



Lou Ann Teixeira  
Executive Officer

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
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## **NOTICE AND AGENDA FOR REGULAR MEETING**

**Wednesday, August 12, 2020, 1:30 PM**  
**\*\*\* BY TELECONFERENCE ONLY \*\*\***

Consistent with the California Governor's Executive Order N-29-20 this meeting will be held by Zoom and teleconference. No physical location will be available for this meeting.

### **PUBLIC ACCESS AND PUBLIC COMMENT INSTRUCTIONS**

To virtually participate in the meeting please click the link: <https://cccounty-us.zoom.us/j/95768795211>, or call in at the number below. As a courtesy to the other participants, please mute your device when you are not speaking.

USA 214-765-0478  
USA 888-278-0254 (US Toll Free)  
Conference code: **525510**

LAFCO meetings are audio recorded and posted online at <http://contracostalafco.org/meetings-and-public-hearings/>. Audio recordings are available the day following the LAFCO meeting. LAFCO meeting materials and staff reports are available online at <http://contracostalafco.org/meetings-and-public-hearings/>.

**PUBLIC COMMENT:** The Commission will consider all verbal and written comments received. Comments may be emailed to [LouAnn.Teixeira@lafco.cccounty.us](mailto:LouAnn.Teixeira@lafco.cccounty.us) or by U.S. mail to Contra Costa LAFCO at 40 Muir Road 1<sup>st</sup> Floor, Martinez, CA 94553. Please indicate the agenda item number, if any. If you want your comments read into the record, please indicate so in the subject line. For public hearings, the Chair will announce the opening and closing of the public hearing. The Chair will call for verbal public comments.

### **NOTICE TO THE PUBLIC**

Disclosable public records for a regular meeting agenda distributed to a majority of the members of the Commission less than 72 hours prior to that meeting will be made available on <http://contracostalafco.org/meetings>

#### **Campaign Contribution Disclosure**

If you are an applicant or an agent of an applicant on a matter to be heard by the Commission, and if you have made campaign contributions totaling \$250 or more to any Commissioner in the past 12 months, Government Code Section 84308 requires that you disclose the fact, either orally or in writing, for the official record of the proceedings.

#### **Notice of Intent to Waive Protest Proceedings**

In the case of a change of organization consisting of an annexation or detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area, it is the intent of the Commission to waive subsequent protest and election proceedings provided that appropriate mailed notice has been given to landowners and registered voters within the affected territory pursuant to Gov. Code sections 56157 and 56663, and no written opposition from affected landowner or voters to the proposal is received before the conclusion of the commission proceedings on the proposal.

#### **American Disabilities Act Compliance**

LAFCO will provide reasonable accommodations for persons with disabilities planning to join the meeting. Please contact the LAFCO office at least 48 hours before the meeting at 925-313-7133.

## AUGUST 12, 2020 CONTRA COSTA LAFCO AGENDA

1. Call to Order
2. Roll Call
3. Adoption of Agenda
4. Approval of Minutes for the June 10, 2020 regular LAFCO meeting
5. Public Comment Period (please observe a three-minute time limit):  
Members of the public are invited to address the Commission regarding any item that is not scheduled for discussion as part of this Agenda. No action will be taken by the Commission at this meeting as a result of items presented at this time.

### OUT OF AGENCY SERVICE REQUESTS

6. *LAFCO 20-06 – City of Concord – 5175 Laurel Drive* – consider a request by the City of Concord to extend municipal sewer service outside its jurisdictional boundary to one parcel (APN 117-040-086) in unincorporated Concord (Ayers Ranch); and consider related actions per the California Environmental Quality Act (CEQA)

### SPHERE OF INFLUENCE (SOI) AMENDMENTS/CHANGES OF ORGANIZATIONS

7. *LAFCO No. 20-02 – Dunivan Annexation to City of Martinez* - consider the annexation of a 10± acre parcel (APN 367-250-017) located at 1030 Vaca Creek Road in the Alhambra Valley. The Commission will also consider related actions per CEQA **Public Hearing**

### BUSINESS ITEMS

8. *CALAFCO Annual Conference, Achievement Awards, and Nominations for CALAFCO Board of Directors* – provide direction regarding nominations and appoint voting delegate(s)
9. *Award Contract for Planning Services* – the Commission will be asked to award a contract for environmental planning consultant services
10. *Contract Extension – Economic & Planning Systems, Inc. and Berkson Associates* - consider approving a contract amendment to extend the term of the agreement to complete the “2<sup>nd</sup> Round Parks & Recreation Services” MSR/SOI updates
11. *Legislative Report – Update and Position Letter* – receive legislative update

### CORRESPONDENCE

12. Correspondence from Contra Costa County Employees’ Retirement Association (CCCERA)

### INFORMATIONAL ITEMS

13. Commissioner Comments and Announcements
14. Staff Announcements
  - CALAFCO Updates
  - Pending Projects
  - Newspaper Articles

### ADJOURNMENT

Next regular LAFCO meeting September 9, 2020 at 1:30 pm.

LAFCO STAFF REPORTS AVAILABLE AT [http://www.contracostalafco.org/meeting\\_archive.htm](http://www.contracostalafco.org/meeting_archive.htm)

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

DRAFT MEETING MINUTES

June 10, 2020

August 12, 2020

Agenda Item 4

1. **Welcome and Call to Order; Roll Call (Agenda Item #4)**

Chair Andersen called the regular meeting of June 12, 2020 to order at 1:30 PM.

The following Commissioners and staff were present:

Regular Commissioners	Alternate Commissioners	Staff
Candace Andersen, Chair	Diane Burgis	Lou Ann Texeira, Executive Officer
Igor Skaredoff, Vice Chair	Stan Caldwell	Sharon Anderson, Commission Counsel
Don Blubaugh	Chuck Lewis	Sherrie Weis, LAFCO Clerk
Tom Butt	Sean Wright	Kate Sibley, Interim Clerk
Federal Glover		
Mike McGill		
Rob Schroder		

Announcement: Pursuant to Governor Newsom’s Executive Order and local county health orders issued to address the COVID 19 pandemic, the Commission meeting is being held via Webex teleconference. The 651 Pine Street Room 101, Martinez, CA is closed to the public; however, the public may listen to the meeting telephonically and comment by calling in to the teleconference meeting per the instructions on page 1 of the agenda. As required by the Brown Act, all votes taken this afternoon will be done by a roll call vote to the attending Commissioners participating via teleconference.

2. **Welcome Returning Commissioner**

Chair Andersen welcomed returning Commissioner Butt, who was recently reappointed to LAFCO at the May 7, 2020, Mayor’s Conference by the City Selection Committee.

3. **Introduction of New LAFCO Employee**

Executive Officer Texeira introduced Sherrie Weis, new Executive Assistant/LAFCO Clerk.

5. **Adoption of Agenda**

Commissioner Lewis requested that the Item 8 be moved to be discussed in conjunction with Item 14. Upon motion by Commissioner McGill and second by Commissioner Blubaugh, the Commission unanimously, by a 7-0 vote, adopted the agenda as revised:

**VOTE:**

- AYES: Andersen, Blubaugh, Butt, Glover, McGill, Schroder, Skaredoff
- NOES: NONE
- ABSENT: NONE
- ABSTAIN: NONE

6. **Approval of Minutes**

Upon motion by Commissioner Butt and second by Commissioner Blubaugh, the **March 11, 2020** meeting minutes were unanimously, by a 7-0 vote, approved.

**VOTE:**

- AYES: Andersen, Blubaugh, Butt, Glover, McGill, Schroder, Skaredoff
- NOES: NONE
- ABSENT: NONE
- ABSTAIN: NONE

**7. Public Comments**

Chair Andersen invited members of the audience to provide public comment. There were four speakers.

*Alice Jackman* customer of Mountain View Sanitary District (MVSD) voiced concerns regarding MVSD's spending and rate increase.

*Susan Gustofson* customer of MVSD read her email to LAFCO expressing concerns regarding the MVSD rate increases. She asked that Contra Costa LAFCO revisit merging MVSD with Central Contra Costa Sanitary District (CCCSD).

*Lilia Corona*, MVSD District Manager, stated the comments of the other speakers were valid. However, the District is small, and the infrastructure is aged. The ratepayers have enjoyed a low rate for many years, lower than most other districts. And that a rate increase is necessary.

*Pamela Miller* Executive Director of CALAFCO thanked Kate Sibley for many years of distinguished service for both Contra Costa LAFCO and CALAFCO. She welcomed Sherrie Weis. She also thanked Commissioner McGill as Chairman of CALFACO she went on to say, during these challenging times, he has led the organization with integrity, dignity, and grace.

**BUSINESS ITEMS**

**8. Fiscal Year 2020-21 Final Budget and Work Plan**

Chair Andersen noted that Commissioner Lewis requested that the Item 8 be moved to be discussed in conjunction with Item 14.

Chair Anderson open and closed the public hearing, there were no public speakers.

Commissioners acknowledged the proposed reductions in FY 2020-21 Final Budget options recognizing the financial hardships local agencies will face in the coming years due to COVID-19.

Upon motion of Commissioner Blubaugh, second by Commissioner Schroder, the Commission, unanimously approved, by a 7-0 vote, Budget Option 2 of the FY 2020-21 Final Budget as presented and directed staff to distribute the final budget to the County, cities, and special districts.

VOTE:

AYES: Andersen, Blubaugh, Butt, Glover, McGill, Schroder, Skaredoff  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

**9. Request for Proposals – Environmental Planning Services**

Upon a motion by Commissioner Blubaugh and second by Commissioner Glover, the Commission unanimously, by a 7-0 vote, authorized staff to release the RFP for environmental planning services.

VOTE:

AYES: Andersen, Blubaugh, Butt, Glover, McGill, Skaredoff  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

10. ***Proposed Update to Contra Costa LAFCO's Legislative Platform***

Upon a motion by Commissioner Blubaugh and second by Commissioner McGill, the Commission unanimously, by a 7-0 vote, approved minor revisions to the Legislative Platform consistent with the CALAFCO 2020 Legislative Policies

VOTE:

AYES: Andersen, Blubaugh, Butt, Glover, McGill, Schroder, Skaredoff  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

11. ***LAFCO 18-06 – Chang Property Reorganization: Annexations to City of San Ramon, Central Contra Costa Sanitary District, and East Bay Municipal Utility District and Detachment from County Service Area P-6***

Following comments and questions from Commissioners, City Planner Yee of the City of San Ramon spoke on the status of the project noting that the City of San Ramon and East Bay Regional Parks have been in conversation regarding the open space easement; and that permits must be issued by the Department of Fish and Conservation of Wildlife and Regional Water Quality Control Board.

Upon a motion by Commissioner Blubaugh and second by Commissioner Butt, the Commission unanimously, by a 7-0 vote, approved to grant time extension of six months from July 9, 2020, the current expiration date. With the requirement that at the three-month time period, a report be provided to the Commission as to the progress and what avenues are being explored on the terms of ongoing maintenance of this property when the easement had been granted.

VOTE:

AYES: Andersen, Blubaugh, Butt, Glover, McGill, Schroder, Skaredoff  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

12. ***Request to Transfer Jurisdiction from Alameda LAFCO to Contra Costa LAFCO (Meineke Property)***

Upon a motion by Commissioner Skaredoff and second by Commissioner Glover, the Commission unanimously, by a 7-0 vote, authorized staff to send a request to Alameda LAFCO to transfer jurisdiction in order to consider a proposal to annex territory to the East Bay Municipal Utility District (EBMUD).

VOTE:

AYES: Andersen, Blubaugh, Butt, Glover, McGill, Schroder, Skaredoff  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

13. **Request to Transfer Jurisdiction from Alameda LAFCO to Contra Costa LAFCO** (Magee Preserve)  
Upon a motion by Commissioner McGill and second by Commissioner Glover, the Commission unanimously, by a 7-0 vote, authorized staff to send a request to Alameda LAFCO to transfer jurisdiction in order to consider a proposed boundary reorganization involving annexations to CCCSD and EBMUD.

VOTE:

AYES: Andersen, Blubaugh, Butt, Glover, McGill, Schroder, Skaredoff  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

14. **FY 2019-20 Third Quarter Budget Report**

Chair Anderson asked for public comments. There were no public comments. Commissioners Blubaugh and Lewis offered comments.

Upon a motion by Commissioner Blubaugh and second by Commissioner Skaredoff, the Commission unanimously approved, by a 7-0 vote, to receive the FY 2019-20 3rd quarter budget report.

VOTE:

AYES: Andersen, Blubaugh, Butt, Glover, McGill, Schroder, Skaredoff  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

15. **Actuarial Evaluations**

Receive Actuarial Evaluations – Informational Item – No action required

**CORRESPONDENCE**

16. Correspondence from Contra Costa County Employees' Retirement Association (CCCERA)

**INFORMATIONAL ITEMS**

17. **Commissioner Comments and Announcements**

- Commissioner Blubaugh suggested the Strategic Plan Workshop meeting be scheduled early in the new fiscal year
- Commissioner McGill reported Pamela Miller Executive Director of CALAFCO will continue in her present position until December 2021.

18. **Staff Announcements**

- CALAFCO legislative activities including COVID 19, wildfires and police force legislation.

The meeting adjourned at 2:39 pm.

Final Minutes Approved by the Commission July 8, 2020

VOTE:

AYES: Andersen, Blubaugh, Butt, Glover, McGill, Schroder, Skaredoff  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

**ADJOURNMENT**

*The next regular LAFCO meeting is July 8, 2020, at 1:30 pm.*

By \_\_\_\_\_  
Executive Officer

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

August 12, 2020  
Agenda Item 6

August 12, 2020 (Agenda)

LAFCO 20-06 City of Concord - Out of Agency Service Request (5175 Laurel Drive)

## SYNOPSIS

This is a request by the City of Concord to provide municipal wastewater service outside its jurisdictional boundary to one parcel located at 5175 Laurel Drive in unincorporated Concord. The parcel (APN 117-040-086) is 3.6± acres as shown on E.

Currently, there is one single family home and outbuildings on the subject parcel. The proposed land use includes construction of eight new single-family homes (Laurel Place IV, Subdivision). The County's General Plan designation for the parcel is Single Family Residential – Low Density. The property owner applied to the County to rezone the property from R-40 Single Family Residential (40,000 sq. ft. minimum lot size) to R-15 Single Family Residential (15,000 sq. ft. minimum lot size); and approval of an 8-lot vesting tentative map. In October 2019, the County approved the rezoning and tentative map. The developer has completed nearly all the County's conditions of approval and the final map is complete. Also, a grading plan has been submitted along with a water application; the fire district has approved the plans; and the City of Concord is positioned to issue an encroachment permit for sewer service.

The City of Concord has prezoned the property RR-20 (Rural Residential – 20,000 sq. ft. minimum). The subject parcel is located within the City of Concord's sphere of influence (SOI) and within the City's Urban Limit Line. Residential development surrounds the project site.

## DISCUSSION

Statutory Framework - The Government Code and local LAFCO policies regulate the extension of out of agency service. Government Code §56133 states that “a city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the Commission.” LAFCO may authorize a city or district to provide new or extended services under specific circumstances: a) outside the agency's jurisdictional boundary but within its SOI in anticipation of a future annexation; or b) outside its jurisdictional boundary and outside its SOI in response to an existing or impending threat to the public health or safety.

LAFCO's Policy - The Commission's current policies regarding out of agency service are consistent with State law in that annexations to cities and special districts are generally preferred for providing municipal services. However, there may be situations where health and safety, emergency service, or other concerns warrant out of agency service. Historically, out of agency service is considered a temporary measure, typically in response to an existing or impending public health and safety threat (e.g., failing septic system, contaminated well), or in anticipation of a future annexation.

LAFCO policies contain the following provisions which are relevant to this proposal:

3) *Objective – Out of agency service is generally not intended to support new development.*

The out of agency service request is intended to serve development of eight new single-family homes.

4) *Out of Agency Service Policies: General Statements*

a) *Annexation to cities and special districts involving territory located within the affected agency's SOI is generally preferred to out of agency service.*

See #5 below.

b) *LAFCO will consider applicable MSRs and discourage out of agency service extensions that conflict with adopted MSR determinations or recommendations.*

The previous LAFCO MSR's recommended annexing properties that are receiving, or will require, City wastewater service, as appropriate.

#### 5) *Form of Request*

##### *Request in Anticipation of Annexation*

*An out of agency service application must be accompanied by a change of organization or reorganization application, including an approved tax sharing agreement, in order for LAFCO to determine that the out of agency service is in anticipation of a change of organization (i.e., annexation) within the next 12 months. This dual application requirement may be waived in certain situations by the Commission if compelling justification is provided. Circumstances which may warrant such a waiver include, but are not limited to, the following:*

- *Lack of contiguity (e.g., city boundary) when the project was approved prior to 2011*
- *Service is only needed to serve a portion of a larger parcel, and annexation of the entire parcel is not desirable*
- *Other circumstances which are consistent with LAFCO statute and the policies of Contra Costa LAFCO*

*If immediate annexation (i.e., within 12 months) is not a feasible alternative, then the extension of services may be approved in anticipation of a later annexation if the agency provides LAFCO with a resolution of intent to annex, as well as appropriate assurances (e.g., plan for annexation, deferred annexation agreement, etc.), which demonstrate that out of agency service is an intermediate steps toward eventual annexation.*

Given the subject property is contiguous to the City boundary, annexation of this property is possible. The developer's preference is to annex the property to the City of Concord following completion of sale and occupancy of the units, in approximately 12-18 months. The same developer has been through a similar process with other development projects in the same vicinity. Annexation of this parcel will reduce the size of the Ayers Ranch island.

Analysis – As noted in the 2014 and 2008 *LAFCO Water/Wastewater Municipal Service Reviews (MSRs)*, the City of Concord includes the Ayers Ranch area within its ultimate sewer service boundary. The Ayers Ranch area is a 183-acre unincorporated island within Concord's SOI. The City has historically extended sewer service to this area. More recently, and pursuant to State law, the City has requested LAFCO's approval to provide out of agency service. Some parcels in this area are experiencing issues with septic systems, including failure, and have requested municipal sewer service from the City on an individual basis. While a significant portion of the island is developed, there are various vacant and under-developed properties in the area that will need municipal sewer service, including the subject property.

LAFCO has placed the Ayers Ranch area within the City's SOI, signifying that the City is the logical, long-term service provider for this unincorporated island; and the MSR's recommend annexation of this area to the City of Concord. Annexation of the Ayers Ranch island, along with those unincorporated areas being served extra-territorially by the City, remains an important issue to resolve. In September 2015, the Concord City Council took an affirmative step and adopted Resolution No. 15-59 establishing a non-binding strategy to annex Ayers Ranch by the year 2030. This signals the City's intent to annex the area in the future.

Out of Agency Service Request by City of Concord – The City requests to provide out of agency sewer service to property located at 5175 Laurel Drive unincorporated Concord. There is currently one single family home and outbuildings on the subject parcel. The property owner has approval from the County to build eight single family homes. The law permits LAFCO to authorize the City to extend services outside its jurisdictional boundary either in response to an existing or impending threat to the public health or safety,

or in anticipation of an annexation. This request by the City to provide sewer service to the subject property is in anticipation of annexation, as the property is contiguous to the City boundary.

The infrastructure needed to serve the proposed subdivision includes an 8-inch main, two sewer manholes, and eight laterals and clean-outs. The project is estimated to generate approximately 270 gallons of wastewater per day per home. The property owner is responsible for the capital costs; future operations and maintenance costs will be the responsibility of the individual homeowners.

Environmental Review – Contra Costa County, as Lead Agency, prepared and certified an Initial Study/Mitigated Negative Declaration (MND) in conjunction with the proposed subdivision pursuant to the California Environmental Quality Act (CEQA), which is adequate for LAFCO purposes (available through the LAFCO office). The MND identified potentially significant effects (i.e., Aesthetics, Air Quality, Biological Resources, Cultural Resources, and Geology/Soils). Mitigation measures were adopted which reduced all impacts to a less than significant level; therefore, there are no significant and unavoidable impacts.

The MND noted that sewer service to the project area will be provided by the City of Concord. The City indicates it is able and willing to service the project area. Should LAFCO approve the out of agency service, the property owner must then implement the required mitigations for the project, including LAFCO's approval for out of agency sewer service, prior to the County issuance of the building permit.

#### **ALTERNATIVES FOR COMMISSION ACTION**

LAFCOs were formed for the primary purpose of promoting orderly development through the logical formation and determination of local agency boundaries and facilitating the efficient provision of public services. The CKH provides that LAFCO can approve or disapprove with or without amendments, wholly, partially, or conditionally, a proposal. The statute also provides LAFCO with broad discretion in terms of imposing terms and conditions. The following options and recommended terms and conditions are presented for the Commission's consideration.

- Option 1**      **Approve** the out of agency service conditioned the following, including submittal of an annexation application.
- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the Initial Study/Mitigated Negative Declaration prepared and certified by Contra Costa County.
  - B. Authorize the City of Concord to extend sewer service outside its jurisdictional boundary to the 3.6± acre parcel (APN 117-040-086) located at 5175 Laurel Drive in the Ayers Ranch area in unincorporated Contra Costa County subject to the following terms and conditions:
    - 1. Sewer infrastructure and service is limited to the proposed eight single family residential units, and
    - 2. The City of Concord has delivered to LAFCO an executed and recorded deferred annexation agreement, and
    - 3. The City of Concord has delivered to LAFCO an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions to challenging the out of agency service, and
    - 4. A commitment from the developer to submit to LAFCO an application to annex the subject parcel to the City of Concord, along with the applicable annexation fees, by August 11, 2021.

**Option 2**     **Deny** the request, thereby prohibiting the City of Concord from providing sewer service to the subject property.

