will evaluate and assess applications that affect prime agricultural, agricultural and/or open space lands.

DEFINITIONS

Several terms are important in understanding LAFCO's responsibility and authority to preserve prime agricultural, agricultural and open space lands. These terms and definitions are found below and are applicable throughout these policies. The CKH Act contains the following definitions for agricultural land, prime agricultural land and open space:

56016. "Agricultural lands" means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.

(d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

56059. "Open space" means any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in Section 65560.

65560. (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and

estuaries; and coastal beaches, lakeshores, banks of rivers and streams, greenways, as defined in Section 816.52 of the Civil Code, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, greenways, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code (i.e., Native American Historical, Cultural and Sacred Sites).

GOALS, POLICIES AND GUIDELINES

The following Goals, Policies, and Guidelines are consistent with the legislative direction provided in the CKH Act. The Goals are intended to be the outcome LAFCO wants to achieve. The Policies provide direction with regard to how those Goals should be achieved by providing specific guidance for decision makers and proponents. Guidelines give stakeholders procedures and practical tips regarding what information LAFCO commissioners and staff need to evaluate an application that affects prime agricultural, agricultural and/or open space lands.

GOALS

Agriculture and open space are vital and essential to Contra Costa County's economy and environment. Accordingly, boundary changes for urban development should be proposed, evaluated, and approved in a manner that is consistent with the continuing growth and vitality of agriculture within the county. Open space lands provide the region with invaluable public benefits for all who visit, live and work in Contra Costa County. The following goals will help guide LAFCO's decisions regarding prime agricultural, agricultural and open space lands.

Goal 1. Minimize the conversion of prime agricultural land and open space land to other land uses while balancing the need to ensure orderly growth and development and the efficient provision of services.⁵

Goal 2. Encourage cities, the county, special districts, property owners and other stakeholders to work together to preserve prime agricultural, agricultural and open space lands.

Goal 3. Incorporate agricultural and open space land preservation into long range planning consistent with principles of smart growth at the state, county, and municipal levels.

Goal 4. Strengthen and support the agricultural sector of the economy.

Goal 5. Fully consider the impacts an application will have on existing prime agricultural, agricultural and open space lands.

Goal 6. Preserve areas that sustain agriculture in Contra Costa County.

POLICIES

It is the policy of Contra Costa LAFCO that, consistent with the CKH Act, an application for a change in organization, reorganization, for the establishment of or change to an SOI, the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act (“applications”), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration to preserving open space, agricultural and prime agricultural lands within those patterns. LAFCO’s Agricultural and Open Space Preservation Policy provides for a mitigation hierarchy which 1) encourages avoidance of impacts to prime agricultural, agricultural and open space lands, 2) minimizes impacts to these lands, and 3) mitigates impacts that cannot be avoided while pursuing orderly growth and development.

The following policies support the goals stated above and will be used by Contra Costa LAFCO when considering an application that involves prime agricultural, agricultural and/or open space lands:

Policy 1. The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan, Specific Plans and SOI areas, and that encourage preservation of prime agricultural, agricultural and open space lands in a manner that is consistent with LAFCO’s policy.

Policy 2. Vacant land within urban areas should be developed before prime agricultural, agricultural and/or open space land is annexed for non-agricultural and non-open space purposes.

⁵ In minimizing the conversion of open space land, the Commission may give lower priority to rangeland as defined per Public Resources Code 4789.2(i).

⁶ The Commission recognizes there may be instances in which vacant land is planned to be used in a manner that is important to the orderly and efficient long-term development of the county and land use agency and that differs from

Policy 3. Land substantially surrounded by existing jurisdictional boundaries (e.g., islands) should be annexed before other lands.

Policy 4. Where feasible, and consistent with LAFCO policies, non-prime agricultural land should be annexed before prime agricultural land.

Policy 5. While annexation of prime agricultural, agricultural and open space lands is not prohibited, annexation of these areas for urban development is not encouraged if there are feasible alternatives that allow for orderly and efficient growth. Large lot rural development that places pressure on a jurisdiction to provide services, and causes agricultural areas to be infeasible for farming or agricultural business, is discouraged.

Policy 6. The continued productivity and sustainability of agricultural land surrounding existing communities should be promoted by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses. Buffers and/or local right to farm ordinances should be established to promote this policy. Contra Costa County has a Right to Farm ordinance which requires notification of purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residential use.

Policy 7. Development near agricultural land should minimize adverse impacts to agricultural operations.

Policy 8. Development near open space should minimize adverse impacts to open space uses.

Policy 9. The Commission will consider feasible mitigation (found in the following guidelines) if an application would result in the loss of prime agricultural, agricultural and/or open space lands.

Policy 10. Any mitigations that are conditions of LAFCO's approval of an application should occur close to the location of the impact and within Contra Costa County.

GUIDELINES

These Guidelines are intended to provide further direction regarding the application of LAFCO's Goals and Policies; to advise and assist the public, agencies, property owners, farmers, ranchers and other stakeholders with regard to LAFCO's expectations in reviewing an application that involves prime agricultural, agricultural and/or open space lands; and to provide sample mitigation measures.

Guideline 1. Applications submitted to LAFCO involving prime agricultural, agricultural and/or open space lands shall include an Agricultural and Open Space Impact Assessment. At a minimum the following shall be addressed as part of the assessment:

the proposed use of the area in an application to LAFCO. LAFCO will consider such situations on a case-by-case basis.

- a. An application must discuss how it balances the State's interest in preserving prime agricultural and/or open space lands against the need for orderly development (§56001).
- b. An application must discuss its effect on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].
- c. An application must discuss whether it could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space land to uses other than open space uses (§56377).
- d. An application must describe whether, and if so, how it guides development away from prime agricultural, agricultural and/or open space lands.
- e. An application must describe whether, and if so, how it facilitates development of existing vacant or non-agricultural and/or non-open space lands for urban uses within the existing boundary or SOI of a local agency.
- f. An application must discuss what measures it contains that will preserve the physical and economic integrity of adjacent prime agricultural, agricultural and/or open space land uses.

Guideline 2. If an application involves a loss of prime agricultural, agricultural and/or open space lands, property owners, cities and towns, the county, special districts, and other agricultural and open space conservation agencies should work together as early in the process as possible to either modify the application to avoid impacts or to adequately mitigate the impacts.

Guideline 3. The following factors should be considered for an annexation of prime agricultural, agricultural and/or open space lands:

- a. The applicant should reference and include a land use inventory that indicates the amount of available land within the subject jurisdiction for the proposed land use. The land use inventory may be one that has been prepared by the applicable land use agency.
- b. The applicant should provide an evaluation of the effectiveness of measures proposed by the applicant to mitigate the loss of prime agricultural, agricultural and/or open space lands, and to preserve adjoining lands for prime agricultural, agricultural and/or open space use to prevent their premature conversion to other uses. Examples of such measures include, but are not limited to:
 1. Acquisition or dedication of prime agricultural and agricultural land (e.g., substitution ratio of at least 1:1 for the prime agricultural land annexed), development rights, open space and agricultural conservation easements to permanently protect adjacent or other prime agricultural, agricultural and/or open space lands within the county. Any land previously protected should not be used as the mitigation for any other project.
 2. Participation in other local development programs that direct development towards urban areas in the county (such as transfer or purchase of development credits).

3. Payment to local government agencies and/or recognized non-profit organizations working in Contra Costa County for the purpose of preserving prime agricultural, agricultural and/or open space lands; payment should be sufficient to fully fund the acquisition, dedication, restoration and maintenance of land which is of equal or better quality.
4. Establishment of buffers sufficient to protect adjacent prime agricultural, agricultural and/or open space lands from the effects of development. Such buffers may be permanent, temporary, or rolling, and may take many forms (e.g., easements, dedications, appropriate zoning, streets, parks, etc.).
5. Where applicable, compliance with the provisions of the ECCCHCP/NCCP or a similar plan enacted by the County, cities or another regional, state or federal permitting agency.
6. Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural and agricultural lands at a minimum 1:1 ratio.
7. Participation in an advanced mitigation plan for prime agricultural, agricultural and/or open space lands.
8. Participation in measures to promote and/or enhance the viability of prime agricultural and agricultural lands and the agricultural industry in Contra Costa County.
9. Protect open space lands utilizing science-based impact analysis.
10. Adopt a "Right to Farm" agreement that shall be included in the title of the land and in any subdivision thereof when an application proposes to convert prime agricultural and agricultural lands to other uses and is adjacent to prime agricultural and agricultural lands. Contra Costa County has a Right to Farm ordinance which requires notification of purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residential use.

Guideline 4. Detachment of prime agricultural, agricultural and/or open space lands should be encouraged if consistent with the SOI for that agency.

Guideline 5. Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:

- a. The area is within the annexing agency's SOI.
- b. The Commission makes findings required by Gov. Code Section 56856.5.
- c. The parcel is included in an approved city specific plan.

- d. The soil is not categorized as prime agricultural land.
- e. Mitigation for the loss of agricultural land has been secured in the form of agricultural easements to the satisfaction of the annexing agency and the county.
- f. There is a pending, or approved, cancelation for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
- g. The Williamson Act contract on the property has been non-renewed and final approval of the non-renewal has been granted.

Guideline 6. Property owners of prime agricultural and agricultural lands adjacent to land that is the subject of a LAFCO application shall be notified when an application is submitted to LAFCO.

Guideline 7. Regarding the timing and fulfillment of mitigation, if the mitigation measure is not in place prior to LAFCO's approval, the responsible entity (e.g., government agency, recognized non-profit organization) should provide LAFCO with information as to how the entity will ensure that the mitigation is provided at the appropriate time. Following LAFCO's approval, the responsible entity should provide LAFCO with an annual update on the status of agricultural mitigation fulfillment until the mitigation commitment is fulfilled.

OBSERVATIONS

LAFCO identified other actions that are not within its purview but that if followed could reduce the impacts of new development on prime agricultural, agricultural, and open space lands. These are provided here so that applicants, other governmental agencies, advocacy organizations, and the public might consider them.

Observation 1. LAFCO will evaluate all applications that are submitted and complete. However, LAFCO notes that over a period the impact of new applications is likely to be reduced if applicants adopt a hierarchy that gives preference to those projects that have no impacts on prime agricultural, agricultural and/or open space lands, followed by those that minimize impacts, and lastly those that require mitigation of their impacts.

Observation 2. Undeveloped prime agricultural, agricultural and open space lands exist primarily in east Contra Costa County, as does much of the remaining open space; however, most of the historical conversion of this land occurred elsewhere in the county. In order to preserve the remaining land, a countywide effort involving funding may be appropriate.

Observation 3. Any jurisdiction that contains prime agricultural, agricultural and/or open space land can periodically review whether its land use and other regulations strike the proper balance between discouraging development and conversion of prime agricultural, agricultural and open space lands with encouraging economically viable agriculture-based businesses that will keep agriculture production high.