**Option 3**     **Continue** this matter to a future meeting to obtain more information.

**RECOMMENDATION**

**Option 1**

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LOU ANN TEXEIRA, EXECUTIVE OFFICER  
CONTRA COSTA LAFCO

Exhibit

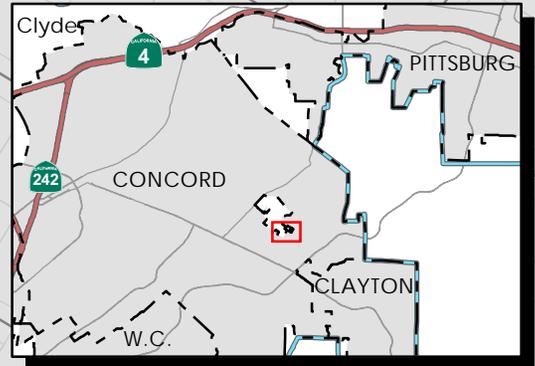
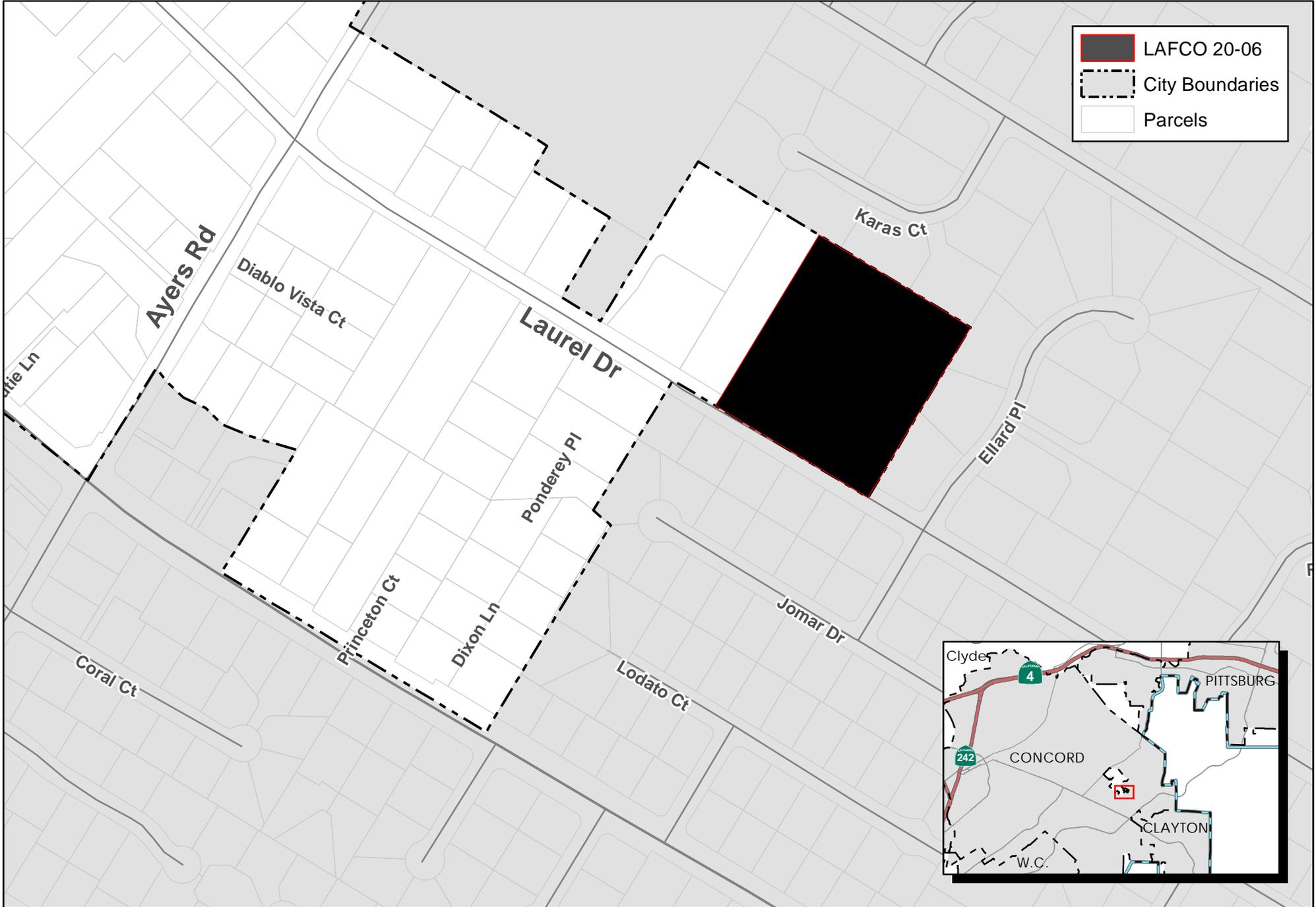
A. Map of Property (APN 117-040-086)

Attachment

1. LAFCO Resolution 20-06

c: Mitra Abkenari, City of Concord  
Daniel Freeman, Desco Development Company, LLC

# LAFCO 20-06 City of Concord - Out of Agency Service (5175 Laurel Drive)



Map created 7/1/2020  
 by Contra Costa County Department of  
 Conservation and Development, GIS Group  
 30 Muir Road, Martinez, CA 94553  
 37:59:41.791N 122:07:03.756W

This map or dataset was created by the Contra Costa County Department of Conservation and Development with data from the Contra Costa County GIS Program. Some base data, primarily City Limits, is derived from the CA State Board of Equalization's tax rate areas. While obligated to use this data the County assumes no responsibility for its accuracy. This map contains copyrighted information and may not be altered. It may be reproduced in its current state if the source is cited. Users of this map agree to read and accept the County of Contra Costa disclaimer of liability for geographic information.

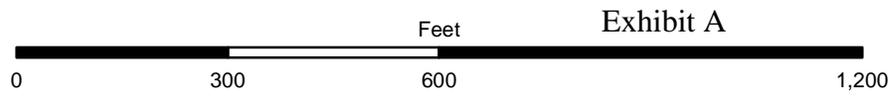


Exhibit A



**RESOLUTION NO. 20-06****RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
AUTHORIZING THE CITY OF CONCORD TO PROVIDE OUT-OF-AGENCY SEWER SERVICE  
TO APN 117-040-086 (5175 LAUREL DRIVE)**

WHEREAS, the above-referenced request has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of this request; and

WHEREAS, the Commission heard, discussed, and considered all oral and written testimony related to this request including, but not limited to, the Executive Officer's report and recommendation; and

WHEREAS, out of agency service approval is needed in order to provide wastewater services to the property in anticipation of a future annexation; and

WHEREAS, the City of Concord and the property owners have entered into a Deferred Annexation Agreement in support of the future annexation of the property to the City of Concord.

NOW, THEREFORE, BE IT RESOLVED DETERMINED AND ORDERED by the Contra Costa Local Agency Formation Commission as follows:

- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the Initial Study/Mitigated Negative Declaration prepared and certified by Contra Costa County.
- B. Authorize the City of Concord to extend wastewater service outside its jurisdictional boundary to APN 117-040-086, located at 5175 Laurel Drive in unincorporated Contra Costa County subject to the following terms and conditions:
  - 1. Wastewater infrastructure and service is limited to an 8-lot single residential subdivision on the parcel,
  - 2. The City of Concord has delivered to LAFCO an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions to challenging the out of agency service, and
  - 3. The City of Concord and the property owner(s) have signed the deferred annexation agreement (DAA), and the DAA was recorded as prescribed by law and runs with the land so that future landowners have constructive notice that their property is encumbered by the DAA, and
  - 4. Wastewater service is conditioned on a commitment from the developer to submit to LAFCO an application to annex the subject parcel to the City of Concord, along with the applicable annexation fees, by August 11, 2021.
- C. Approval to extend City of Concord services beyond those specifically noted herein is withheld and is subject to future LAFCO review.

\* \* \* \* \*

PASSED AND ADOPTED AS REVISED THIS 12<sup>th</sup> day of August 2020, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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Candace Andersen, CHAIR, CONTRA COSTA LAFCO

*I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated above.*

Dated: August 12, 2020

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Lou Ann Texeira, Executive Officer

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

August 12, 2020 (Agenda)

August 12, 2020  
Agenda Item 7

LAFCO 20-02 Dunivan Annexation to City of Martinez

APPLICANT Joanne Dunivan, Landowner

SYNOPSIS The landowner proposes to annex one parcel consisting of 10± acres (APN 367-250-017) to the City of Martinez. The parcel is located at 1030 Vaca Creek Road in the Alhambra Valley (unincorporated Martinez) as shown in Exhibit A.

DISCUSSION

Government Code §56668 sets forth factors that the Commission must consider in evaluating a proposed boundary change as discussed below. In the Commission's review, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

1. **Consistency with the Sphere of Influence (SOI) of Any Local Agency:**

The property proposed for annexation is within the City of Martinez SOI. The property was previously bifurcated by the City's Urban Limit Line (ULL). In June 2019, the Martinez City Council approved a General Plan amendment, rezoning and an adjustment to the City's ULL relating to the subject parcel. The City received confirmation from the Contra Costa Transportation Authority (CCTA) that the City's adjustment to its ULL is consistent with the CCTA's "Measure J" Growth Management Program which allows jurisdictions to undertake non-consecutive adjustments to their ULL of less than 30 acres without voter approval.

2. **Land Use, Planning and Zoning - Present and Future:**

The County General Plan designations for the subject parcel are Agricultural Land (AL) and Open Space (OS) and the zoning designations are General Agriculture (A-2) (5-acre minimum) and Planned Unit (P-1). Land uses to the west, south and east include rural residential and open space to the north.

The City pre-zoned the property Alhambra Valley Agricultural District, 5-acre minimum lot size (AV/A-5). The City's General Plan designation for the parcel is Open Space/Conservation Use Land (CUL) which allows for one single-family residential unit. Existing land uses on the subject parcel includes one single family residential unit and several outbuildings. Access to the property is via Vaca Creek Road. The applicant indicates that there will be no changes to land uses following annexation.

The parcel is an unincorporated peninsula located between two large areas of City of Martinez territory. Annexation would result in a more logical, orderly boundary and enhance municipal services to the property.

3. **The Effect on Maintaining the Physical and Economic Integrity of Agricultural and Open Space Lands:**

The subject property contains no prime farmland or land covered under Williamson Act Land Conservation agreements. The applicant indicates there will be no impacts to agriculture and open space lands as a result of annexation.

4. **Topography, Natural Features and Drainage Basins:**

The subject property slopes from the south to the north with the northern portion of the site having a steep ravine and slopes of approximately 50 percent. There is also a creek on the site. The surrounding area is similar with rolling hills and steep ravines.

**Population:**

There will be no increase in population as a result of this annexation.

**5. Fair Share of Regional Housing:**

In its review of a proposal, LAFCO must consider the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments. The proposed annexation will have no effect on regional housing needs.

**6. Governmental Services and Controls - Need, Cost, Adequacy and Availability:**

An application for a change of organization or reorganization typically requires a plan for providing services within the affected territory (Gov. Code §56653). The plan shall include the following information and any additional information required by the Commission or the LAFCO Executive Officer:

- (1) An enumeration and description of the services to be extended to the affected territory.
- (2) The level and range of those services.
- (3) An indication of when those services can feasibly be extended to the affected territory.
- (4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- (5) Information with respect to how those services will be financed.

A Plan for Providing Services was included with the application. The annexation area is currently served by various local agencies including, but not limited to, Contra Costa County, Contra Costa County Fire Protection District, and the City of Martinez.

The proposal before the Commission is to annex one parcel to the City of Martinez. The City provides a range of municipal services including parks and recreation, police services, roads/drainage, street lighting and water service. Regarding wastewater services, the subject parcel is currently served by an on-site septic system.

The subject parcel currently receives municipal water service from the City of Martinez. Following annexation, other city services as noted above will be available to the subject.

**7. Timely Availability of Water and Related Issues:**

The subject property receives municipal water services from the City of Martinez. No change in the provision of water service is anticipated.

**8. Assessed Value, Tax Rates, and Indebtedness:**

The annexation area is within tax rate area 76004. The total assessed value for the annexation area is \$229,188 (2019-20 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies. The County and City will rely on the master tax transfer agreement for this annexation.

**9. Environmental Impact of the Proposal:**

The City of Martinez found the proposed annexation of the subject parcel exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15319(b) and has prepared a Notice of Exemption. The LAFCO Environmental Coordinator has reviewed the City's CEQA documentation and finds it adequate for LAFCO purposes.

**10. Landowner Consent and Consent by Annexing Agency:**

According to County Elections, there is one registered voter in the area proposed for annexation; thus, the area proposed for annexation is considered uninhabited. The landowner is the applicant to LAFCO and consents to the proposed annexation. The City of Martinez indicates it is willing and able to serve the subject area. If the Commission approves the annexation, the Commission may waive the protest hearing (Gov. Code §56662). All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the August 12, 2020 LAFCO hearing.

**11. Boundaries and Lines of Assessment:**

The annexation area is within City of Martinez's SOI and contiguous to the City's boundary. A map and legal description to implement the proposed boundary change were submitted and are subject to approval by the County Surveyor.

**12. Environmental Justice:**

LAFCO is required to consider the extent to which a change of organization or reorganization proposal will promote environmental justice. As defined by statute, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The proposed annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

**13. Disadvantaged Communities:**

In accordance with state law, local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/amendments, and annexations must take into consideration DUCs, and specifically the adequacy of public services, including sewer, water, and fire protection needs or deficiencies, to these communities. According to the County Department of Conservation and Development, the area proposed for annexation is not a DUC.

**14. Comments from Affected Agencies/Other Interested Parties**

No comments were received from other affected agencies or parties.

**15. Regional Transportation and Regional Growth Plans:**

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to Gov. Code §65080 [Gov. Code §56668(g)]. Further, the Commission may consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or subregional basis (Gov. Code §56668.5). Regarding these sections, LAFCO looks at consistency of the proposal with the regional transportation and other regional plans affecting the Bay Area.

SB 375, a landmark state law, requires California's regions to adopt plans and policies to reduce the generation of greenhouse gases (GHG), primarily from transportation. To implement SB 375, in July 2013, the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) adopted Plan Bay Area as the "Regional Transportation Plan and Sustainable Communities Strategy" for the San Francisco Bay Area through 2040. Plan Bay Area focuses on where the region is expected to grow and how development patterns and the transportation network can work together to reduce GHG emissions. The Plan's key goals are to reduce GHG emissions by specified amounts; and to plan sufficient housing for the region's projected population over the next 25 years.

In July 2017, ABAG and MTC adopted Plan Bay Area 2040, which updates the 2013 Plan Bay Area and reaffirms the goals/targets identified in the earlier version. Plan Bay Area establishes "Priority Conservation Areas" (PCAs) and "Priority Development Areas" (PDAs) and focuses growth and development in nearly 200 PDAs. These existing neighborhoods are served by public transit and have been identified as appropriate for additional, compact development. The area proposed for annexation is not within a PCA or a PDA; however, the proposed annexation does not appear to conflict with the regional transportation or growth plans.

### ALTERNATIVES FOR COMMISSION ACTION

After consideration of this report and any testimony or additional materials that are submitted the Commission should consider taking one of the following actions:

**Option 1** Approve the annexation as proposed.

- A. Find that the project is exempt pursuant to section 15319(b) of the CEQA Guidelines, consistent with the determinations of the City of Martinez.
- B. Adopt this report, approve LAFCO Resolution No. 20-02 (Exhibit B), and approve the proposal, to be known as *Dunivan Annexation to City of Martinez* subject to the following terms and conditions:
  1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments, and charges comparable to properties presently within the annexing agency.
  2. The applicant/landowner has delivered an executed indemnification agreement providing for the applicant/landowner to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is uninhabited, the subject landowner consents to the annexation; thus, the conducting authority (protest) proceedings are hereby waived.

**Option 2** Adopt this report and DENY the proposal.

**Option 3** If the Commission needs more information, CONTINUE this matter to a future meeting.

### RECOMMENDED ACTION:

**Option 1** – Approve the annexation as proposed.

---

LOU ANN TEXEIRA, EXECUTIVE OFFICER  
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

### Exhibit

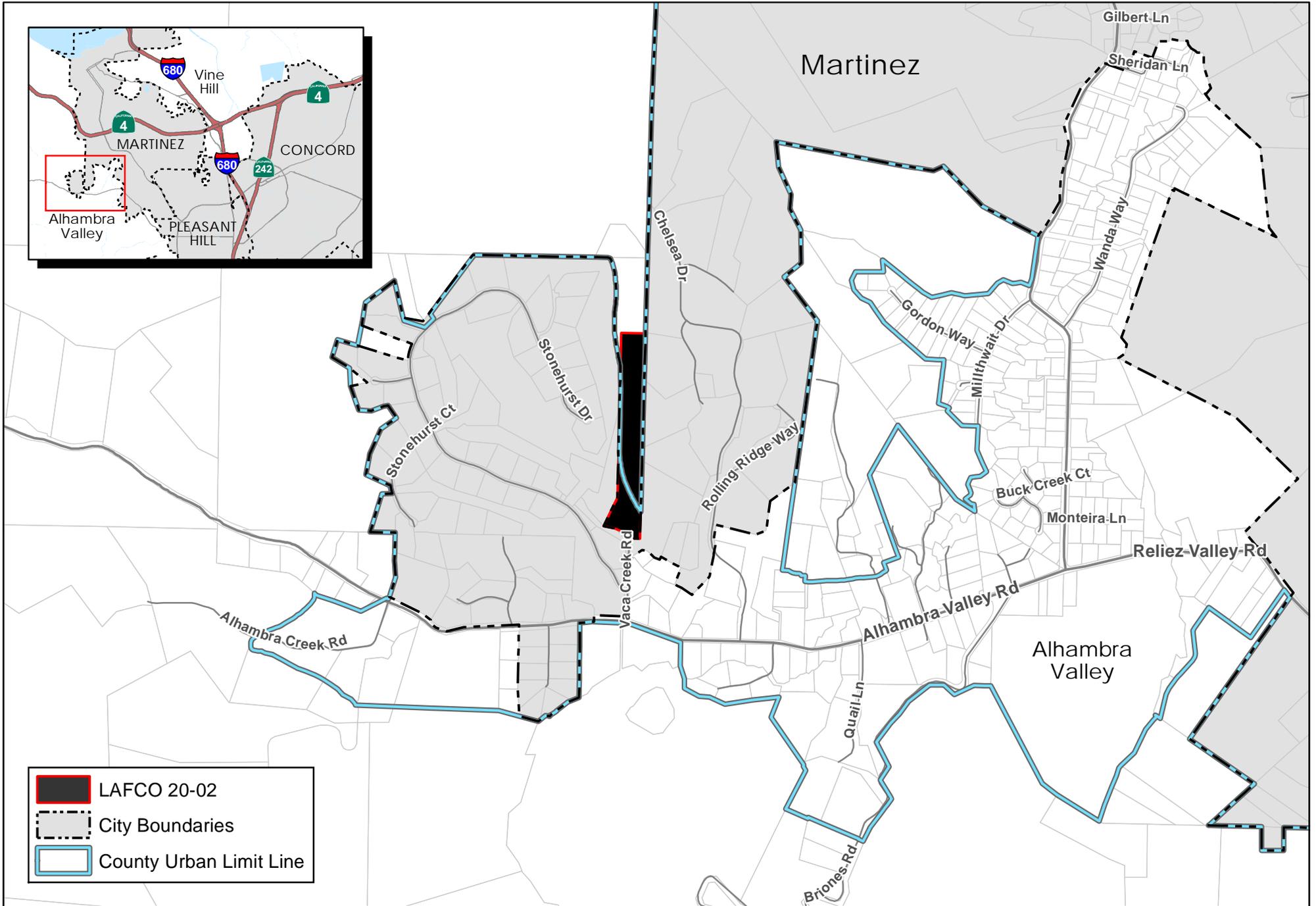
A – Dunivan Annexation Map

### Attachment

1 – Draft LAFCO Resolution 20-02

c: Joanne Dunivan, Applicant/Landowner  
Christina Ratcliffe, Community and Economic Development Director, City of Martinez  
Margaret Kavanaugh-Lynch, City Planner, City of Martinez

# LAFCO No.20-02 Dunivan Annexation to City of Martinez



-  LAFCO 20-02
-  City Boundaries
-  County Urban Limit Line

Map created 04/27/2020  
 by Contra Costa County Department of  
 Conservation and Development, GIS Group  
 30 Muir Road, Martinez, CA 94553  
 37:59:41.791N 122:07:03.756W

This map or dataset was created by the Contra Costa County Department of Conservation and Development with data from the Contra Costa County GIS Program. Some base data, primarily City Limits, is derived from the CA State Board of Equalization's tax rate areas. While obligated to use this data the County assumes no responsibility for its accuracy. This map contains copyrighted information and may not be altered. It may be reproduced in its current state if the source is cited. Users of this map agree to read and accept the County of Contra Costa disclaimer of liability for geographic information.

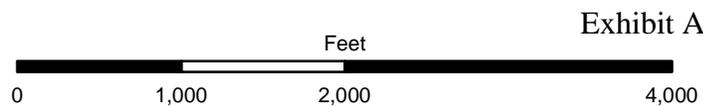


Exhibit A



**RESOLUTION NO. 20-02**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
DUNIVAN ANNEXATION TO CITY OF MARTINEZ**

**WHEREAS**, the above-referenced proposal has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

**WHEREAS**, the Executive Officer has examined the application and executed her certification in accordance with law, determining and certifying that the filing is sufficient; and

**WHEREAS**, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the proposal; and

**WHEREAS**, the Executive Officer has reviewed available information and prepared a report including her recommendations therein, and the report and related information have been presented to and considered by the Commission; and

**WHEREAS**, at a public hearing held on August 12, 2020, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, applicable General and Specific Plans, consistency with the sphere of influence, contiguity with the City's boundary, and related factors and information including those contained in Gov. Code §56668; and

**WHEREAS**, information satisfactory to the Commission has been presented that no affected landowners/registered voters within the annexation area object to the proposal; and

**WHEREAS**, the Local Agency Formation Commission determines the proposal to be in the best interest of the affected area and the organization of local governmental agencies within Contra Costa County.

**NOW, THEREFORE**, the Contra Costa Local Agency Formation Commission **DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

1. Find that the project is exempt pursuant to section 15319(b) of the CEQA Guidelines, consistent with the determination of the City of Martinez.
2. The landowner/applicant has delivered to LAFCO an executed indemnification agreement providing for the landowner/applicant to indemnify LAFCO against any expenses arising from any legal actions to challenging the annexation, and
3. The annexation is hereby approved.
4. The subject proposal is assigned the distinctive short-form designation:  
**DUNIVAN ANNEXATION TO CITY OF MARTINEZ**
5. The boundaries of the affected territory, including one parcel, are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.

Contra Costa LAFCO  
Resolution No. 20-02

6. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.
7. That landowner/applicant delivered an executed indemnification agreement between the landowner/applicant and Contra Costa LAFCO providing for the landowner/applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
8. The territory proposed for annexation is uninhabited.
9. The proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.
10. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

\* \* \* \* \*

PASSED AND ADOPTED THIS 12<sup>th</sup> day of August 2020, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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CANDACE ANDERSEN, CHAIR, CONTRA COSTA LAFCO

*I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated.*

Dated: August 12, 2020

---

Lou Ann Texeira, Executive Officer



Lou Ann Texeira  
 Executive Officer

**MEMBERS**

<b>Candace Andersen</b> <i>County Member</i>	<b>Federal Glover</b> <i>County Member</i>
<b>Donald A. Blubaugh</b> <i>Public Member</i>	<b>Michael R. McGill</b> <i>Special District Member</i>
<b>Tom Butt</b> <i>City Member</i>	<b>Rob Schroder</b> <i>City Member</i>
<b>Igor Skaredoff</b> <i>Special District Member</i>	

**ALTERNATE MEMBERS**

<b>Diane Burgis</b> <i>County Member</i>
<b>Stanley Caldwell</b> <i>Special District Member</i>
<b>Charles R. Lewis, IV</b> <i>Public Member</i>
<b>Sean Wright</b> <i>City Member</i>

August 12, 2020 (Agenda)

August 12, 2020  
 Agenda Item 8

Contra Costa Local Agency Formation Commission  
 40 Muir Road, First Floor  
 Martinez, CA 94553

**CALAFCO Annual Conference, Achievement Awards and  
 Nominations for 2020-21 CALAFCO Board of Directors**

Dear Commissioners:

**2020 CALAFCO Conference** - On July 7, 2020, the CALAFCO Executive Director announced that due to the ongoing pandemic, restrictions on large gatherings, health risks and other factors, the 2020 in-person **annual CALAFCO conference is cancelled** (Attachment 1).

On July 24, 2020, the CALAFCO Board met and discussed options for holding a virtual conference. The Board considered feedback from its membership, from other professional associations who are considering virtual conference events, and costs associated with hosting a virtual conference. Considering these factors, the CALAFCO Board voted against hold a virtual conference. Instead, the Board will consider other options including hosting stand-alone virtual sessions. CALAFCO staff is working on educational options and will provide an update in the near future.

**CALAFCO Achievement Awards** – Given there will be no in-person conference this year, the CALAFCO Board voted to postpone the Achievement Awards until 2021. During this time, the Awards Committee will revise and update the Achievement Awards program (i.e., streamline categories, develop clear and concise award, application, and selection criteria, etc.). The updated Achievement Award program will be rolled out at the end of 2020 and implemented in 2021. The 2021 awards will cover a 2-year period (2020 and 2021).

**Nominations for CALAFCO Board of Directors** - Nominations are now open for seats on the CALAFCO Board of Directors. (Attachments 2 and 3). There are eight seats up for election this Fall, two from each of the four regions. The Coastal Region seats include a County Member and a District Member. The election will be conducted by an electronic ballot procedure. Since there will be no annual conference and no caucus, there is no ability to nominate candidates from the floor. All nominations must be submitted electronically or by U.S. Mail by **September 22, 2020**.

Commissioner McGill serves on the CALAFCO Board representing the Coastal Region and currently serves as Chair of the CALAFCO Board. Commissioner McGill seeks reappointment to the CALAFCO Board.

**Designation of Voting Delegate** - The CALAFCO bylaws require that each LAFCO designate a voting delegate to vote on behalf of their Commission. The voting delegate may be a commissioner, alternate commissioner, or executive officer. The voting delegate will cast votes on behalf of Contra Costa LAFCO for 1) CALAFCO Board Members, and 2) Annual Business meeting items should there be a virtual annual CALAFCO business meeting. Voting delegates must be designated by **September 22, 2020**.

**Recommendations:** Advise as to any Board nominations, appoint a voting delegate and alternate, and direct staff to forward the information to CALAFCO.

Sincerely,

LOU ANN TEXEIRA  
EXECUTIVE OFFICER

Attachment 1 - CALAFCO Annual Conference – Cancellation Notice  
Attachment 2 – July 7, 2020 CALAFCO Board Nomination Update  
Attachment 3 – June 19, 2020 CALAFCO Board Nominations Packet

July 7, 2020

Dear CALAFCO Membership:

We continue to live in unprecedented times, dealing with the myriad of disruptive changes thrust upon us and our agencies. All of us continue to learn how to best navigate the path forward, both individually and collectively, with resilience and courage.

With the ongoing pandemic and the dialing back by many counties on re-opening, and the significant budget cuts looming for all local government agencies, careful consideration is being given to every decision organizations are making today. The same is true for CALAFCO and our Annual Conference.

Taking all of that into consideration with respect to the October Annual Conference, the CALAFCO Board of Directors and Executive Director believe CALAFCO has an ethical and corporate responsibility to our members, speakers, guests, their families and our collective communities. This responsibility includes mitigating as much as possible the spread of the virus and being responsible in our decisions to aid in the containment and protect the health and safety of our members. Given the fluidity of the situation, there are still no state guidelines as to larger gathering events and it is not likely they can be done safely anytime soon.

**After careful thought and consideration, CALAFCO has decided to cancel this year's in-person Annual Conference which was scheduled for October 21-23 in Monterey.**

So, what's next?

- Staff is researching options for a virtual event of some kind and will report to the Board of Directors during the July 24 meeting what options are reasonable and available. At this time, we do not know what that may look like, but we are hopeful by the end of the month we will know whether there will be a virtual event. As soon as there is information, you will be advised.
- CALAFCO staff may reach out to your LAFCo staff and commissioners and request feedback via a Survey Monkey survey. **Your feedback will be critical so please respond if asked.**
- CALAFCO is working with the Monterey Hyatt to re-book the Conference in 2023.
- The Board of Directors 2020 elections will be held by email ballot. Please watch for an update from the Elections Committee coming this week.
- We are researching options for holding the Annual Business Meeting and will advise you when that decision has been made.

If you have suggestions or questions, please let Executive Director Pamela Miller know. You can reach her at [pmiller@calafco.org](mailto:pmiller@calafco.org).

On behalf of the Board, we thank you for the leadership and the integrity you demonstrate as local government leaders every day, and especially in difficult times such as these.

Yours sincerely,



Mike McGill  
Chair of the Board



Pamela Miller  
Executive Director

CC: CALAFCO Board of Directors

July 7, 2020

**To:** Local Agency Formation Commission  
Members and Alternate Members

**From:** Shiva Frentzen, Committee Chair  
CALAFCO Board Election Committee  
CALAFCO Board of Directors



**RE: IMPORTANT UPDATE - Elections for 2020/2021 CALAFCO Board of Directors**

As you know, nominations are now open for the fall elections of the CALAFCO Board of Directors. Please refer to the announcement and nomination packet sent out to you on June 19, 2020 for details on which seats are open and other important information.

In that announcement we advised you that if we are unable to have an in-person annual conference due to the COVID-19 pandemic, the elections will be conducted by all mail ballot. **As the in-person annual conference has been cancelled, the 2020 Board of Directors elections will be an electronic ballot procedure.**

- ✓ We will use the timelines outlined in CALAFCO policies as detailed in the June 19 announcement with some slight modifications as provided below.
- ✓ CALAFCO still needs the name of your voting delegate. Please also provide their title and email address as the ballot will be emailed directly to your voting delegate. The voting delegate will also cast votes on behalf of your LAFCo at whatever virtual annual business meeting we may have.

Since there will be no caucus, there is no ability to nominate a candidate from the floor. All nominations must come from the nomination packets submitted and acknowledged as received by the deadline of September 22, 2020 at 5:00 p.m.

**Please inform your Commission that the CALAFCO Election Committee is accepting nominations until Tuesday, September 22, 2020 at 5:00 p.m. and that this is the only way to get your name on the ballot and be considered for election.**

The election committee and CALAFCO staff will meet virtually the morning of October 22 for purposes of tabulating the results and certifying the election. All election documents will be available for member LAFCo inspection upon request.

- **June 19** – Nomination Announcement and packet sent to LAFCo membership and posted on the CALAFCO website.
- **September 22** – Completed Nomination packet due
- **September 22** – Voting delegate name and email address due to CALAFCO
- **October 7** – Distribution of the Election Committee Report (includes all completed/submitted nomination papers)
- **October 7** – Distribution of ballots by email to voting delegate
- **October 21** - Ballots due to CALAFCO by 4:00 p.m. – **NO LATE BALLOTS WILL BE ACCEPTED**
- **October 22** – Elections tabulated by the Elections Committee and an announcement made to the membership

Please direct any questions you have about the election process to Executive Director Pamela Miller at [pmiller@calafco.org](mailto:pmiller@calafco.org) or by calling her at 916-442-6536; or to the Election Committee Chair Shiva Frentzen at [sfrentzen@calafco.org](mailto:sfrentzen@calafco.org) or by calling her at 530-621-5390.

June 19, 2020

**To:** Local Agency Formation Commission  
Members and Alternate Members

**From:** Shiva Frentzen, Committee Chair  
CALAFCO Board Election Committee  
CALAFCO Board of Directors



**RE: Nominations for 2020/2021 CALAFCO Board of Directors**

Nominations are now open for the fall elections of the CALAFCO Board of Directors. Serving on the CALAFCO Board is a unique opportunity to work with other commissioners throughout the state on legislative, fiscal and operational issues that affect us all. The Board meets four to five times each year at alternate sites around the state. Any LAFCo commissioner or alternate commissioner is eligible to run for a Board seat.

CALAFCO's Election Committee is accepting nominations for the eight (8) seats noted below on the CALAFCO Board of Directors. There are two (2) open in each region as follows:

<u>Central Region</u>	<u>Southern Region</u>	<u>Northern Region</u>	<u>Coastal Region</u>
County Member	City Member	City Member	County Member
District Member	Public Member	Public Member	District Member

The election will be conducted during Regional Caucuses at the CALAFCO Annual Conference prior to the Annual Membership Meeting on Thursday, October 22, 2020 at the Hyatt Regency in Monterey, CA. *If we are unable to have an in-person annual conference due to the COVID-19 pandemic, the elections will be conducted by all mail ballot. This means there will be no nominations from the floor as part of the usual caucus procedures.*

**Please inform your Commission that the CALAFCO Election Committee is accepting nominations for the above-cited seats until *Tuesday, September 22, 2020 at 5:00 p.m.***

Incumbents are eligible to run for another term. Nominations received by September 22 will be included in the Election Committee's Report and will be on the ballot. The Report will be distributed to LAFCo members no later than October 7, 2020 and ballots made available to Voting Delegates at the Annual Conference. Nominations received after this date will be returned; however, nominations will be permitted from the floor during the Regional Caucuses or during at-large elections, if required, at the Annual Membership Meeting.

For those member LAFCOs who cannot send a representative to the Annual Meeting an electronic ballot will be made available if requested in advance. **The ballot request must be made no later than Tuesday, September 22, 2020. Completed absentee ballots must be returned by 8:00 a.m., Monday, October 19, 2020.**

*Should your Commission nominate a candidate, the Chair of your Commission must complete the attached Nomination Form and the Candidate's Resume Form or provide the specified information in another format other than a resume. Commissions may also include a letter of recommendation or resolution in support of their nominee.*

**The nomination forms and materials must be received by the CALAFCO Executive Director no later than Tuesday, September 22, 2020 at 5:00 p.m.** Here is a summary of the deadlines for this year's nomination process:

- **June 23** – Nomination Announcement and packet sent to LAFCo membership and posted on the CALAFCO website.
- **September 22** – Completed Nomination packet due
- **September 22** – Request for an absentee/electronic ballot due
- **September 22** – Voting delegate name due to CALAFCO
- **October 7** – Distribution of the Election Committee Report (includes all completed/submitted nomination papers)
- **October 7** – Distribution of requested absentee/electronic ballots.
- **October 19** – Absentee ballots due to CALAFCO
- **October 22** - Elections

Returning the nomination form prior to the deadline ensures your nominee is placed on the ballot. Names will be listed in the order nominations were received should there be multiple candidates. Electronic filing of nomination forms and materials is encouraged to facilitate the recruitment process. Please send e-mails with forms and materials to [info@calafco.org](mailto:info@calafco.org). Alternatively, nomination forms and materials can be mailed or faxed to the address or fax number below. Please forward nominations to:

CALAFCO Election Committee c/o Executive Director  
California Association of Local Agency Formation Commissions  
1020 12<sup>th</sup> Street, Suite 222  
Sacramento, California 95814  
FAX: 916-442-6535  
EMAIL: [info@calafco.org](mailto:info@calafco.org)

Questions about the election process can be sent to the Chair of the Committee, Shiva Frentzen, at [sfrentzen@calafco.org](mailto:sfrentzen@calafco.org) or by calling her at 530-621-5390. You may also contact CALAFCO Executive Director Pamela Miller at [pmiller@calafco.org](mailto:pmiller@calafco.org) or by calling 916-442-6536.

Members of the 2020/2021 CALAFCO Election Committee are:

Shiva Frentzen, Chair <a href="mailto:sfrentzen@calafco.org">sfrentzen@calafco.org</a>	El Dorado LAFCo (Central Region) 530-621-5390
David Couch <a href="mailto:dcouch@cityofarcata.org">dcouch@cityofarcata.org</a>	Humboldt LAFCo (Northern Region) 530-242-1112
Jo MacKenzie <a href="mailto:jmackenzie@calafco.org">jmackenzie@calafco.org</a>	San Diego LAFCo (Southern Region) 858-614-7755
Tom Murray <a href="mailto:tmurray@calafco.org">tmurray@calafco.org</a>	San Luis Obispo LAFCo (Coastal Region) 805-781-5795

Attached please find a copy of the CALAFCO Board of Directors Nomination and Election Procedures as well as the current listing of Board Members and corresponding terms of office.

*Please consider joining us!*

Enclosures

# Board of Directors Nomination and Election Procedures and Forms

The procedures for nominations and election of the CALAFCO Board of Directors [Board] are designed to assure full, fair and open consideration of all candidates, provide confidential balloting for contested positions and avoid excessive demands on the time of those participating in the CALAFCO Annual Conference.

The Board nomination and election procedures shall be:

## 1. APPOINTMENT OF AN ELECTION COMMITTEE:

- a. Following the Annual Membership Meeting the Board shall appoint an Election Committee of four members of the Board. The Election Committee shall consist of one member from each region whose term is not ending.<sup>8</sup>
- b. The Board shall appoint one of the members of the Election Committee to serve as Chairman. The CALAFCO Executive Officer shall appoint a CALAFCO staff member to serve as staff for the Election Committee in cooperation with the CALAFCO Executive Director.<sup>8</sup>
- c. Each region shall designate a regional representative to serve as staff liaison to the Election Committee.<sup>8</sup>
- d. Goals of the Committee are to provide oversight of the elections process and to encourage and solicit candidates by region who represent member LAFCoS across the spectrum of geography, size, and urban suburban and rural population if there is an open seat for which no nominations papers have been received close to the deadline.<sup>8</sup>

## 2. ANNOUNCEMENT TO ALL MEMBER LAFCoS:

- a. No later than three months prior to the Annual Membership Meeting, the Election Committee Chair shall send an announcement to each LAFCo for distribution to each commissioner and alternate. The announcement shall include the following:<sup>8</sup>
  - i. A statement clearly indicating which offices are subject to the election.
  - ii. A regional map including LAFCoS listed by region.
  - iii. The dates by which all nominations must be received by the Election Committee. The deadline shall be no later than 30 days prior to the opening of the Annual Conference. Nominations received after the closing date shall be returned to the proposing LAFCo marked "Received too late for Elections Committee action."<sup>8</sup>
  - iv. The names of the Election Committee members with the Committee Chairman's LAFCo address and phone number, and the names and contact information for each of the regional representatives.<sup>8</sup>
  - v. The address to send the nominations forms.
  - vi. A form for a Commission to use to nominate a candidate and a candidate resume form of no more than one page each to be completed for each nominee.
- b. No later than four months before the annual membership meeting, the Election Committee Chairman shall send an announcement to the Executive Director for distribution to each member LAFCo and for publication in the newsletter and on the web site. The announcement shall include the following:<sup>8</sup>

### Key Timeframes for Nominations Process

Days*	
90	Nomination announcement
30	Nomination deadline
14	Committee report released

\*Days prior to annual membership meeting

- i. A statement clearly indicating which offices are subject to the election.
  - ii. The specific date by which all nominations must be received by the Election Committee. Nominations received after the closing dates shall be returned to the proposing LAFCo marked "Received too late for Election Committee action."<sup>8</sup>
  - iii. The names of the Election Committee members with the Committee Chair's LAFCo address and phone number, and the names and contact information for each of the regional representatives.<sup>8</sup>
  - iv. Requirement that nominated individual must be a commissioner or alternate commissioner from a member in good standing within the region.
- c. A copy of these procedures shall be posted on the web site.

### **3. THE ELECTION COMMITTEE:**

- a. The Election Committee and the regional representatives have the responsibility to monitor nominations and help assure that there are adequate nominations from each region for each seat up for election. No later than two weeks prior to the Annual Conference, the Election Committee Chair shall distribute to the members the Committee Report organized by regions, including copies of all nominations and resumes, which are received prior to the end of the nomination period.<sup>8</sup>
- b. At the close of the nominations the Election Committee shall prepare regional ballots. Each region will receive a ballot specific to that region. Each region shall conduct a caucus at the Annual Conference for the purpose of electing their designated seats. Caucus elections must be held prior to the annual membership meeting at the conference. The Executive Director or assigned staff along with a member of the Election Committee shall tally ballots at each caucus and provide the Election Committee the names of the elected Board members and any open seats. In the event of a tie, the staff and Election Committee member shall immediately conduct a run-off ballot of the tied candidates.<sup>8</sup>
- c. Make available sufficient copies of the Committee Report for each Voting Delegate by the beginning of the Annual Conference.
- d. Make available blank copies of the nomination forms and resume forms to accommodate nominations from the floor at either the caucuses or the annual meeting (if an at-large election is required).
- e. Advise the Executive Director to provide "CANDIDATE" ribbons to all candidates attending the Annual Conference.<sup>8</sup>
- f. Post the candidate statements/resumes organized by region on a bulletin board near the registration desk.
- g. Regional elections shall be conducted as described in Section 4 below. The representative from the Election Committee shall serve as the Presiding Officer for the purpose of the caucus election.<sup>8</sup>
- h. Following the regional elections, in the event that there are open seats for any offices subject to the election, the Election Committee Chair shall notify the Chair of the Board of Directors that an at-large election will be required at the annual membership meeting and to provide a list of the number and category of seats requiring an at-large election.<sup>8</sup>

**4. ELECTRONIC BALLOT FOR LAFCO IN GOOD STANDING NOT ATTENDING ANNUAL MEETING<sup>6</sup>**

Limited to the elections of the Board of Directors

- a. Any LAFCo in good standing shall have the option to request an electronic ballot if there will be no representative attending the annual meeting.
- b. LAFCos requesting an electronic ballot shall do so in writing no later than 30 days prior to the annual meeting.
- c. The Executive Director shall distribute the electronic ballot no later than two weeks prior to the annual meeting.
- d. LAFCo must return the ballot electronically to the executive director no later than three days prior to the annual meeting.
- e. LAFCos voting under this provision may discard their electronic ballot if a representative is able to attend the annual meeting.
- f. LAFCos voting under this provision may only vote for the candidates nominated by the Election Committee and may not vote in any run-off elections.<sup>8</sup>

**5. AT THE TIME FOR ELECTIONS DURING THE REGIONAL CAUCUSES OR ANNUAL MEMBERSHIP MEETING:**

- a. The Election Committee Chairman, another member of the Election Committee or the Chair's designee (hereafter called the Presiding Officer) shall:<sup>8</sup>
  - i. Review the election procedure with the membership.
  - ii. Present the Election Committee Report (previously distributed).
  - iii. Call for nominations from the floor by category for those seats subject to this election:
    1. For city member.
    2. For county member.
    3. For public member.
    4. For special district member.
- b. To make a nomination from the floor, a LAFCo, which is in good standing, shall identify itself and then name the category of vacancy and individual being nominated. The nominator may make a presentation not to exceed two minutes in support of the nomination.
- c. When there are no further nominations for a category, the Presiding Officer shall close the nominations for that category.
- d. The Presiding Officer shall conduct a "Candidates Forum". Each candidate shall be given time to make a brief statement for their candidacy.
- e. The Presiding Officer shall then conduct the election:
  - i. For categories where there are the same number of candidates as vacancies, the Presiding Officer shall:
    1. Name the nominees and offices for which they are nominated.
    2. Call for a voice vote on all nominees and thereafter declare those unopposed candidates duly elected.

- ii. For categories where there are more candidates than vacancies, the Presiding Officer shall:
  1. Poll the LAFCoS in good standing by written ballot.
  2. Each LAFCo in good standing may cast its vote for as many nominees as there are vacancies to be filled. The vote shall be recorded on a tally sheet.
  3. Any ballots submitted electronically for candidates included in the Election Committee Report shall be added to the tally.<sup>8</sup>
  4. With assistance from CALAFCO staff, tally the votes cast and announce the results.
- iii. Election to the Board shall occur as follows:
  1. The nominee receiving the majority<sup>6</sup> of votes cast is elected.
  2. In the case of no majority, the two nominees receiving the two highest number of votes cast shall face each other in a run-off election. Electronic ballots are not included in the tally for any run-off election(s).<sup>6</sup>
  3. In case of tie votes<sup>6</sup>:
    - a. A second run-off election shall be held with the same two nominees.
    - b. If there remains a tie after the second run-off, the winner shall be determined by a draw of lots.
  4. In the case of two vacancies, any candidate receiving a majority of votes cast is elected.<sup>6</sup>
    - a. In the case of no majority for either vacancy, the three nominees receiving the three highest number of votes cast shall face each other in a run-off election.
    - b. In the case of no majority for one vacancy, the two nominees receiving the second and third highest number of votes cast shall face each other in a run-off election.
    - c. In the event of a tie, a second run-off election shall be held with the tied nominees. If there remains a tie after the second run-off election the winner shall be determined by a draw of lots.

## **6. ADDITIONAL PROCEDURES**

- a. For categories where there are more candidates than vacancies, names will be listed in the order nominated.
- b. The Election Committee Chair shall announce and introduce all Board Members elected at the Regional Caucuses at the annual business meeting.<sup>8</sup>
- c. In the event that Board seats remain unfilled after a Regional Caucus, an election will be held immediately at the annual business meeting to fill the position at-large. Nominations will be taken from the floor and the election process will follow the procedures described in Section 4 above. Any commissioner or alternate from a member LAFCo may be nominated for at-large seats.
- d. Seats elected at-large become subject to regional election at the expiration of the term. Only representatives from the region may be nominated for the seat.
- e. As required by the Bylaws, the members of the Board shall meet as soon as possible after

election of new board members for the purpose of electing officers, determining meeting places and times for the coming year, and conducting any other necessary business.

### 7. LOSS OF ELECTION IN HOME LAFCO

Board Members and candidates who lose elections in their home office shall notify the Executive Director within 15 days of the certification of the election.

### 8. FILLING BOARD VACANCIES

Vacancies on the Board of Directors may be filled by appointment by the Board for the balance of the unexpired term. Appointees must be from the same category as the vacancy, and should be from the same region.

*These policies and procedures were adopted by the CALAFCO Board of Directors on 12 January 2007 and amended on 9 November 2007<sup>1</sup>, 8 February 2008<sup>2</sup>, 13 February 2009<sup>3</sup>, 12 February 2010<sup>4</sup>, 18 February 2011<sup>5</sup>, 29 April 2011<sup>6</sup>, 11 July 2014<sup>7</sup> and 27 October 2017<sup>8</sup>. They supersede all previous versions of the policies.*

## CALAFCO Regions

### FOUR REGIONS



The counties in each of the four regions consist of the following:

**Northern Region**

Butte  
Colusa  
Del Norte  
Glenn  
Humboldt  
Lake  
Lassen  
Mendocino  
Modoc  
Nevada  
Plumas  
Shasta  
Sierra  
Siskiyou  
Sutter  
Tehama  
Trinity  
Yuba

**CONTACT:** Steve Lucas  
Butte LAFCo  
slucas@buttecounty.net

**Southern Region**

Orange  
Los Angeles  
Imperial  
Riverside  
San Bernardino  
San Diego

**CONTACT:** Gary Thompson  
Riverside LAFCo  
gthompson@lafco.org

**Coastal Region**

Alameda  
Contra Costa  
Marin  
Monterey  
Napa  
San Benito  
San Francisco  
San Luis Obispo  
San Mateo  
Santa Barbara  
Santa Clara  
Santa Cruz  
Solano  
Sonoma  
Ventura

**CONTACT:** Martha Poyatos  
San Mateo LAFCo  
mpoyatos@smcgov.org

**Central Region**

Alpine  
Amador  
Calaveras  
El Dorado  
Fresno  
Inyo  
Kern  
Kings  
Madera  
Mariposa  
Merced  
Mono  
Placer  
Sacramento  
San Joaquin  
Stanislaus  
Tulare  
Tuolumne  
Yolo

**CONTACT:** Christine Crawford, Yolo LAFCo  
christine.crawford@yolocounty.org

# Board of Directors 2020/2021 Nominations Form

## *Nomination to the CALAFCO Board of Directors*

In accordance with the Nominations and Election Procedures of CALAFCO,

\_\_\_\_\_ LAFCo of the \_\_\_\_\_ Region

Nominates \_\_\_\_\_

for the (check one)     City     County     Special District     Public

Position on the CALAFCO Board of Directors to be filled by election at the next Annual Membership Meeting of the Association.

\_\_\_\_\_  
LAFCo Chair

\_\_\_\_\_  
Date

### **NOTICE OF DEADLINE**

Nominations must be received by **September 22, 2020** at 5:00 p.m. to be considered by the Election Committee. Send completed nominations to:  
CALAFCO Election Committee  
CALAFCO  
1020 12<sup>th</sup> Street, Suite 222  
Sacramento, CA 95814

## Board of Directors 2020/2021 Candidate Resume Form

Nominated By: \_\_\_\_\_ LAFCo Date: \_\_\_\_\_

Region (please check one):  Northern  Coastal  Central  Southern

Category (please check one):  City  County  Special District  Public

Candidate Name \_\_\_\_\_

Address \_\_\_\_\_

Phone Office \_\_\_\_\_ Mobile \_\_\_\_\_

e-mail \_\_\_\_\_

Personal and Professional Background:

LAFCo Experience:

CALAFCO or State-level Experience:

Availability:

Other Related Activities and Comments:

**NOTICE OF DEADLINE**

Nominations must be received by **September 22, 2020** at 5:00 p.m. to be considered by the Election Committee. Send completed nominations to:  
CALAFCO Election Committee  
CALAFCO  
1020 12<sup>th</sup> Street, Suite 222  
Sacramento, CA 95814



Lou Ann Teixeira  
 Executive Officer

**MEMBERS**

- |   |  |
|---|--|
| <b>Candace Andersen</b><br><i>County Member</i>         | <b>Federal Glover</b><br><i>County Member</i>              |
| <b>Donald A. Blubaugh</b><br><i>Public Member</i>       | <b>Michael R. McGill</b><br><i>Special District Member</i> |
| <b>Tom Butt</b><br><i>City Member</i>                   | <b>Rob Schroder</b><br><i>City Member</i>                  |
| <b>Igor Skaredoff</b><br><i>Special District Member</i> |  |

**ALTERNATE MEMBERS**

- |   |
|---|
| <b>Diane Burgis</b><br><i>County Member</i>               |
| <b>Stanley Caldwell</b><br><i>Special District Member</i> |
| <b>Charles R. Lewis, IV</b><br><i>Public Member</i>       |
| <b>Sean Wright</b><br><i>City Member</i>                  |

August 12, 2020 (Agenda)

August 12, 2020  
 Agenda Item 9

Contra Costa Local Agency Formation Commission  
 40 Muir Road, 1<sup>st</sup> Floor  
 Martinez, CA 94553

**Authorize Service Contract – Environmental Planning Services**

Dear Members of the Commission:

**DISCUSSION**

The FY 2020-21 LAFCO Budget includes funding for various professional services which provide maximum staffing and budgetary flexibility.

One of the contract services provided to LAFCO is environmental planning. Since 2008, Contra Costa LAFCO has retained Lamphier-Gregory for “as-needed” environmental planning services. We recently learned that our planner, Nat Taylor, is retiring.

Given the change in Lamphier Gregory staffing, and that LAFCO last issued a Request for Proposals (RFP) for planning services in 2011, it is timely to go out to bid for planning services. In June 2020, LAFCO released an RFP and scope of services which includes the following:

- Reviews and provides comments on LAFCO applications and projects
- Reviews and provides comments on environmental documents prepared by outside agencies
- Assists with preparing environmental documents for LAFCO projects
- Assists with development of new, and reviews existing, LAFCO policies and procedures
- Attends LAFCO hearings, meetings with applicants, and other meetings as needed

The RFP was posted on the Contra Costa LAFCO and CALAFCO websites and was sent to approximately 15 planning firms. The deadline for submittal was July 17, 2020. Proposals were submitted by the following proposers (copies of the proposals are available upon request):

- |                                      |                            |
|--------------------------------------|----------------------------|
| ✚ Grassetti Environmental Consulting | ✚ Planwest Partners., Inc. |
| ✚ E Mulberg & Associates             | ✚ QK                       |
| ✚ Loewke Planning Associates, Inc.   | ✚ SWALE, Inc.              |

The proposals include sole practitioners, small firms, and consultant teams and vary in the number of team members/firms, experience with LAFCO, location/home base, clientele, and cost. All six proposals are acceptable, and all offer environmental planning as well as LAFCO experience.

A screening committee composed of LAFCO professionals **Rachel Jones**, Executive Officer, Alameda LAFCO and **Martha Poyatos**, Executive Officer, San Mateo LAFCO, along with your Executive Officer reviewed the proposals. Your Executive Officer followed up with each team with questions to gauge the consultants' understanding of the required tasks, proposed approach to planning services, experience and familiarity with LAFCO, qualifications of personnel who would be assigned to work with the Contra Costa LAFCO, potential conflicts, cost and other factors.

Following initial screening and review of work products, LAFCO staff conducted interviews and references checks with the top proposers. While all six proposers are qualified and can provide the needed services, it is recommended that the Commission retain SWALE, Inc. to provide environmental planning services to Contra Costa LAFCO.

SWALE, Inc. is a small, woman-owned consulting firm located in Grass Valley, CA. Kateri Harrison is the CEO. SWALE, Inc. partnered with Baracco & Associates for this proposal. SWALE, Inc. also offers contracted technical expertise in the areas of geology, air quality, hydrology, engineering, legal, traffic circulation, noise, climate and hazards. SWALE, Inc. and Baracco Associates are recommended for the following reasons:

- Ms. Harrison has over 25 years of environmental, land use and planning experience. She holds graduate and undergraduate degrees in Ecology & Systematic Biology and Environmental Studies, respectively. Her land use planning experience includes serving as staff to Alameda and Nevada counties and as Planning Commissioner for the City of Grass Valley. Ms. Harrison served as a subconsultant on the Bay Delta Conservation Plan. She also has LAFCO experience having worked as project manager and MSR consultant for Butte, Solano, Nevada, Placer, Mendocino, and Santa Clara LAFCOs and for the Byron Bethany Irrigation District.
- Mr. Baracco has extensive experience in land use planning and environmental review, along with significant LAFCO experience. He holds graduate and undergraduate degrees in Urban Planning and City and Regional Planning, respectively. He previously served as a LAFCO Executive Officer for 14 years. Mr. Baracco prepared numerous MSRs for Contra Costa, Napa, and Santa Clara LAFCOs. He worked on several Contra Costa LAFCO MSRs including the 2007-08 East County Subregional MSR, 2009 Reclamation Services, and the 2011 Law Enforcement Services MSR.
- The proposal presents a solid understanding of land use, environmental planning and LAFCO issues.
- The proposal presents a highly qualified team with extensive experience conducting environmental analyses in accordance with the California Environmental Quality Act (CEQA).
- The team has significant experience working with counties, cities, and other public agencies throughout the State.
- The team presents a cost-effective proposal.

## **RECOMMENDATION**

Authorize staff to execute a contract with SWALE, Inc. to provide as-needed environmental planning services from September 1, 2020 through August 31, 2021 as provided for in the FY 2020-21 budget.

Sincerely,

LOU ANN TEXEIRA  
EXECUTIVE OFFICER

c: Distribution



Lou Ann Teixeira  
 Executive Officer

**MEMBERS**

**Candace Andersen**  
 County Member  
**Donald A. Blubaugh**  
 Public Member  
**Tom Butt**  
 City Member  
**Igor Skaredoff**  
 Special District Member  
**Federal Glover**  
 County Member  
**Michael R. McGill**  
 Special District Member  
**Rob Schroder**  
 City Member

**ALTERNATE MEMBERS**

**Diane Burgis**  
 County Member  
**Stanley Caldwell**  
 Special District Member  
**Charles R. Lewis, IV**  
 Public Member  
**Sean Wright**  
 City Member

August 12, 2020 (Agenda)

Contra Costa Local Agency Formation Commission  
 40 Muir Road, 1<sup>st</sup> Floor  
 Martinez, CA 94553

August 12, 2020  
 Agenda Item 10

**Contract Amendment with Economic & Planning Systems, Inc./Berkson Associates**

Dear Commissioners:

Contra Costa LAFCO’s annual work plan includes preparing at least one MSR each year; and most of our MSRs are prepared by consultants. In December 2019, the Commission approved a contract with Economic & Planning Systems, Inc and Berkson Associates to prepare the 2<sup>nd</sup> round “Parks & Recreation” MSR covering all 19 cities, four community services districts, three parks & recreation districts, one regional park district, and eight County Service Areas.

The current schedule provides for completing this MSR by November 30, 2020. However, due to the pandemic, the cities requested a 4-month extension to provide the requested data, which LAFCO staff and the MSR consultants granted. The proposed revised schedule is as follows:

- ✚ January 2021 - Release of Public Review Draft MSR (public comment period)
- ✚ March 10, 2021 – Commission receives overview of Public Review Draft MSR and provides input
- ✚ April 2021 – Release of Final Draft MSR (public comment period)
- ✚ June 9, 2021 – Commission accepts Final MSR and updates SOIs

It is proposed that the Commission approve an amendment to the contract with Economic & Planning Systems, Inc. and Berkson Associates to extend the contract term to complete the MSR work.

**RECOMMENDATION:** Authorize LAFCO staff to execute a contract amendment with Economic & Planning Systems, Inc. and Berkson Associates to extend the term of the contract from November 30, 2020 to June 30, 2021 in order to complete the 2<sup>nd</sup> round “Parks & Recreation” MSR/SOI updates.

Sincerely,

LOU ANN TEXEIRA  
 EXECUTIVE OFFICER

c: Ashleigh Kanat, Economic & Planning Systems, Inc.  
 Richard Berkson, Berkson Associates  
 County Auditor-Controller



Lou Ann Teixeira  
 Executive Officer

**MEMBERS**

<b>Candace Andersen</b> <i>County Member</i>	<b>Federal Glover</b> <i>County Member</i>
<b>Donald A. Blubaugh</b> <i>Public Member</i>	<b>Michael R. McGill</b> <i>Special District Member</i>
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<b>Igor Skaredoff</b> <i>Special District Member</i>	

**ALTERNATE MEMBERS**

<b>Diane Burgis</b> <i>County Member</i>
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<b>Charles R. Lewis, IV</b> <i>Public Member</i>
<b>Sean Wright</b> <i>City Member</i>

August 12, 2020

August 12, 2020  
Agenda Item 11

Contra Costa Local Agency Formation Commission  
 40 Muir Road, 1<sup>st</sup> Floor  
 Martinez, CA 94553

**Legislative Report - Update and Position Letters**

Dear Members of the Commission:

This year marks the second year of a two-year legislative session in Sacramento. Due to COVID-19, the Legislature has largely been shut down since mid-March. The Legislature met briefly in June to adopt a budget and address several critical bills. As of this writing, the State Assembly and Senate are currently adjourned.

The 2020 Legislative calendar indicates that the last day for each house to pass bills is August 31, 2020; and the last day for the Governor to sign or veto bills is September 30, 2020.

CALAFCO is tracking various bills this year as show on the attached report (Attachment 1). In addition, CALAFCO is sponsoring **AB (Rivas)** which, among other things, establishes one-time grant funding for LAFCOs to prepare reorganization studies in conjunction with the 2017 Little Hoover Commission report relating to special districts. In early July 2020, CALAFCO learned that Assembly Member Rivas does not plan to move this bill forward and will assign the bill to another Legislator for their use as a gut and amend.

Other CALAFCO legislative activities include working with several state associations to rewrite the LAFCO protest provisions. Due to COVID-19, this effort has been placed on hold.

On July 23<sup>rd</sup>, CALAFCO issued an urgent call for legislative action requesting that each LAFCO send a letter opposing proposed amendments to **SB 414 – Small System Water Authority Act of 2020**. In response to CALAFCO’s request, and in accordance with the Commission’s policy (see below) letters were sent to the Assembly Appropriations Committee and to the author Senator Caballero (Attachments 2 and 3).

Contra Costa LAFCO’s legislative policy provides our LAFCO with flexibility to respond to urgent legislation that affects LAFCO. Specifically, the policy provides that in “*situations when*

*proposed legislation affecting LAFCO cannot be considered by the full Commission due to timing, the Executive Officer, in consultation with the LAFCO Chair (or Vice Chair in the absence of the Chair), is authorized to provide written or email comments communicating the Commission's position if the position is consistent with the adopted legislative policies of the Commission. The Chair or Vice Chair would review the letter or email prior to it being submitted. The Executive Officer will forward the email or letter to the Commission as soon as possible. The item will be placed on the next regular LAFCO meeting agenda as either "informational" or for discussion purposes."*

**RECOMMENDATION** – Receive legislative update.

Sincerely,

LOU ANN TEXEIRA  
EXECUTIVE OFFICER

Attachment 1 – CALAFCO Legislative Report

Attachment 2 – Letter to Assembly Appropriations Committee Opposing Proposed Amendments to SB 414

Attachment 3 – Letter to Senator Caballero (author) Opposing Proposed Amendments to SB 414

## CALAFCO Daily Legislative Report as of Wednesday, August 05, 2020

1

**[AB 1751](#) (Chiu D) Water and sewer system corporations: consolidation of service.**

**Current Text:** Amended: 7/5/2019 [html](#) [pdf](#)

**Introduced:** 2/22/2019

**Last Amended:** 7/5/2019

**Status:** 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/12/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

The California Safe Drinking Water Act provides for the operation of public water systems and imposes on the State Water Resources Control Board related responsibilities and duties. Current law authorizes the state board to order consolidation of public water systems where a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, as provided. This bill, the Consolidation for Safe Drinking Water Act of 2019, would authorize a water or sewer system corporation to file an application and obtain approval from the commission through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system.

**Position:** Watch

**Subject:** Water

**CALAFCO Comments:** This bill would authorize a water or sewer system corporation to file an application and obtain approval from the PUC through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system. The bill would require the commission to approve or deny the app. Unless the commission designates a different procedure because it determines a consolidation warrants a more comprehensive review, the bill would authorize a water or sewer system corporation to instead file an advice letter and obtain approval from the commission through a resolution authorizing the water or sewer system corporation to consolidate with a public water system or state small water system that has fewer than 3,300 service connections and serves a disadvantaged community, or to implement rates for the subsumed water system.

**[SB 414](#) (Caballero D) Small System Water Authority Act of 2019.**

**Current Text:** Amended: 6/25/2019 [html](#) [pdf](#)

**Introduced:** 2/20/2019

**Last Amended:** 6/25/2019

**Status:** 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/21/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would create the Small System Water Authority Act of 2019 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2020, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified.

**Attachments:**

[LAFCO Template Oppose Pending Amendment to Author CALAFCO Oppose Pending Amendments to AESTM](#)

[CAIAFCO Oppose Pending Amendments to Author](#)  
[CALAFCO Oppose Pending Amendments to SGFC](#)  
[CALAFCO Oppose Pending Amendments to SEQ](#)  
[LAFCO Template Oppose Pending Amendments to Assm Appropriations](#)  
[CALAFCO Oppose Pending Amendments to ALGC](#)  
[CALAFCO Oppose Pending Amendments to Assm Appropriations](#)

**Position:** Oppose Pending Amendments

**Subject:** Water

**CALAFCO Comments:** UPDATE AS OF 07/23/20. There are currently proposed pending amendments not yet in print being negotiated by the author and sponsors with Assm. Appropriations that remove LAFCo authority in the formation of the new water authority and give that quasi-legislative authority to the SWRCB. Further LAFCO will no longer have any authority in the dissolution of a public water supplier as part of the formation of the new authority, and all LAFCo funding for what is required to be done by LAFCo is being eliminated. There are numerous other issues with the pending amendments, all of which are detailed in our opposition letter.

This bill is very similar to AB 2050 (Caballero) from 2018. Several changes have been made. This bill is sponsored by Eastern Municipal Water District and the CA Municipal Utilities Assoc. The intent is to give the State Water Resources Control Board (SWRCB) authority to mandate the dissolution of existing drinking water systems (public, mutual and private) and authorize the formation of a new public water authority. The focus is on non contiguous systems. The SWRCB already has the authority to mandate consolidation of these systems, this will add the authority to mandate dissolution and formation of a new public agency.

LAFCo will be responsible for dissolving any state mandated public agency dissolution, and the formation of the new water authority. The SWRCB's appointed Administrator will act as the applicant on behalf of the state. LAFCo will have ability to approve with modifications the application, and the new agency will have to report to the LAFCo annually for the first 3 years.

**[SB 928](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/5/2020 [html](#) [pdf](#)

**Introduced:** 2/5/2020

**Status:** 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Calendar:**

8/11/2020 9:30 a.m. - State Capitol, Room 4202 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

**Summary:**

This bill would enact the First Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Position:** Support

**CALAFCO Comments:** This is the first of three annual validating acts.

**[SB 929](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Introduced: 2/5/2020 [html](#) [pdf](#)

**Introduced:** 2/5/2020

**Status:** 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Calendar:**

8/11/2020 9:30 a.m. - State Capitol, Room 4202 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

**Summary:**

This bill would enact the Second Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Position:** Support

**CALAFCO Comments:** This is the second of three annual validating acts.

**SB 930 (Committee on Governance and Finance) Validations.****Current Text:** Introduced: 2/5/2020 [html](#) [pdf](#)**Introduced:** 2/5/2020**Status:** 6/18/2020-Referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Calendar:**

8/11/2020 9:30 a.m. - State Capitol, Room 4202 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair

**Summary:**

This bill would enact the Third Validating Act of 2020, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Position:** Support**CALAFCO Comments:** This is the third of three annual validating acts.

2

**AB 213 (Reyes D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.****Current Text:** Introduced: 1/15/2019 [html](#) [pdf](#)**Introduced:** 1/15/2019**Status:** 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/19/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	Policy	2 year	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would, for the 2019–20 fiscal year, require the vehicle license fee adjustment amount to be the sum of the vehicle license fee adjustment amount in the 2018–19 fiscal year, the product of that sum and the percentage change in gross taxable assessed valuation within the jurisdiction of that entity between the 2018–19 fiscal year to the 2018–19 fiscal year, and the product of the amount of specified motor vehicle license fee revenues that the Controller allocated to the applicable city in July 2010 and 1.17.

**Attachments:**[CALAFCO Support Letter](#)**Position:** Support**Subject:** Tax Allocation**CALAFCO Comments:** Sponsored by the League, this bill will reinstate ERAF funding for inhabited annexations. This bill is the same as AB 2268 (Reyes) from 2018.

3

**AB 134 (Bloom D) Safe Drinking Water Restoration.****Current Text:** Amended: 5/20/2019 [html](#) [pdf](#)**Introduced:** 12/5/2018**Last Amended:** 5/20/2019**Status:** 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was E.Q. on 6/12/2019)(May be acted upon Jan 2020)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would require the State Water Resources Control Board to report to the Legislature by July 1, 2025, on its progress in restoring safe drinking water to all California communities and to create an internet website that provides data transparency for all of the board's activities described in this measure. The bill would require the board to develop metrics to measure the efficacy of the fund in ensuring safe and affordable drinking water for all Californians.

**Position:** Watch

**Subject:** Water

**AB 2370 (Limón D) Ventura Port District: aquaculture plots: federal waters.**

**Current Text:** Amended: 3/16/2020 [html](#) [pdf](#)

**Introduced:** 2/18/2020

**Last Amended:** 3/16/2020

**Status:** 3/17/2020-Re-referred to Com. on L. GOV.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, a city or district may only provide new or extended services by contract or agreement outside of its jurisdictional boundary if it requests and receives written approval, as provided, from the local agency formation commission in the county in which the extension of service is proposed. This bill would, notwithstanding the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, authorize the Ventura Port District, to the extent permitted by federal law, to construct, maintain, operate, lease, and grant permits to others for the installation, maintenance, and operation of aquaculture plots in federal waters off the coast of California the County of Ventura, as prescribed, in order to aid in the development or improvement of navigation or commerce to the port district.

**Position:** Watch

**Subject:** Special District Powers

**CALAFCO Comments:** This is a local bill authorizing Ventura Port District to extend operations into federal waters. CALAFCO will work with Ventura LAFCo.

UPDATE: CALAFCO learned that the author has pulled the bill for 2020.

**AB 3312 (Gray D) Local agency formation: annexation: City of Merced.**

**Current Text:** Amended: 7/31/2020 [html](#) [pdf](#)

**Introduced:** 2/21/2020

**Last Amended:** 7/31/2020

**Status:** 7/31/2020-Read second time and amended. Ordered to third reading.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Calendar:**

8/5/2020 #37 SENATE ASSEMBLY BILLS - THIRD READING FILE

**Summary:**

Would authorize the annexation of territory comprising the main campus of the University of California, Merced, as specified, and any road strip, as defined, to the City of Merced, notwithstanding the requirement that the territory be contiguous with the city, if other conditions are met, including that the territory is within the city's sphere of influence. The bill would prohibit the commission from approving a subsequent annexation of a road strip pursuant to these provisions unless the territory proposed to be annexed is contiguous to the property comprising the main campus of the University of California, Merced or the boundaries of the City of Merced as it existed on January 1, 2021.

**Attachments:**

[CALAFCO Oppose as amended](#)

**Position:** Oppose

**Subject:** Annexation Proceedings

**CALAFCO Comments:** UPDATE: The amendments of 7/23/20 change the bill so that all territory adjacent to the road strip (rather than just tot he campus) are eligible for annexation. This will create a wide swath of checkerboard annexations and sets a precedent. Further, the City has been working on an annexation feasibility study for 2 years that is supposed to be presented to the City Council within the next month or two, so this legislation is premature to that study. CALAFCO is now opposed to the bill as amended.

This is a local bill for Merced. It allows a defined section of the UC Merced campus and access road to be annexed if certain conditions are met and keeps the LAFCo process intact. CALAFCO will watch the bill to ensure the LAFCo process remains protected and work with Merced LAFCo.

**SB 625 (Bradford D) Central Basin Municipal Water District: receivership.**

**Current Text:** Amended: 6/8/2020 [html](#) [pdf](#)

**Introduced:** 2/22/2019**Last Amended:** 6/8/2020**Status:** 6/18/2020-Re-referred to Com. on RLS. pursuant to Senate Rule 29.10(d).

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would dissolve the board of directors of the Central Basin Municipal Water District (CBMWD) and would provide that the November 3, 2020, election for directors of CBMWD shall not occur. The bill would require the Water Replenishment District of Southern California (WRD) to act as the receiver for CBMWD, would vest WRD with all necessary powers under the Municipal Water District Law of 1911 to take control of CBMWD, and would transfer all powers vested in the board of directors of CBMWD to the board of directors of WRD, except as specified. The bill would require CBMWD's board of directors to surrender all control of CBMWD and its resources to WRD.

**Attachments:**[LAFCo Support letter template](#)[CALAFCO Support June 12, 2020](#)**Position:** Support**Subject:** Municipal Services**SB 806 (Grove R) Worker status: employees: independent contractors.****Current Text:** Amended: 4/29/2020 [html](#) [pdf](#)**Introduced:** 1/9/2020**Last Amended:** 4/29/2020**Status:** 5/18/2020-May 14 set for first hearing. Failed passage in committee. (Ayes 1. Noes 4.) Reconsideration granted.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would establish a new test that, for purposes of specific provisions of the Labor Code governing the relationship of employer and employees, a person providing labor or services for remuneration is considered an employee rather than an independent contractor, unless the hiring entity demonstrates that the person is (1) free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact, determined by a preponderance of factors, with no single factor of control being determinative, and either that (2) the person performs work that is outside the usual course of the hiring entity's business, or the work performed is outside the place of business of the hiring entity, or the worker is responsible for the costs of the place of the business where the work is performed, or that (3) the person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

**Position:** Watch**Subject:** Other**CALAFCO Comments:** This bill proposes amendments to AB 5 in terms of the exemption tests which may impact the contractual/employee relationship of CALAFCO and its two primary contractors.

Total Measures: 11

Total Tracking Forms: 11

8/5/2020 12:32:44 PM

## CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

40 Muir Road, 1st Floor • Martinez, CA 94553

e-mail: LouAnn.Teixeira@lafco.cccounty.us

(925) 313-7133



Lou Ann Teixeira  
Executive Officer

## MEMBERS

**Candace Andersen**  
*County Member*

**Donald A. Blubaugh**  
*Public Member*

**Tom Butt**  
*City Member*

**Igor Skaredoff**  
*Special District Member*

**Federal Glover**  
*County Member*

**Michael R. McGill**  
*Special District Member*

**Rob Schroder**  
*City Member*

## ALTERNATE MEMBERS

**Diane Burgis**  
*County Member*

**Stanley Caldwell**  
*Special District Member*

**Charles R. Lewis, IV**  
*Public Member*

**Sean Wright**  
*City Member*

July 24, 2020

The Honorable Lorena Gonzalez  
Chair, Appropriations Committee  
California State Assembly  
State Capitol, Room 2114  
Sacramento, CA 95814

**RE: SB 414 – Small System Water Authority Act of 2020**  
**OPPOSE PROPOSED AMENDMENTS**

Dear Chair Gonzalez:

The Contra Costa Local Agency Formation Commission (LAFCo) joins the California Association of Local Agency Formation Commissions (CALAFCO) to oppose the proposed amendments to **SB 414** (Caballero). The bill is currently being held in your committee. While there are vast policy issues with the proposed amendments, this letter to you and your committee will focus our concerns on the fiscal issues included in the proposed amendments.

According to the sponsors, in an effort to reduce costs associated with the bill, the role of LAFCos that exists in the current version of the bill (dated June 25, 2019) is being drastically diminished. The proposed amendments strip LAFCos of their authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of, and by the authority of, LAFCo. Additionally, the proposed amendments remove LAFCos' authority to dissolve a public water system as authorized by the State Water Resources Control Board (SWRCB) and as part of the formation process of the new authority.

The bill sponsors indicate that the proposed amendments, which change numerous processes in SB 414, are intended to reflect closer alignment with processes and SWRCB authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and in AB 2501 (2018, Chu). SB 88 and AB 2501 deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One cannot be compared to the other.

The current version of SB 414, as noted in last fiscal analysis on August 21, 2019 in your committee, reflects a cost of up to \$10.65 million to LAFCos for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. Using the fiscal projections in the current bill, the costs associated with LAFCo are significantly below every other entity and related provision (with one exception) of the dissolutions, formations, administration, SWRCB support and support for the authorities once formed. The cost for LAFCos to process dissolution of public water systems and form

the new authority is likely to be far less than having the SWRCB perform these functions. Thus, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not, in fact, reduce costs – it simply transfers the cost from the local level to the state level. Further, we assert that the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCos to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority’s performance for the first three years; and (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority’s performance, and provide a report to the SWRCB on comments received at the hearing.

The proposed amendments remove all funding for LAFCo for all actions required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCo) “*incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board.*” All the LAFCo expenses related to SB 414 are over and above normal operating budget costs. In order to cover these costs should the state not, it is likely LAFCo will have to increase fees to the local government agencies, the very agencies that pay into the annual LAFCo budget (i.e., cities, counties, and special districts).

*LAFCos need to be added to the language in Section 78115 (a)(1).* All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved, and retain funding for all state agencies involved, is inappropriate and places the burden on local government.

For these fiscal reasons, we oppose the proposed pending amendments to **SB 414** and strongly urge your committee to reject the amendments and hold the bill.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Sincerely,



Candace Andersen, Chair  
Contra Costa LAFCO

- c: Members, Assembly Appropriations Committee
- Honorable Senator Caballero
- Jennifer Galehouse, Assembly Appropriations Committee Deputy Chief Consultant
- Suzanne Sutton, Consultant, Senate Republican Caucus
- Pamela Miller, Executive Director, CALAFCO



Lou Ann Teixeira  
Executive Officer

**MEMBERS**

- Candace Andersen**  
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- Donald A. Blubaugh**  
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*Public Member*
- Sean Wright**  
*City Member*

July 24, 2020

The Honorable Anna Caballero  
California State Senate  
State Capitol, Room 5052  
Sacramento, CA 95814

**RE: SB 414 – Small System Water Authority Act of 2020  
OPPOSE PROPOSED AMENDMENTS**

Dear Senator Caballero:

The Contra Costa Local Agency Formation Commission (LAFCo) joins the California Association of Local Agency Formation Commissions (CALAFCO) in opposing the proposed pending amendments to **SB 414**. It is our understanding you are proposing that the amendments be made in Assembly Appropriations where the bill is currently being held in Suspense.

We support efforts to ensure all Californians have safe, affordable drinking water. However, the proposed amendments have a significant negative impact to LAFCos, and we must oppose these amendments.

It is our understanding that these changes are an effort to reduce the cost of the bill, and to more closely align processes and State Water Resources Control Board (SWRCB) authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems; whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply cannot be compared to the other.

The proposed amendments strip LAFCos of their part and authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of, and by the authority of, LAFCo. Additionally, the proposed amendments remove LAFCos’ authority to dissolve a public water system as authorized by the SWRCB and as part of the formation process of the new authority. As you know, formation of a new, local public agency has been the authority of LAFCo since 1963 when the Legislature created LAFCo. To now turn that authority over to the SWRCB in an effort to “save money” or “streamline the process”, we believe, creates a false perception that the cost will be reduced, and furthermore, sets a dangerous precedent.

As proposed, SECTION 1 of the bill is completely stricken, and therefore, divests LAFCo of all involvement in the formation process and removes LAFCo from the process of dissolving any public water system identified by the SWRCB as mandated for dissolution and inclusion into the new authority except for holding a public hearing on the matter. Not only does this removal divest LAFCo of its authority and delegate it to the SWRCB, it eliminates the Plan for Service requirements to be included in the draft conceptual formation plan. All other proposals are required to submit a comprehensive Plan for Service when applying to LAFCo to provide services; exempting any authority from doing so sets a harmful precedent.

Code Section 78038(b) proposes to give quasi-legislative authority to the SWRCB in the action to form the new authority. The Legislature created LAFCo as a quasi-legislative body decades ago to do this very thing. While the Legislature has exercised its authority to create new service providers in the past, until now there has been no state agency with that authority. We fail to understand the need to create an entity at the state level to do something LAFCos have been effectively doing for 57 years – forming new districts – which rightfully happens at the local level.

Further, LAFCo is being excluded from several critical notification points:

- Code Section 78033(a)(1) excludes LAFCo from the list of entities the SWRCB is to notify of their intent to form the authority. *LAFCo needs to be included in the list of other local agencies receiving such notification* (i.e., cities, counties, water districts, etc.). Further, this section allows the SWRCB to invite other public water suppliers to consider dissolving and join the authority. Without including LAFCo in the notification under this section, we would be unaware of those local districts (independent and dependent) that may consider dissolving.
- Code Section 78033(a)(2)(A) excludes LAFCo notification from an entity wishing to consolidate into a proposed authority. *LAFCo needs to be included in this notification.*
- Code Section 78033(a)(2)(B) provides that customers of an entity wishing to join a proposed authority petition the SWRCB directly. Not only does this keep LAFCo in the dark, it is a run-around of the current service provider as there appears to be no notification to them as well.
- Code Section 78033(b) allows the governing board of a county or city dependent special district to notify the formation coordinator they wish to opt into the new authority. Here again, without LAFCo receiving this notification there is no way for us to know of the pending dissolution.

In addition to removing LAFCos' existing authority from the formation process of a public agency service provider, we are concerned about Code Section 78037(a)(3) which requires the LAFCo to hold a public hearing to allow for public comment on the dissolution of the public water system mandated for dissolution by the SWRCB. This provision also requires LAFCo to provide all comments back to the SWRCB for consideration (without the funding to do either). Further, this section states that dissolution shall be ordered upon completion of the public hearing. We question the purpose of reporting back the public comments to the SWRCB for consideration if the dissolution is ordered immediately upon closure of the public hearing.

If one of the goals of these amendments is to closer align processes with SB 88, then it would stand to reason that the SWRCB would be the entity conducting the public hearing (pursuant to Code Section

116682 of the Health and Safety Code), especially given the fact that with these amendments, the local LAFCo no longer has any other part in the actual dissolution.

Ordering a dissolution for a service provider who is currently providing service requires a successor agency to assume the delivery of service as well as all assets and liabilities of the entity being dissolved. Code Section 78037(a)(4) requires the order of dissolution to make appropriate equitable arrangements for the interim operation of the public water system until the formation of the authority is complete, and they are prepared to take over service delivery. While that “interim” service provider may be identified in the draft conceptual formation plan, 78037(a)(4) does not explicitly state to whom the service, assets and liabilities would be transferred. We suggest language be added to explicitly state the interim operator as identified in the approved conceptual formation plan.

#### Proposed amendments to the draft conceptual plan

We have the following concerns relating to the draft conceptual plan.

- Code Section 78035(c) requires the formation coordinator to submit the draft conceptual formation plan to the SWRCB and any applicable LAFCo for comments within 60 days of its receipt. Further, the formation coordinator shall finalize the plan for public comment no later than 30 days after receiving comments from the SWRCB. What is omitted from this section are the comments on the plan from the LAFCo. Undoubtedly, as the local agency who is responsible for the formation of public agencies, LAFCOs know what to look for and consider when reviewing formation plans. *The LAFCo comments need to be considered by the SWRCB and the formation coordinator before the document is available for public comment.*
- Code Section 78038 requires LAFCo to hold two public hearings on the draft conceptual formation plan, and to subsequently submit a report to the SWRCB summarizing public comment and any recommendations the LAFCo may have for the SWRCB on the plan. *We would like to see amendments requiring the SWRCB to specifically adopt or reject each of our recommendations on the draft plan and explain their response for those decisions.*

#### Removing funding for LAFCo mandates

The current version of the bill reflects a cost of up to \$10.65 million to LAFCOs for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. Using these projections, the costs associated with LAFCo are far below every other entity and related provision (with one exception) of the dissolutions, formations, administration, SWRCB support and support for the authorities once formed. The cost for LAFCOs to perform the dissolution of public water systems and to form the new authority are likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCOs to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the

new authority, summarize comments received, and provide a report to the SWRCB; (4) review a report on the authority’s performance for the first three years; and (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority’s performance, and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCo for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCo) “*incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board.*” All of the LAFCo expenses related to SB 414 are over and above normal operating budget costs. In order to cover these costs, should the state not, it is highly likely LAFCOs will have to increase fees to the local government agencies that pay into the annual LAFCo budget (i.e., cities, counties, special districts).

*We strongly believe LAFCOs need to be added to the language in Section 78115 (a)(1).* All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved, and retain funding for all state agencies involved, places a financial burden on local government.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Sincerely,



Candace Anderson, Chair  
Contra Costa LAFCO

- c: Assembly Local Government Committee
- Assembly Environmental Safety & Toxic Materials Committee
- Senate Governance and Finance Committee
- Senate Environmental Quality Committee
- Pamela Miller, Executive Director, CALAFCO



August 12, 2020  
Agenda Item 12

## **AGENDA**

### **RETIREMENT BOARD MEETING**

REGULAR MEETING  
June 24, 2020, 9:00 a.m.

The Board of Retirement meeting will be accessible telephonically at +1 (646) 749-3122, access code 774-966-077 due to the Contra Costa County and State of California Coronavirus (COVID-19) Shelter In Place Orders, and as permitted by Executive Order N-29-20 issued on March 17, 2020.

Persons who wish to address the Board of Retirement during public comment or regarding an item that is on the agenda may submit public comment to [publiccomment@cccera.org](mailto:publiccomment@cccera.org) either before or during the meeting. Public comments are limited to any item of interest to the public that is within the subject matter jurisdiction of the Board of Retirement. (Gov't Code Section 54954.3(a).)

All comments submitted will be included in the record of the meeting. The comments will be read into the record at the meeting, subject to a three-minute time limit per comment.

#### THE RETIREMENT BOARD MAY DISCUSS AND TAKE ACTION ON THE FOLLOWING:

1. Pledge of Allegiance.
2. Accept comments from the public.
3. Approve minutes from the May 27, 2020 meeting.
4. Presentation from Brown Armstrong on the audit of the December 31, 2019 financial statements.
5. Update on Pension Administration System Project.
  - a. Update from staff.
  - b. Presentation from Segal.

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

6. Consider and take possible action to issue a Request for Proposal for a Pension Administration System vendor.
7. Consider and take possible action to issue a Request for Proposal for Data Cleansing Services.
8. Presentation of annual investment funding plan.
9. Miscellaneous
  - a. Staff Report
  - b. Outside Professionals' Report
  - c. Trustees' comments

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.



## **AGENDA**

### **RETIREMENT BOARD MEETING**

REGULAR MEETING  
July 8, 2020, 9:00 a.m.

The Board of Retirement meeting will be accessible telephonically at +1 (786) 535-3211, access code 902-784-661 due to the Contra Costa County and State of California Coronavirus (COVID-19) Shelter In Place Orders, and as permitted by Executive Order N-29-20 issued on March 17, 2020.

Persons who wish to make public comment may submit their comment to [publiccomment@cccera.org](mailto:publiccomment@cccera.org) on the day of the meeting, either before or during the meeting. Public comments are limited to any item of interest to the public that is within the subject matter jurisdiction of the Board of Retirement. (Gov't Code Section 54954.3(a).) All comments submitted will be included in the record of the meeting. The comments will be read into the record at the meeting, subject to a three-minute time limit per comment.

#### THE RETIREMENT BOARD MAY DISCUSS AND TAKE ACTION ON THE FOLLOWING:

1. Pledge of Allegiance.
2. Roll Call.
3. Board Reorganization:
  - a. Election of Chair (Smithey, incumbent).
  - b. Election of Vice-Chair (Gordon, incumbent).
  - c. Election of Secretary (MacDonald, incumbent).
4. Recognition of Leilani Green for 20 years of service.
5. Accept comments from the public.
6. Approve minutes from the June 10, 2020 meeting.
7. Routine items for July 8, 2020.
  - a. Approve certifications of membership.

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

- b. Approve service and disability allowances.
- c. Accept disability applications and authorize subpoenas as required.
- d. Approve death benefits.
- e. Accept asset allocation report.
- f. Accept liquidity report.

**CLOSED SESSION**

- 8. The Board will go in to closed session pursuant to Govt. Code Section 54957 to consider recommendations from the medical advisor and/or staff regarding the following disability retirement applications:

<u>Member</u>	<u>Type Sought</u>	<u>Recommendation</u>
a. James Brooks	Service Connected	Service Connected
b. Kirt DeMichiel	Service Connected	Service Connected

**OPEN SESSION**

- 9. Consider and take possible action to authorize the CEO to execute an agreement with Contra Costa County for contribution and reporting deadlines.
- 10. Presentation from staff and Acadian managers regarding a potential commitment to Acadian Multi-Asset Absolute Return Strategy.
- 11. Consider and take possible action regarding a commitment to Acadian Multi-Asset Absolute Return Strategy.
- 12. Review of report on liquidity sub-portfolio.
- 13. Presentation from Sit Investment Associates.
- 14. Consider and take possible action on SACRS voting proxy form.
- 15. Operations update.
- 16. Report out from Audit Committee Chair on June 24, 2020 Audit Committee meeting.
- 17. Consider authorizing the attendance of Board:
  - a. SACRS Summer Webinar Series, Ethics Training for Trustees and Staff, July 9, 2020, Virtual Program.
  - b. SACRS Summer Webinar Series, Sexual Harassment Prevention Training for Local Agency Officials, July 15, 2020, Virtual Program.
  - c. Public Pension Investment Management Program, SACRS, July 28-August 13, 2020, Virtual Program.

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

- d. Principles for Trustees, CALAPRS, August 18, 25 & 26, 2020, Virtual Program.
- e. 2020 Public Pension Funding Forum, NCPERS, August 24-25, 2020, Virtual Program.

18. Miscellaneous

- a. Staff Report
- b. Outside Professionals' Report
- c. Trustees' comments

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.



## **AGENDA**

### **RETIREMENT BOARD MEETING**

REGULAR MEETING

July 22, 2020, 9:00 a.m.

The Board of Retirement meeting will be accessible telephonically at +1 (408) 650-3123, access code 776-418-773 due to the Contra Costa County and State of California Coronavirus (COVID-19) Shelter In Place Orders, and as permitted by Executive Order N-29-20 issued on March 17, 2020.

Persons who wish to make public comment may submit their comment to [publiccomment@cccera.org](mailto:publiccomment@cccera.org) on the day of the meeting, either before or during the meeting. Public comments are limited to any item of interest to the public that is within the subject matter jurisdiction of the Board of Retirement. (Gov't Code Section 54954.3(a).) All comments submitted will be included in the record of the meeting. The comments will be read into the record at the meeting, subject to a three-minute time limit per comment.

THE RETIREMENT BOARD MAY DISCUSS AND TAKE ACTION ON THE FOLLOWING:

1. Pledge of Allegiance.
2. Roll Call.
3. Accept comments from the public.
4. Approve minutes from the June 24, 2020 meeting.

### ***CLOSED SESSION***

5. The Board will go in to closed session pursuant to Govt. Code Section 54956.9(d)(2) to confer with legal counsel regarding potential litigation (one case).

### ***OPEN SESSION***

6. Appoint audit committee members.

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

7. Review of report on Growth Sub-portfolio, including managers.
8. Presentation from Research Affiliates.
9. Consider and take possible action to adopt Board of Retirement Resolution No. 2020-2, Investment Asset Allocation Targets and Ranges.
10. Consider authorizing the attendance of Board:
  - a. NASRA Annual Conference, August 3-12, 2020, Virtual Program.
11. Miscellaneous
  - a. Staff Report
  - b. Outside Professionals' Report
  - c. Trustees' comments

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

# News from the Board of Directors

## CALAFCO QUARTERLY

August 12, 2020  
Agenda Item 14a



June 2020

A  
message  
from the  
Executive  
Director

So much has changed in our world since the last Quarterly Report in February of this year. Each of us have dealt personally with changes and health matters related to the COVID-19 pandemic; we've professionally dealt with

keeping LAFCo business going while striving to keep ourselves, each other and our communities healthy and safe; and been faced with understanding and responding to the fiscal fallout of the pandemic and the recent calls for racial and social justice...it can all overwhelm us if we let it.

This Quarterly Report will begin differently. We are highlighting the good news in our CALAFCO family first, followed by Association updates. Happy reading!

### Welcome New LAFCo Family Members

*We welcome two new babies to the CALAFCO family!*

San Mateo LAFCo Mgmt. Analyst Rob Bartoli and his wife Michelle welcomed (10 days early) **Luca Robert Bartoli** on March 30, 2020. Luca weighed in at 7 lbs., 11 oz. The family is all well, healthy and enjoying the comforts of home.



Not to be outdone, Napa LAFCo Executive Officer Brendon Freeman and family welcomed **Noah Campos Freeman** into the world on April 6, 2020. Noah tipped the scales at 8 lbs., 11 oz. upon his release from quarantine. Mom Isabel, Noah and Dad are all doing fine. Although neither set of parents are getting much sleep right now!

Congratulations to the Freemans and Bartoli's on bringing two future LAFCo EOs into the world!

### Congratulations on Upcoming Retirements

We want to congratulate two long-time LAFCo leaders on their upcoming retirements. Their contributions to CALAFCO and to LAFCos statewide are far too numerous to list here. Needless to say, they both leave huge shoes to fill and will be greatly missed. We wish them both all the best in their retirement!

After a distinguished near 20-year career with Sonoma LAFCo, Asst. EO **Carole Cooper** is retiring at the end of June. Carole spent 12 years on the CALAFCO Legislative Committee and was the recipient of the CALAFCO Project of the Year Award as part of the team that revised the definition section of CKH, and received the Outstanding LAFCo Professional Award.



San Luis Obispo LAFCo EO **David Church** is also calling it time to retire. David has been with his LAFCo for almost 19 years and will be retiring in July. David also spent a number of years contributing to CALAFCO on the Legislative Committee and as the Deputy EO representing the coastal region for four years. David received several CALAFCO Achievement Awards including the Mike Gotch Courage & Innovation in Local Government Leadership Award and the Outstanding LAFCo Professional Award.



### LAFCos in the News

#### Tuolumne LAFCo Adds Special Districts

For the first time since 2012, special districts have been added to a LAFCo! CALAFCO acknowledges the hard work of **Tuolumne LAFCo** and congratulates them on adding special districts to their LAFCo. This is no easy feat and their process was a long one. We will learn more about it from EO **Quincy Yaley** in our next edition of *The Sphere*. As of today, 31 of the 58 LAFCos have special district representation. Way to go Tuolumne LAFCo!

#### Santa Clara LAFCo Receives Award for Communication and Outreach Plan

Earlier this month, **Santa Clara LAFCo** received the American Planning Association - California Northern Chapter's "Award of Excellence - Communication Initiative" for their communication and outreach plan. The APA highlighted the plan as one of the outstanding winners for its "fresh ideas that are transferable to other communities and represent guidebooks toward a more inclusive, accessible and equitable planning future."

#### Los Angeles LAFCo Receives Award of Excellence

In May, the Los Angeles Chapter of the American Planning Association awarded its "Award of Excellence: Hard Won Victories" for "Rescuing the Sativa Water System" to **LA LAFCo**, the County of Los Angeles, and the SWRCB for their collaborative work on the Agency.

CALAFCO congratulates **Tuolumne, Santa Clara** and **Los Angeles** LAFCos on their achievements!

Congratulations!

# News from the Board of Directors

## CALAFCO QUARTERLY

June 2020

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### CALAFCO BOARD UPDATE

The CALAFCO Board met February 21 and May 1. Here is a summary of the actions taken by the Board at these respective meetings.



#### February 21

As a follow up to the December 2019 meeting, the Board continued the discussion of transitioning the two primary contractors to employees to comply with AB 5. In executive session, the Board accepted the retirement announcement of Executive Director Pamela Miller, developed a recruitment plan and timeline and discussed the transition.

The Board considered the Tulare LAFCo proposed dues structure. After much discussion, they unanimously approved the convening of an ad hoc committee sometime in the summer to once again look at the dues structure that was adopted by the membership in October 2019. It is likely that this ad hoc committee will also include several member LAFCos outside of the Board.

Other actions the Board took at this meeting included:

- ✓ Reconfirmed no CPI increase (pursuant to Bylaws) for the FY 2020-21 LAFCo dues;
- ✓ Approved a request from Contra Costa LAFCo to prepare and file an amicus brief
- ✓ Conducted the annual dashboard review of the 2019 Strategic Plan objectives; and
- ✓ Accepted a series of reports including the 2020 conflict of interest filings, quarterly financial and investment reports, and the legislative report.

#### May 1

After careful consideration, the Board adopted a balanced budget for FY 2020-21. There are several notable differences in this budget as compared to past budgets, including:

- The Annual Conference revenue and expenses were adjusted for a smaller attendance and for a break-even model due to the pandemic;
- We are now budgeting for employer expenses such as employer's insurance, payroll services and payroll taxes, workers' compensation and overtime for the Administrator which is a non-exempt position; and
- For the first time, the operational costs of the Association are covered by member LAFCo dues, so there is no budget deficit. This is a result of the membership approving the new dues structure at the October 31, 2019 annual business meeting.

The Board also received a report from the Executive Director (ED) Recruitment Committee on the progress of the recruitment. During this report current ED Pamela Miller shared that given the uncertain times we are currently in and will be facing for the unforeseen future, she did not see

this is not a good time for a change in leadership for the Association and offered to stay on as the ED. The Recruitment Committee then took this under advisement.

Other actions taken by the Board at the May 1 meeting included:

- ✓ Received and filed the quarterly financial and investment reports;
- ✓ Received and filed the Legislative Committee report; and
- ✓ Received a verbal update on the Annual Conference from the Conference Chair and Program Chair.

All Board meeting packets are posted on the CALAFCO website.

### **EXECUTIVE DIRECTOR PAMELA MILLER STAYING WITH CALAFCO**

As was announced in early June, Pamela Miller will be staying with the Association as Executive Director. To comply with the requirements of AB 5, both Pamela and Jeni Tickler, CALAFCO's Administrator, will be transitioning to employee status effective September 1. Both will remain as part-time employees.

### **2020 STAFF WORKSHOP AND ANNUAL CONFERENCE**

#### **Staff Workshop**

Due to the COVID-19 pandemic, CALAFCO's Staff Workshop was cancelled. The workshop was scheduled for March 25-27 in Newport Beach. As it turned out, this was the right call, and done ahead of the March 19 stay-at-home order issued by the Governor.

CALAFCO staff was able to negotiate a revision in the facility contract to avoid a cancellation fee of over \$36,000. The workshop for 2020 has been booked at the same facility with only a slight increase in the food and beverage minimum and room rates. Further, all deposits (hotel, bus, boat, and caterer for the mobile workshop) were successfully moved forward to next year without penalty.

We wish to thank our Workshop hosts, *Imperial* and *Orange LAFCos* and their staff who worked so hard to prepare a fabulous workshop, and Program Chair *Gary Thompson*. His team did such an outstanding job that the program as planned will be moved forward to the 2021 Workshop.

#### **Annual Conference**

The Annual Conference is currently scheduled for October 21-23 in Monterey at the Hyatt Regency. Due to the ongoing restrictions on gatherings because of COVID-19, and due to shrinking local agency budgets, CALAFCO staff is currently exploring viable options for the Conference. The Program Planning Committee is already hard at work and planning session topics that are extremely relevant for the times. Details about the Conference will be announced as soon as a decision is made. We want to thank Conference Chair

# News from the Board of Directors

## CALAFCO QUARTERLY

June 2020

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*Jane Parker* and Program Chair *Christine Crawford*, as well as the entire program planning team for their work thus far.

Your Board's top priority is ensuring the health and safety of all of you, our Association members, your families, and those at the hotel facility. Our decision will be based with that in mind as priority #1.

### CALAFCO UNIVERSITY

Under the leadership of *Martha Poyatos*, the format of the CALAFCO University is being revised. For the remainder of the year, we will be offering all CALAFCO U sessions virtually. We are currently planning a series of short online sessions including LAFCo 101 for staff, Clerk 101 (to include Public Records Requests and BOE info), and a LAFCo Primer for Commissioners. This series will be offered at no cost to all member LAFCo staff and commissioners, and will be recorded and placed online for on-demand access to our members. A number of other courses are also being planned, so keep an eye open for announcements coming soon.



### CALAFCO LEGISLATIVE UPDATE

This has been a legislative year like no other given the pandemic. As we have been reporting, the Legislature went into recess to comply with the Governor's stay at home orders and was out for several months without bills moving. Upon return, both houses adopted revised calendars and cut

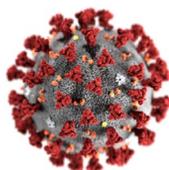
back their bill count significantly.

As you are all aware, the state is now grappling with a \$54 billion deficit and Legislators are having to make difficult decisions on how to close that deficit gap. One thing is certain – even if there is federal funding assistance, local governments throughout the state will be operating in fiscal crisis for several years to come.

As a result, the CALAFCO legislative priorities for the year have all but vanished. The LAFCo funding bill not be moving forward and our work with the Protest Provisions Rewrite Working Group has been put on pause. Staff hopes to reconvene that working group in late summer.

### CALAFCO'S COVID-19 RESPONSE AND MEMBER SUPPORT

As all of you were forced to quickly pivot and revise the way you conduct business in March, so was CALAFCO staff. We have been working remotely since mid-March and monitor the office mail and voicemails. Both Pamela and Jeni continue to do everything as usual, just from home.



Seeing a need to support LAFCo staff as they navigated the difficult waters of caring for themselves, their commissions, and the public so that business would be seamless, CALAFCO began hosting weekly meetings for Executive Officers and another for Clerks. These meetings create a space in which LAFCo staff can discuss the unusual issues they are dealing with, share ideas and collectively develop solutions. Over three months later, the meetings are now transitioning to bi-weekly.

CALAFCO staff also issued a number of special bulletins to the full membership over the past several months, sharing critical information and resources as appropriate. In addition, we are sharing a variety of resources and educational opportunities from other resources on things like conducting virtual meetings, fiscal impacts of COVID, etc.

Seeing a need for remote meeting resources for our member LAFCos, CALAFCO offered our toll free conference calling system for you to conduct your meetings and in May purchased several Zoom licenses, one specifically for use by our member LAFCos to conduct your meetings virtually at no cost to you.

We hope you have found these resources useful and we will continue to work in providing you the support you need.

### CALAFCO ADMINISTRATIVE UPDATE

We successfully migrated to a new email server at the end of February and are happy to report the transition was seamless and has resolved all of CALAFCO staff's email issues.



The CALAFCO website is being updated to enhance the library archives and member forms sections. So far over the past several months the following updates have occurred:

- ✓ CALAFCO University session archives are fully updated with all prior CALAFCO U session materials online
- ✓ Attorney General Opinions section is fully updated with all AG Opinions posted
- ✓ CALAFCO Directories have all been indexed, reorganized and updated
- ✓ In CALAFCO Publications, The Sphere section has been fully updated with a more usable indexing
- ✓ In the Resources section, all of the Useful Weblinks have been updated.

Future updates (some currently in progress) include a full update and re-indexing of the Forms Library and updating of the LAFCo litigation section.



### CALAFCO BOARD OF DIRECTORS NOMINATION PERIOD OPEN

The nomination period for the 2020 CALAFCO Board of Directors election is open. Nominations are being accepted through 5:00 p.m. September 22, 2020. Nomination packets were emailed to all LAFCo EOs, are placed on the CALAFCO website, and hard copies will be mailed to each LAFCo office.



### CALAFCO Associate Members' Corner

This section highlights our Associate Members. The information below is provided to CALAFCO by the Associate member upon joining the Association. All Associate member information can be found in the CALAFCO Member Directory.

*Our last edition featured our Gold Associate Members. In our next several editions we will highlight our Silver Associate Members.*

#### **Berkson Associates** **Berkson Associates**

provides clear, concise analysis for preparation of governance studies including district formation, consolidation and dissolutions. Extensive experience completing incorporation studies. Expertise also includes market analysis, public agency budget forecasting and demographic/housing analysis in support of MSRs. For more information, contact **Richard Berkson** at [richard@berksonassociates.com](mailto:richard@berksonassociates.com). You can also visit their website at [www.berksonassociates.com](http://www.berksonassociates.com).



#### **Santa Ynez Community Services District**



SANTA YNEZ  
COMMUNITY SERVICES DISTRICT

Founded in 1971, **the Santa Ynez Community Services District** provides wastewater collection and transportation and street lighting, serving approximately 688 wastewater connections. Effluent collected by the District is treated at the City of Solvang wastewater treatment plant. For more information about the District, visit their website at [www.sycsd.com](http://www.sycsd.com), or contact the Secretary/Treasurer **Wendy Berry** at [wendy@sycsd.com](mailto:wendy@sycsd.com).

#### **Rosenow Spevacek Group, Inc.**

**RSG** is a creatively charged counterpart to California public agencies. They work with the people responsible for vibrant places and propel them to their goals. Better Communities. Bolder futures. To learn more about them visit their website at [www.webrsg.com](http://www.webrsg.com) or contact **Jim Simon** at [jsimon@webrsg.com](mailto:jsimon@webrsg.com).



#### **City of Fontana**



City of Fontana is responsible for managing the City's annexation program, which includes coordinating annexation meetings, meeting with landowners and developers concerning the benefits of annexation, preparing Plans for Services, overseeing preparation of environmental documents pertaining to rezoning and annexation, and presenting them to the Planning Commission, City Council and LAFCo for review and consideration. In addition, oversee the preparation of out-of-agency service agreements for sewer and other municipal services. Visit them at [www.fontana.org](http://www.fontana.org).

*CALAFCO wishes to thank all of our Associate Members for your ongoing support and partnership. We look forward to continue highlighting you in future Quarterly Reports.*

#### **Mark Your Calendars For These Upcoming CALAFCO Events**

- ❖ CALAFCO Legislative Committee meeting – July 17, 2020 via conference call
- ❖ CALAFCO Board of Directors meeting – July 24, 2020 – Location TBD



The full revised CALAFCO 2020 Calendar of Events can be found on the CALAFCO website. It is being updated regularly as events and meetings are cancelled or changed.

**All CALAFCO Board and Legislative Committee meeting packets are available online at [www.calafco.org](http://www.calafco.org).**

*Your CALAFCO Board and Staff wish all of you a safe and healthy summer. We continue to face both known and unknown challenges. As we do, keeping ourselves, our families, our work teams, and our communities healthy and safe remains a priority. Please, be well.*



**CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
 PENDING PROPOSALS – August 12, 2020**

<b>LAFCO APPLICATION</b>	<b>RECEIVED</b>	<b>STATUS</b>
LAFCO No. 10-09 - Town of Discovery Bay Community Services District (DBCSD) sphere of influence (SOI) Amendment (Newport Pointe): proposed SOI expansion of 20± acres bounded by Bixler Road, Newport Drive and Newport Cove	July 2010 <b>Resubmitted 6/29/20</b>	Under review
LAFCO No. 10-10 - DBCSD Annexation (Newport Pointe): proposed annexation of 20± acres to supply water/sewer services to a 67-unit single family residential development	July 2010 <b>Resubmitted 6/18/20</b>	Under review
LAFCO No. 14-05 - Reorganization 186 (Magee Ranch/SummerHill): proposed annexations to Central Contra Costa Sanitary District (CCCSD) and East Bay Municipal Utility District (EBMUD) of 402± acres; 9 parcels total to CCCSD (8 parcels) and EBMUD (7 parcels)	June 2014 <b>Resubmitted 5/27/20</b>	Under review
LAFCO No. 16-06 - Tassajara Parks Project: proposed annexations to CCCSD and EBMUD of 30± acres located east of the City of San Ramon and the Town of Danville	May 2016	Currently incomplete
LAFCO No. 16-07 -Tassajara Parks Project: proposed SOI expansions to CCCSD and EBMUD of 30+ acres located east of the City of San Ramon and the Town of Danville	May 2016	Currently incomplete
LAFCO No. 20-03 - Dissolution of Knightsen Town Community Services District: proposed district dissolution	May 14, 2020	Under review
LAFCO No. 20-04 - Meineke Annexation to EBMUD: proposed annexation of 58± acres located 2298 Caballo Ranchero Drive in Diablo	May 28, 2020	Under review
LAFCO No. 20-05 - Dougherty Valley Reorganization No. 18 – Annexation to City of San Ramon and Detachment from CSA P-6: 901.65± acres located in Gale Ranch Phase 4 (Dougherty Valley)	June 7, 2020	Under review

## East Bay Times

# Public comment sought on plan to restore part of Delta state park into marshland

## State Department of Fish and Wildlife in final planning stage of \$315 million Franks Tract project



Cameron Bevacqua, left, 16, of Yuba City, and Tyler Bounds, right, 14, of Roseville, fish along Franks Tract during the California High School Fishing State Championships on Sunday, Oct. 2, 2011 near Bethel Island, Calif. (Aric Crabb/Staff)

By [Judith Prieve](mailto:jprieve@bayareanewsgroup.com) | [jprieve@bayareanewsgroup.com](mailto:jprieve@bayareanewsgroup.com) | Bay Area News Group

PUBLISHED: June 4, 2020 at 1:53 p.m. | UPDATED: **June 6, 2020** at 2:29 p.m.

The public will get one more say about the initial plan for restoring part of the 3,523-acre Franks Track State Recreation Area in the Delta to its original marshland state.

A webinar on the proposed \$315 million multi-agency state project will take place Tuesday from 3 to 5 p.m. — the last of a year-long series of public meetings on the initial plan that's expected to be completed by July before refinements and an environmental review.

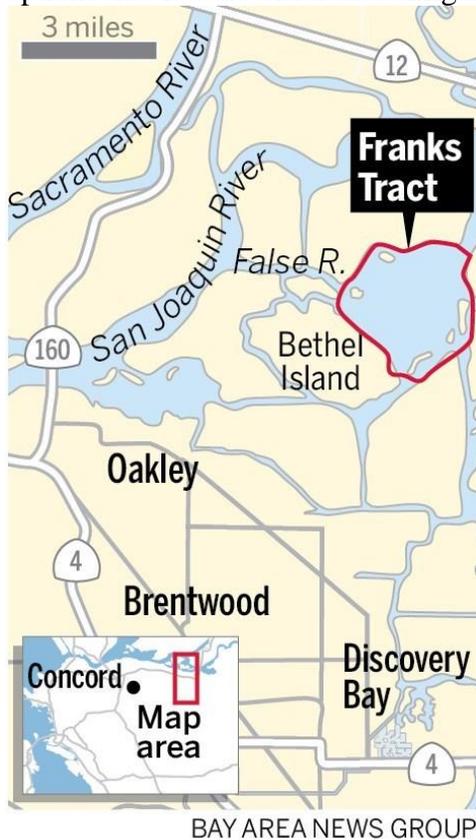
Located between Bethel Island and False River and accessible only by boat, Franks Tract is primarily used by fishermen, boaters and waterfowl hunters.

Over the past several years, the Department of Fish and Wildlife has been studying ways to restore a section of the underwater state park to marshland with the aim of reducing saltwater intrusion into the Delta.

The project, spearheaded by the Department of Fish and Wildlife in collaboration with the Department of Parks and Recreation and the Department of Water Resources, originally faced opposition because it would have split the submerged Delta island in two, blocking off False River to the detriment of recreationists and local businesses that rely on it.

Carl Wilcox, California Department of Fish and Wildlife policy adviser, said none of the new suggested options for restoring the tract block off False River.

The department has met several times with a local advisory group of recreationists, fishermen and homeowners over the past year to revise plans, Wilcox said. They're now down to three options that feature different configurations of navigational channels and positioning of land masses.



“The preferred option has open water from Bethel Island to Franks Tract, so there is still a view of the water (from the island),” he said, noting the marshes would be at the northern and eastern ends of the tract.

Doing nothing is still an option, but not a good one, Wilcox said.

“If we do nothing, it continues to degrade,” he said. “It stays a weedy place, the levees that protect Piper Sough and waterfront portion of Bethel Island will be more exposed as the sea level rises and the levees will continue to erode.”

One thing most agree on is creating conditions that are better for recreational purposes, he said. That includes the possibility of developing some beaches and small inlets for boats to anchor, as was the case in the past, he noted.

“The level of that development is really driven by the (state) park’s ability to service that and maintain it,” he added.

Cutting back submerged aquatic weeds and reducing the invasive nonnative fish that feed on native fish such as the endangered Delta smelt and Chinook salmon have been proposed as well.

Also being considered is dredging and removing aquatic weeds to improve boat access, providing day-use areas and enhancing conditions for observing wildlife.

The project is being funded by Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.

For more details, go to <https://franks-tract-futures-ucdavis.hub.arcgis.com/>

## East Bay Times

# Park It: District plans to OK land use for Navy's old Concord site

## Board of Directors intends to certify EIR, approve proposal for former weapons station



Jose Carlos Fajardo/staff archives

A cyclist rides last July past the area designated to become Concord Hills Regional Park on the day of a formal signing ceremony at the former Concord Naval Weapons Station. Some 2,216 acres between Kirker Pass Road and Highway 4 were transferred to the East Bay Regional Park district to create the new regional park in partnership with the National Park Service.

By [Ned MacKay](#) | East Bay Regional Park District

PUBLISHED: June 7, 2020 at 5:00 a.m. | UPDATED: **June 8, 2020** at 5:34 a.m.

Amid all the coronavirus-related measures, the East Bay Regional Park District is continuing its regular work of planning and opening new parklands for public enjoyment, wildlife habitat protection and historic preservation.

For instance, the district's Board of Directors plans to certify an environmental impact report soon and approve the land-use plan for the new Concord Hills Regional Park. Concord Hills, for which a permanent official name will be determined at a later date, is the former Concord Naval Weapons Station. After many years of community and park district advocacy for access to the closed weapons station's land, the U.S. Navy recently deeded about 5,028 acres of the land for civilian use. Part of it is assigned to the city of Concord, part to the park district.

Last July, at a formal signing ceremony, 2,216 acres were transferred to the district to create a new regional park in partnership with the National Park Service. The property is between Kirker Pass Road and Highway 4. The plan calls for hiking and riding trails, picnic sites at some of the former military structures and a visitor center that will include exhibits on the history of the site, from Native American habitation to the present. The center will be in a restored and redesigned existing building.

Completion of work on the land-use plan and subsequent public access to the new park won't occur for several years. The first access will likely take the form of guided hikes through areas at the south end of the property that have remained in a generally natural state. You can find more information about Concord Hills and take a virtual tour of the new park by visiting the park district's webpage on it, [ebparks.org/parks/concord\\_hills](http://ebparks.org/parks/concord_hills).

*Ned MacKay writes about East Bay Regional Park District sites and activities. Email him at [nedmackay@comcast.net](mailto:nedmackay@comcast.net).*

## East Bay Times

# East Contra Costa firefighters will only enter burning buildings to save lives, chief says

**Helmick: With district stretched to limits, new defensive strategy needed to protect responders**



Jose Carlos Fajardo/staff archives

East Contra Costa Fire Protection District firefighters battle a blaze Oct. 27 on East Cypress Road in Knightsen. Starting next month due to limited staff and funding, the district's firefighters won't enter burning structures unless lives are at stake, one of the "new urgent measures" district Chief Brian Helmick said he's had to enact.

By [Judith Prieve](mailto:jprieve@bayareanewsgroup.com) | [jprieve@bayareanewsgroup.com](mailto:jprieve@bayareanewsgroup.com) | Bay Area News Group

PUBLISHED: June 11, 2020 at 1:01 p.m. | UPDATED: **June 12, 2020** at 9:31 p.m.

Beginning on July 1, firefighters in eastern Contra Costa County won't enter burning structures unless lives are at stake.

That's one of the "new urgent measures" East Contra Costa Fire Protection District Chief Brian Helmick said he's enacted because of limited funding and staff.

"There are many realities and many forces that are driving the decision I am making," Helmick said at a news conference on Thursday. "We really don't have any choice, being underfunded and under-resourced."

Helmick said having only three fire stations instead of the six needed to cover 250 square miles is “pushing (the district’s 30) firefighters to their limits as they respond to twice as many calls for help.”

“If there is not a life-safety issue — if there’s not somebody inside — you need to do the best you can to fight the fire from the exterior to the interior, but you cannot be aggressive and overextend yourself,” he said. “If we have a situation in which firefighters get trapped or we become hurt, we are our own 911 system. ... Until we can address our resource issue and give firefighters the resources they need to do their jobs, we need to take a safe, effective approach.”

East Contra Costa Fire is the only agency in the county or anywhere that he knows of that has such a strategy. The chief, who took the helm three years ago, said in an interview that he had planned to seek an assessment fee to bolster the department’s revenue but that when the coronavirus pandemic hit, he decided to wait until later this year to consider a different tiered approach to funding new stations.

“I cannot dismiss the impact of COVID-19, monetarily, financially and economically,” he said. “... I have been trying to delay in taking this extreme measure (the defensive strategy), but I can’t wait until November. It’s the hardest decision I have made in my career.”

Helmick said another factor in his decision is that the district has leaned heavily on neighboring fire agencies for mutual aid but that these days they are financially strapped as well.

“We have great regional partners,” Helmick said. “They have subsidized us for a long time, and those agreements continue to be strained, and that is our problem. ... As a fire chief, we have to further adjust and restrict the further drain on our outside neighbors because we do not have the adequate resources to do our job effectively, so that’s why I have to pump the brakes on how aggressive we are as a fire agency for firefighter safety.”

Helmick acknowledged the timing is bad because the wildfire season is getting underway. All public outreach events and station visits will be eliminated indefinitely, he added.

“These are not steps we want to take — and candidly, they may not be the last. We may have to consider other, even more drastic measures,” Helmick said. “The reality is, we have to live within our means and keep our firefighters safe.”

Helmick said the district’s six staffed fire stations were reduced to three in 2015 — not enough to protect a population of more than 128,000 people in Brentwood, Oakley, Discovery Bay, Bethel Island, Knightsen, Byron, Marsh Creek and Morgan Territory. District board president Brian Oftedal and firefighters union president Vincent Wells said they support the new measures.

“If we only risk lives if lives are in danger, then that is what we have to do, and the fire board is backing that decision,” Oftedal said.

Though some residents questioned the decision on the Facebook live news conference and afterward and expressed concern about how it could lead to higher insurance rates, Bob Mankin, of Discovery Bay, agreed something should be done.

“I’ve advocated on this issue for more than 10 years, been in hundreds of meetings, invested probably a couple thousand hours of my personal time,” he wrote. “All viable options have been considered.”

Sean McCauley, who owns 24 buildings in Brentwood, said he was not opposed to an assessment fee, especially if it is based on “a stair-step approach” to gradually build stations.

“If that (the defensive-stance policy) is what’s going to happen, we really need to think seriously about funding this tax initiative because that (approach) is going to be extremely detrimental to property damage and people’s homes and pets — you’re not going to go in there for a pet. People seriously need to think about it if that’s going to be the policy.”

Once served by volunteers and comprised of several city and town departments, the rural fire district was created in 2002 and had eight stations at its height. The district’s financial woes date back decades to when the area’s population was much smaller and volunteer firefighters provided service. In 1978, Proposition 13 cemented the property tax allocation for the fire district at about 7% — far less than the average 12 to 14% elsewhere, leaving the fire agency with less money than other area agencies.

Helmick said the rate made sense at the time but not now. In recent years, the district has tried to shore up its funding sources by pushing for a parcel tax, assessment fee and utility-user tax, but all those measures were defeated at the ballot box.

“The reason it’s a big issue is the fire district, the cities, the county, all of us collectively, have not addressed growth effectively over time,” Helmick said. “The funding was set to pay for a volunteer fire organization; growth has continued over the last couple of decades, and the fire district did not put in appropriate mitigation measures to increase the revenue incrementally, slowly over time; as growth continued, that created the existing deficit,” which is at least \$10 million.

One Brentwood resident, Bryan Scott, has tried for several years through a group he founded, East County Voters for Equal Protection, to look for ways to increase revenue. Earlier this year he began gathering signatures for a voter initiative campaign, but the pandemic put a stop to that.

“The group is now seeking to have the city of Brentwood place the Initiative on the November ballot without signatures, due to the extreme emergency the region is facing,” he said.

“We will continue to explore all options as we move forward,” Helmick said. “No options are off the table.”

## East Bay Times

# East Contra Costa growth-control measure headed to voters

**Let Antioch Voters Decide initiative would preserve large swath of land, make development more difficult**



Mount Diablo can be seen in the distance along the closed portion of Empire Mine Road, which some want to develop and others want to preserve in Antioch, Calif., on Thursday, March 23, 2017. (Susan Tripp Pollard/Bay Area News Group)

By [Judith Prieve](mailto:jprieve@bayareanewsgroup.com) | [jprieve@bayareanewsgroup.com](mailto:jprieve@bayareanewsgroup.com) | Bay Area News Group

PUBLISHED: June 10, 2020 at 2:38 p.m. | UPDATED: **June 12, 2020** at 9:49 p.m.

Voters will decide in November whether to make permanent the city's growth boundary and preserve parts of a large swath of undeveloped land in southernmost Antioch.

If the initiative passes, only previously approved projects or those specifically approved later by both voters and the City Council would be allowed in the Sand Creek Focus area west of Deer Valley Road and east of Black Diamond Mines Preserve, or beyond in the nearby urban limit line.

Backed by environmentalists and some residents, the Let Antioch Voters Decide growth-control initiative aims to preserve open space, ridges, hills, streams and wildlife habitat in the Sand Creek area and beyond the urban limit line that would disappear at the end of the year unless retained by voters.

Save Mount Diablo's Seth Adams, a spokesman for a coalition of Antioch residents and organizations that drafted the 17-page initiative, along with several others, asked the City Council on Tuesday to place it on the Nov. 3 ballot and formally endorse it.

He said 9,000 Antioch voters signed the Let Antioch Voters Decide initiative petition in 2018 to qualify it for the ballot. "The measure easily qualified and has strong community support... They love the city's beautiful open spaces and they want to carefully manage development and traffic."

The Antioch City Council adopted the initiative that year, along with the developer-backed West Sand Creek initiative for the same general area. But in 2019 a judge agreed with a different developer that both initiatives weren't properly adopted and ordered the environmentalists' one to be placed on the ballot.

Adams also noted that the initiative was not invalidated but rather the courts changed the process for how it would go before voters.

To varying degrees, both initiatives would have blocked large-scale development not already approved in the Sand Creek Focus Area, which includes 2,712 acres of rolling hills and flatlands on the city's southern border. Their focus had been on preserving open space between Black Diamond Mines Regional Preserve and Deer Valley Road, but both also made it more difficult for The Zeka Group and Richfield/Oak Hill Park Co. on the western edge to develop land without voter approval.

At Tuesday's council meeting, a dozen community members supported placing the environmentalist-backed initiative on the ballot despite the potential legal challenges from developers.

In addition to barring non-rural development in the Sand Creek Focus Area, the Let Antioch Voters Decide initiative would designate 1,850 acres west of Deer Valley Road as rural-residential, agricultural and open space and would designate as permanent the growth boundary. Changing the growth boundary's designation after that would require voter approval.

"I grew up in Antioch and find the hills and open space throughout the town to be absolutely beautiful," wrote Evan Gorman, who originally collected signatures for the initiative. "They have a deep connection to my life and to my parents who also grew up in.... Protect the land we love."

Dave Sharp called the Sand Creek Focus area the "prettiest stretch of Antioch."

"Please let the citizens decide," he wrote of the scenic gateway to the city. "Sand Creek is important. Go ahead and develop all you want but not west of Deer Valley Road."

But Andrew Bassak, the attorney who represents the Zeka Group, which sued to challenge the initiatives last year, said the city could face costly legal consequences if it places Let Antioch Voters Decide on the ballot.

“The terms of the initiative would materially and negatively impact Zeka’s property,” he said of the group’s 640 acres in the western area that would be affected by the measure.

He said this isn’t a good time for the city to put the initiative on the ballot, with legal appeals still pending.

Bassak said doing so will cost the city more than \$100,000 and likely result in additional legal fees to fight court challenges.

Even so, Mayor Pro Tem Joy Motts and others were in favor of placing it on the ballot.

“Not only did 9,000 of our citizens vote to put this measure on the ballot, but the courts ruled the initiative must be put on the November 2020 ballot,” she said.

Though the council unanimously decided to take the Nov. 3 ballot route, it chose not to include any city argument for or against the initiative.

## East Bay Times

# EBMUD appoints first Asian American as general manager

**Chan led district's response to PG&E power shutoffs, coronavirus pandemic.**



Clifford Chan is appointed the new general manager of the East Bay Municipal Water District. Chan becomes the first Asian American named as the district's general manager. (EBMUD)

By [Jon Kawamoto](#) | [jkawamoto@bayareanewsgroup.com](mailto:jkawamoto@bayareanewsgroup.com) | Bay Area News Group  
PUBLISHED: June 11, 2020 at 6:02 a.m. | UPDATED: **June 12, 2020** at 10:56 a.m.

OAKLAND — The East Bay Municipal Utility District has appointed its first Asian American as general manager.

EBMUD directors made the selection at their Tuesday meeting, naming Clifford C. Chan, a 23-year employee, to replace Alexander R. Coate, who is retiring after 27 years. Coate served 10 years as general manager.

“It is an honor to be chosen to lead EBMUD during this critical time in our history,” Chan said in a statement before the board meeting. “We face many challenges and changes as we near our centennial, but I am confident that with the support of our dedicated staff, management and board of directors, we will continue to serve and support our diverse East Bay community, grow our local economy and protect our natural resources.”

Chan, 49, earned a bachelor's degree in civil engineering and a master's degree in geotechnical engineering from the University of California, Berkeley. He joined EBMUD in 1997 as a junior engineer. In February 2018, Chan was appointed to lead EBMUD's operations and maintenance department.

In that job, Chan put into place the district's plan to increase the number of miles of pipes replaced each year, putting EBMUD on track to upgrade 17.5 miles this year, up from around eight miles in 2010. He also has led the district's response during coronavirus pandemic and PG&E's public safety power shutoffs last fall, according to a release.

The East Bay Municipal Utility District serves 1.4 million customers in Alameda and Contra Costa counties. EBMUD's wastewater treatment has 685,000 customers.

## East Bay Times

# Bob Taylor, Brentwood's longest-serving mayor, to hang it up

**Known for colorful attire, antics, he's been at job 14 years, on council and school board beforehand**



Jose Carlos Fajardo/staff archives

Four-term Brentwood Mayor Bob Taylor, above, has announced that he will not seek re-election this year. Known for his brightly colored suits, outlandish ties and hats and his easygoing personality, Taylor, who was elected mayor in 2006, has served in that role longer than anyone else in Brentwood's history.

By [Judith Prieve](mailto:jprieve@bayareanewsgroup.com) | [jprieve@bayareanewsgroup.com](mailto:jprieve@bayareanewsgroup.com) | Bay Area News Group

PUBLISHED: June 18, 2020 at 10:00 a.m. | UPDATED: **June 19, 2020** at 1:43 p.m.

**BRENTWOOD** — Known for his brightly colored suits, outlandish ties and hats and his easygoing personality, four-term Mayor Bob Taylor is ready to hang up his fedora when his term expires in November.

Taylor, who was elected mayor in 2006, has served in that role longer than anyone else in Brentwood's history. He previously served two years on the City Council and 12 years on the Liberty Union High School District Board of Trustees.

“It’s time for someone else to take the leadership role,” he said in announcing his departure. “I’ve served my time. It’s good for new people to come in, and you’ll have new ideas and better ideas.”

Taylor, called “Uncle Bob” by many, later said he felt “like a weight has been lifted after 28 years.”

“If it were a two-year term, I’d go for it — it’s four years — and the whole world has changed now,” he said, referring to how the coronavirus pandemic has transformed ordinary life for most people.

When he first became mayor, Brentwood was a town of 18,000 — now it has a population of some 68,000. Bringing the city recognition for all it has to offer, including its rich agricultural traditions, business and recreation opportunities, was one of his biggest accomplishments, he said.

“We ceased to become a sleepy little farming town and transformed into a bustling unified great city to raise a family,” he said. “Brentwood is now on the map.”

Not one to sit idle, the colorful mayor didn’t shy from the spotlight, donning bright orange, purple or yellow suits and matching hats and ties to celebrate functions such as the openings of the downtown Brentwood Library and the Brentwood Senior Activity Center or to honor local theater troupes at the regional Shellie Awards in Walnut Creek.

Vice Mayor Joel Bryant said “almost everyone in Brentwood” likes “fun-loving Uncle Bob. ... But I have seen him as a politician, a mayor, and behind the closed doors. He is passionate about the city of Brentwood, and he has a knack for getting people just as impassioned about his causes,” he said, adding that Taylor also helped establish a good name for the city in the business community.

Taylor also garnered attention for the Brentwood Regional Community Chest holiday program, dressing up like a turkey for several years and asking for donations. He also donned the costume to make a point with students learning about government.

“Everyone called politicians turkeys, so I decided one year to dress up as one and it went beyond my expectations,” Taylor said, noting he raised \$10,000 one year. “I went everywhere. Everyone wanted to give the turkey money ... I think people took it in good humor and knew it was for a good cause.”

Though the mayor’s antics and often-bright attire may have surprised some, Bryant said, “yes, he’s crazy, crazy like a fox. ... Everything he has done is to get people’s attention for Brentwood. Not only does he have a plan but a plan on how anyone can be involved in accomplishing things, and that really makes a difference.”

Fellow council member Karen Rarey also applauded Taylor, noting that “through his leadership, seniors in our community have a place to call home at the Brentwood Senior Activity Center, which after 10 years in service is so widely used that is already busting at the seams.”

Most recently, Taylor also rallied volunteers and gathered donations to build a gazebo for City Park, a promise he made after the last one was torn down to make way for the then-controversial new City Hall, which some thought was too big.

“The gazebo was an old icon in Brentwood, and people had cherished memories of taking photos there and more, and I wanted to make sure I would give them back their memories,” he said.

Taylor also gave residents a 9-by-7-foot red wooden chair in 2017 to enjoy photo opportunities with Santa and others at City Park. Another of Taylor’s projects, a giant grandfather clock, will be installed soon at that same park. In his role as mayor, Taylor also has sat on some 20 local or regional boards and committees, and he has long worked on transportation issues.

“Bob has been instrumental in improving traffic conditions in town through the building of both the Sand Creek and Balfour Road overpasses,” Rarey said.

Randy Iwasaki, the Contra Costa Transportation Authority’s executive director, called Taylor a “master marketer,” recalling how he once gathered all major regional and local leaders to Sand Creek Road and the old state Highway 4 bypass, where he had envisioned an overpass to improve traffic flows.

After the gathering, Iwasaki said he got stuck at the three-legged intersection, unable to turn left to return home because of the long line of cars. A U.S. representative and his entourage, meanwhile, tried to head back to Sacramento via the Highway 4 bypass and got lost, unable to connect with Highway 160 to go north. It was a moment that convinced the leaders of the need to secure money to improve East County transportation.

“He (Taylor) understood the benefit of good transportation in East County — he had to get his corn out of Brentwood ... and cherries to market,” Isawski said, noting that they eventually scored a \$25 million grant to build the interchanges at Sand Creek Road and Lone Tree Way.

Taylor, a 44-year Brentwood resident and grandfather of five, said he has no regrets about his long career in public service. And though he plans to stay in Brentwood, he says he will have to search for hobbies because he never had time for them before.

“I am just pleased with the way the city has progressed,” Taylor said. “I really thank the people who elected me all those many years so a lot could be accomplished, and for the most part, everything was good. I would do it all over again.”

## East Bay Times

# Lafayette warned to act soon on big housing project — or risk more than \$15 million in legal fight

**Attorney says decision must be made on Terraces of Lafayette by Aug. 3 — or litigation will be the next step.**



The proposed 22-acre site for the Terraces of Lafayette, a 315-apartment complex is photographed in Lafayette, Calif., on Thursday, Aug. 22, 2019. (Anda Chu/Bay Area News Group)

By [Jon Kawamoto](#) | [jkawamoto@bayareanewsgroup.com](mailto:jkawamoto@bayareanewsgroup.com) | Bay Area News Group  
PUBLISHED: June 22, 2020 at 12:03 p.m. | UPDATED: **June 22, 2020** at 1:13 p.m.

LAFAYETTE — The attorney for the developer of a controversial 315-unit apartment project is warning the city that repeated delays on a decision could wind up costing Lafayette more than \$15 million in a court fight.

The Terraces of Lafayette was on the June 15 agenda of the Lafayette Planning Commission, but the commission delayed a vote on the project until the June 29 meeting, pending further studies on the traffic impacts and potential for wildfire evacuation near the project. The 22-acre site is located at Deer Hill and Pleasant Hill roads.

In a sharply worded letter sent to the city on June 13, attorney Bryan Wenter pointed out the city has delayed hearings on the Terraces four times this year and “could be perilously close” to

rejecting the project by failing to act within the 90-day period specified by the state's Housing Accountability Act.

According to Wenter, the decision on June 29 will be appealed to the Lafayette City Council — either by the developer O'Brien Homes of Menlo Park or the grassroots group Save Lafayette, which has opposed the development for years — leaving the city only two more allowed meetings under state law. Wenter said, under the 90-day period, the city will have to make a decision by Aug. 3.

He detailed the city's legal expenses if it fails to act by Aug. 3: payment of the city's attorney's fees and of O'Brien's attorney's fees if the developer wins in court; the costs of preparing the extensive documents; and potential fines of \$15.75 million.

“As much as O'Brien does not wish to test these issues in court, the city should be working overtime to ensure O'Brien is not put in that avoidable position,” Wenter wrote in his letter to the city's attorney on the Terraces, Robert Hodil.

“Rather than continuing to placate Save Lafayette and other project opponents who will raise any issue they can imagine regardless of how implausible under California land use law,” he said, the city should “take all actions necessary” to schedule hearings expeditiously, including at least one special meeting.

Lafayette city officials did not respond to a request for a comment.

The state's Housing Accountability Act takes away some local control regarding affordable housing projects because of California's housing crisis. The Terraces project has set aside 20 percent of its 315 apartments — 63 in total — for affordable housing.

The Terraces apartment project dates back to March 2011. It has been the subject of more than 20 public hearings and a lawsuit, as well as a state court ruling.



[https://danvillesanramon.com/blogs/p/print/2020/06/30/san-ramon-project-receives-green-seal-of-approval?utm\\_source=express-2020-07-01&utm\\_medium=email&utm\\_campaign=express](https://danvillesanramon.com/blogs/p/print/2020/06/30/san-ramon-project-receives-green-seal-of-approval?utm_source=express-2020-07-01&utm_medium=email&utm_campaign=express)

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**By Tim Hunt**

## **San Ramon project receives green seal of approval**

Uploaded: Jun 30, 2020

It's notable that the San Francisco-based Greenbelt Alliance has found a project in the Tri-Valley that it favors.

It's been battling against what it views as "sprawl" literally for decades. That included opposing the Daugherty Valley project as sprawl despite putting 30,000 people between business centers that employ more than 100,000 people. It arguably was infill housing. The same goes for the wasted open space in Northern Livermore where agriculture is marginal at best, Look at it from a broader perspective and it's putting housing closer to jobs instead of over the Altamont Pass where there is prime agriculture soil being transformed into housing.

The surprise is that the alliance formally endorsed the CityWalk Bishop Ranch Mix-Use Master Plan in San Ramon. The proposal now is working its way through the city planning process. It calls for transforming the Bishop Ranch Business Park, where about 30,000 people are employed into a true mixed-use neighborhood. The plan calls for 4,500 high-density units on 111 acres (the park totals 585 acres) with 15% reserved for low or very low-income residents. It also includes a 169-unit hotel and 170,000 square feet of office and retail uses.

It's a bold plan to create a more urban environment in keeping with the CityWalk project that opened last year. CityWalk's mix of retail, restaurants and entertainment likely was designed with the thought of lots of residential within walking distance. The housing will cover surface parking lots that surround 2600 Camino Ramon, the one-million square-foot building that was originally built for Pac Bell.

The plan calls for 10 acres of neighborhood parks, plus recreational use on two lakes (you can already use a paddle boat on the existing lake). An amphitheater is proposed lakeside along with 11 acres in a parkway system with bike paths that are off streets.

The draft environmental impact report was released in May and the comment period is scheduled to end Thursday. The Planning Commission held a public hearing by teleconference on the draft report earlier this month.

Should city leaders approve the project, it will be built over 20 to 30 years. It also includes a new community center.

The Greenbelt Alliance's announcement read, "This plan makes significant progress towards the development of a more dynamic urban form for the City of San Ramon, encouraging pedestrian and bicycle transportation for work, school, and recreation.

The Bay Area needs more developments like this that help to reduce greenhouse gas emissions and the human impact on the environment. San Ramon currently has a large job center with more than 30,000 employees at Bishop Ranch. With this proposed increase in multi-family housing units, more people will be able to live close to where they work, reducing vehicle miles traveled which will result in a reduction of greenhouse gas emissions."

Bishop Ranch, for years, has offered robust transportation alternatives to lessen single-passenger vehicles. That includes bus service from the BART stations in Walnut Creek and Dublin. It also offers an autonomous vehicle shuttle in the park as well as bicycles and a free shuttle every 15 minutes on workdays that travels around the park.

KQED film probes impact of West County hospital closing

**By Chuck Barney**

*Correspondent*

Among the heartbreaking stories revealed in “The Desert,” a KQED documentary that premiered Friday is the plight of Epigmenio and Angelica.

They are an elderly, low income couple, both of whom are cancer patients. Because there is no public hospital in their West Contra Costa County city that can handle their needs, they must devote nearly a full day every month to travel — via three different buses — to a hospital in Martinez for their appointments.

That’s the kind of physical toll that they, and many of their fellow West County residents, must pay since the closing of Doctors Medical Center in San Pablo in 2015.

Directed by UC Berkeley journalism professor Bo Kovitz, “The Desert” is the latest installment in KQED’s “Truly CA” series, which showcases independent short documentaries about life in the state. It offers an intimate look into the devastating impact that the closing of DMC has had on its community.

The facility, which stood for 60 years, was the only full-service public hospital for more than 250,000 primarily low-income residents in West Contra Costa County.

Following patients and front-line workers on the ground, Kovitz’s film reveals the multifaceted impact of the loss of a major safety net institution as those in the community travel further and most overcome various barriers to health care.

At one point in the film, Aimee Skaggs, a West County paramedic, addresses the excessive ambulance transportation times — often upwards of a half hour — required to deliver patients to distant medical facilities.

She notes that, with the closure of DMC, the Richmond- San Pablo area lost a STEMI center crucial to treating heart-attack victims.

Says Skaggs of the time-and- distance urgency: “It really makes or breaks whether people are debilitated for the rest of their lives.”

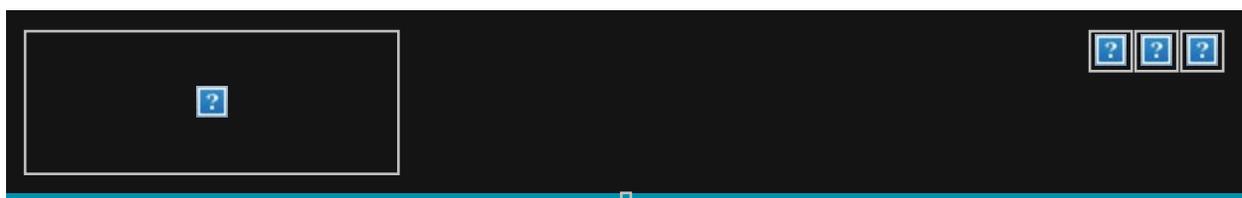
In a statement posted on the film’s online page, Kovitz says, “When I began research about Doctors Medical Center, it struck me that it’s not rare in our country for a hospital to close. I read about hospitals closing in rural communities and others moving out of poor, predominantly black and brown neighborhoods into richer ones. I wanted to capture the lived experience and deepen our understanding beyond just reading words on a page. I wanted to see and hear the faces and voices of the people directly impacted by the loss of an institution so many of us take for granted.”

“The Desert” is available to view on the Truly CA website, [kqed.org/trulyca](http://kqed.org/trulyca), as well as the KQED Arts YouTube page. *Contact Chuck Barney at or 925-952-2685.*



A new KQED film examines the impact on West County residents of loss of Doctors Medical Center, which shut down in 2015.

**From:** [Neil McCormick](#)  
**To:** [Sherrie Weis](#)  
**Subject:** CSDA eNews 7/21/20: As the State Legislature and Congress Wrap Up, What's at Stake for Special Districts?; 2020 CSDA Board Election Results!  
**Date:** Tuesday, July 21, 2020 11:03:21 AM



## Virtual Bingo

Thursday, August 6, 2020

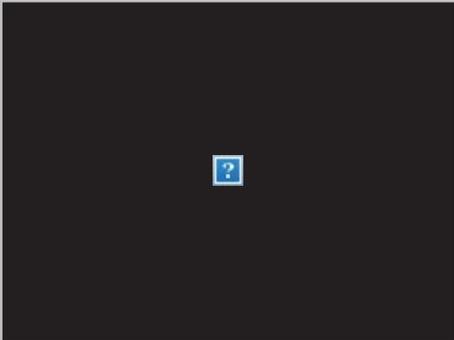
3:00 – 4:30 p.m.

*Free to All*



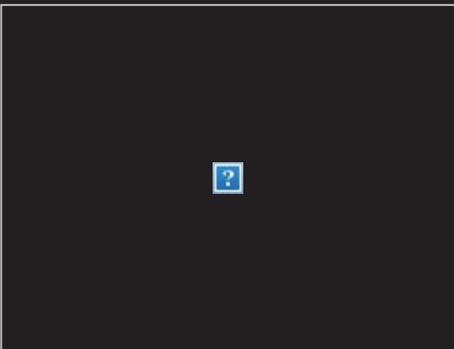
## CSDA WEEKLY NEWSLETTER

July 21, 2020



### As the State Legislature and Congress Wrap Up, What's at Stake for Special Districts?

With just over a month left in the 2019-2020 California State Legislative Session ending on August 31, 2020 at midnight, many logistical questions about how the Legislature will operate are left unanswered. The Legislature will reconvene on July 27th to act on hundreds of pending bills, many of which impact special districts. Download [CSDA's Mid-Year Legislative Report](#) for an in-depth look on the status of all CSDA-advocated legislation for 2020. [READ MORE](#)



### 2020 CSDA Board Election Results for 2021 – 2023 Term

**NORTHERN NETWORK:** Fred Ryness, Director, Burney Water District  
**SIERRA NETWORK:** Pete Kampa, General Manager, Groveland Community Services District  
**BAY AREA NETWORK:** Stanley Caldwell, Director, Mt. View Sanitary District  
**CENTRAL NETWORK:** Steve Perez, General Manager, Rosemond Community Services District  
**COASTAL NETWORK:** Vincent Ferrante, Director, Moss Landing Harbor District  
**SOUTHERN NETWORK:** Arlene Schafer, Director, Costa Mesa Sanitary District  
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### Statewide Park Program Grant Funding Information and Deadline

With \$393.3 million available, December 14, 2020 is the deadline to apply for the fourth round of grant funding through the Statewide Park Program (SPP). This funding is established through Proposition 68, or the 2018 Bond Act, and is ultimately a continuation of funding that was first made available through the previous Proposition 84, or the 2006 Bond Act. Proposition 84 initially made funds available and the SPP was...

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### The California Grants Portal Has Launched!

The California State Library is excited to announce the launch of the California Grants Portal, a single website to find all state grant and loan opportunities offered on a first-come or competitive basis. Visit the [grants.ca.gov](https://grants.ca.gov) now! [Click here](#) to access a flyer with details about the Grants Portal. Please feel free to share the flyer with anyone you think might be interested. The Grants Portal will connect millions of Californians with the funds they need.

[Find Grants Now](#)

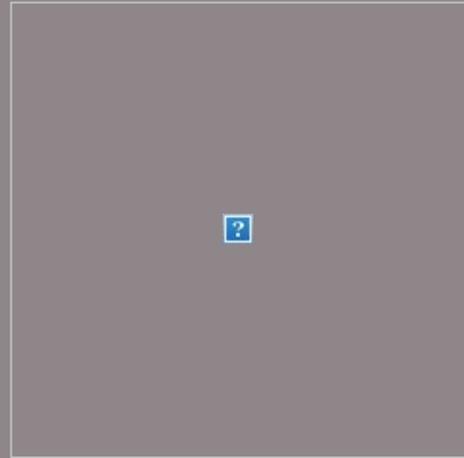
### NEW! Virtual Workshop: Financial Management for Special Districts

August 18 & 19

9:00 a.m. – 12:00 p.m.

Money, money, money...it's on everyone's mind and on your job description. Make sure you understand the full scope of financial information affecting special districts today. From budgeting and internal controls to long term planning and capital improvement plans. Only \$50 for SDRMA member, \$100 CSDA member, and \$150 Non-member. Scholarships available to districts of any size at [sdlf.org](https://sdlf.org).

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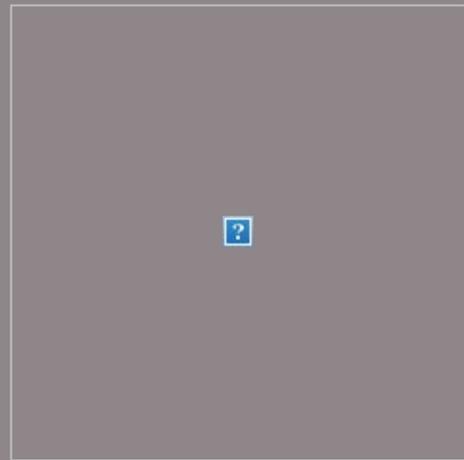


### Exhibitor Series: Springbrook Software

August 11 | 10:00 - 11:00 a.m. | FREE

Springbrook Software provides cloud-based finance and utility bill payment software to local governments and special districts nationwide. More at [springbrooksoftware.com](https://springbrooksoftware.com).

[Register Now for FREE](#)



### DMTD Video Contest Scholarship

High school and college students are invited to participate in our [Student Video Contest](#) this summer. It's a great opportunity to get our youth engaged in local government, as well as to educate the public on the essential services provided by our state's more than 2,000 special districts. Contestants have the opportunity to win a scholarship, as well as additional prize money for their teachers to support distance learning efforts. Deadline is September 30.

[READ MORE](#)



California Special Districts Association  
 1112 I Street, Suite 200  
 Sacramento CA, 95814  
 Phone - 877.924.2732  
[www.cstda.net](http://www.cstda.net)  
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Check out the most recent job postings in CSDA's **Career Center:**

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Read ICMA **Career Compass** column #83 "How Do I Have Energizing Performance Conversations with Direct Reports?"

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A plan to build 1,500 homes in the hills southwest of Pittsburg cleared its first major hurdle with this week despite the opposition of environmentalists and hillside preservationists.

After five hours of virtual discussions marred by technical difficulties, the city's Planning Commission voted 4-3 to recommend the Faria/Southwest Hills project for City Council approval.

More than 120 letters and comments from agencies such as the East Bay Regional Park District, environmentalist groups, residents and others were read during the meeting.

Seeno/Discovery Builders had asked the Planning Commission to recommend a development agreement and an amendment to the city's general plan that would allow construction on the hillsides.

The developers also sought its environmental documents for the project, which envisions construction of homes on 341 acres and preservation of 265 acres of open space.

"We want to make it a wonderful project here," developer Albert Seeno III said. "Not everyone wants to see nothing done with the property. There are people that do want to have a house there..."

Plans to develop the hills date back to 2005 when voter-approved Measure P moved the Faria site within Pittsburg's urban boundary. The city approved an agreement with Seeno that established guidelines for a permanent greenbelt buffer along the inner edges of the boundary.

The Concord-based developer filed an application in 2010, modified it in 2014 and again in 2017.

Some commissioners and others said they wanted to see more specificity in the developer's plan, but City Planning Manager Kristin Pollot said it met all the minimum requirements.

Critics, including environmental groups like Save Mount Diablo, say the developer has not provided enough detail to assess the project's impacts, including about the new regional park on the Concord side of the hills.

"The fundamental flaws of the project and its environmental review have not been addressed," said Juan Pablo Galván, Save Mount Diablo's land use manager.

"They are doing a rush job and they don't have any details but they want it approved anyway," he added.

Galván especially took issue with the proposed general plan amendment that would strike out wording that protects the hillsides.

"They are trying to eliminate the very part of the general plan that would protect the hills and slopes," he said.

Former mayor and longtime resident Nancy Parent agreed.

"There will be mass grading, including wiping out two ridgelines. Once done, it cannot be retrieved," she wrote. "The views of the hills are an asset to everyone in Pittsburg."

Jazmin Hernandez also had concerns.

"The Faria/Southwest annexation project will wreak havoc to current Pittsburg residents and wildlife," she wrote. "It will increase traffic in Pittsburg and threatens the new regional park on the Concord side of the hill. It would have significant negative impacts on wildlife and would seriously degrade the beautiful hills."

"Why am I not surprised that the city of Pittsburg would railroad a momentous far-reaching development project through the approval process in these pandemic times with a less than adequate public hearing, virtual meetings that curtail full participation and engagement from the public with the Planning Commission," Bay Point resident Raymond O'Brien wrote.

Lou Ann Texeira of the Local Agency Formation Commission (LAFCO) noted the agency has sent six letters since 2006 expressing concerns about the scope of the environmental review, boundary issues and cumulative impacts, among other issues.

A few residents, though, wrote in support of the project.

AJ Fardella noted the plan includes a basketball youth center. "The Faria development will be a great addition for Pittsburg, provided the essential support for our community is accompanied with it."

Seeno noted that since the project is not yet within city limits, it could be "years down the road."

“This project is not going to be built over the next 15 years,” he said. “It will be bit off in small chunks the way San Marco was built.”

Louis Parsons, president of Discovery Builders, addressed the hillsides.

“One of the biggest concerns was the very high ridges along the border between Concord and Pittsburg, and the major features are being preserved,” he said.

Commissioners were split on whether to recommend the project, however.

Commissioner James Coniglio, who motioned to recommend it, said the homes are needed and could help attract a higher-end grocery store on a nearby commercial site.

“This is a really big deal,” Vice Chairman Christopher Moreno said. “It’s extremely important to a lot of people. Our hills, preservation and a lot of it is really tied back to a lot of the difficulties we are feeling in the community — traffic issues, city schooling issues, recreation issues and commercial amenities. A lot of these things we can’t put on the developer.”

Still, Moreno said, he can’t support the current plan because of the general plan amendment allowing hillside development.

“People want to see the hillside preserved and build with the natural topography of the area and I think that should stay in place,” he said.

Commissioner Elissa Robinson said that while the project offered some benefits, she wanted to see more details and a smaller footprint.

“With this project, we have an opportunity to build something that could be amazing and could be groundbreaking if we do it properly,” she said, noting the Faria plan is “kind of a definition of urban sprawl.”

Commissioner Trinh Nguyen also said she had mixed feeling about the project and thought that the environmental reports were released too late for residents to review them.

“I encourage the application to lessen the footprint,” she said.

Commissioner Wolfgang Croskey said he could support the project, as it meets current standards.

In the split decision that followed, Moreno, Robinson and Nyguen dissented.

Because the area must be annexed into the city for the development to occur, LAFCO also must approve it in addition to the City Council.

## San Francisco Chronicle

# The apartment proposal that sparked Lafayette's housing war is back. Can it win approval?

[Rachel Swan](#) July 30, 2020 Updated: **July 30, 2020** 8:28 p.m.

Terraces of Lafayette, a proposal for 315 apartments on 22 acres that's been stymied by conflict since 2011, will get its next hearing on Aug. 10. It's an opportunity for residents to either show support for dense housing a mile away from the Lafayette BART Station, or urge the city to keep its cow-dotted hillsides bare.

The fight is rekindling at a moment of political awakening for the city that was once a poster child for affluent “white flight” suburbs, known for good schools and rambling homes with sport utility vehicles in the driveways. The city's mission is to preserve its “semirural” terrain, and its politicians have loudly decried state bills to build affordable homes near transit hubs. When a new development came before the City Council, neighbors lined up to oppose it, while pro-housing activists swooped in from out of town, chiding Lafayette for intransigence.



Sources: Nextzen, OpenStreetMap

Todd Trumbull / The Chronicle

Now “the climate has certainly changed,” said Jeremy Levine, a housing proponent who recently formed the grassroots group Inclusive Lafayette with his brother Benji Levine. They hope to create a more vibrant city by encouraging dense housing, including the Terraces apartments. Others have joined them, and public comment at city hearings has become more evenly split.

The City Council scheduled the hearing after Councilman Cameron Burks appealed the project, which was approved by the Lafayette Planning Commission in the wee hours of the morning on July 1, following a grueling 7½-hour meeting.

“I felt the project itself was of such profound importance that it needed to come before the elected City Council,” Burks said, adding that he does not know which way he will vote. While some residents have come around to support new apartments, the project's most vocal opponents are standing firm. They say the development would bring traffic, choking Pleasant Hill Road — the main artery that feeds Highway 24 — and potentially blocking emergency vehicles. A

nonprofit called Save Lafayette, which is dedicated to preserving the city’s historic character, also cites fire risks, noting that people and fuel from buildings often cause wildfires.

“Lafayette has provided more housing per capita than any other city in the county and perhaps the state,” Save Lafayette spokesman Michael Griffiths wrote in an email. “With limited infrastructure, our little town is being crushed by housing projects. We need jobs not housing.”

Permit records show that from 2015 to 2017, Lafayette met its regional targets for above-moderate-income housing, with 163 permits pulled. But it fell far short in permitting moderate, low, and very-low-income homes. Those targets are set by the state but [seldom enforced](#).

Developer O’Brien Land Co. submitted its application for the moderate-income project in March 2011, targeting a grassy slope at Deer Hill and Pleasant Hill roads, just north of Highway 24. Two years later, O’Brien tabled the plans and opted to build 44 single-family homes instead — a compromise that city officials proposed after residents balked at the idea of tall apartment buildings.

## The Terraces timeline

**2011:** O’Brien Land Co. submits an application for 315 moderate-income apartments on a 22-acre parcel at Deer Hill and Pleasant Hill roads.

**2013:** Lafayette officials present an alternative proposal for 44 single-family homes, saying it’s more in tune with the city’s semirural character.

**2015:** California Renters Legal Advocacy and Education Fund, then under the name SFBARF, sues Lafayette for scrapping the apartment proposal.

**2016:** Save Lafayette sues the city, calling for a referendum on the 44-homes project.

**2018:** Save Lafayette wins on appeal and the city places a referendum on the June ballot. Voters defeat it. O’Brien formally asks the city to revive the 2011 application for the 2011 Terraces project.

**2019:** The city begins a new environmental review of the project.

**2020:** The Planning Commission approves the project. A city councilman appeals it, prompting a public hearing before the Council on Aug. 10.

That’s when the legal skirmishes began. A group of [pro-housing city dwellers](#) sued Lafayette in 2015 for scrapping the apartments, the first bout in what became a statewide “Sue the Suburbs” campaign. The plaintiff, California Renters Legal Advocacy and Education Fund, cited the Housing Accountability Act, which bars cities from rejecting development for arbitrary reasons — in this case, because an outspoken faction of Lafayette residents wanted to preserve the scenic aspect of the city.

Thus, bucolic Lafayette became an unwitting catalyst for the “Yes in My Backyard” movement.

But the 44-homes proposal — which also included a dog park, soccer field and tot lot — drew a cold reception from neighbors who wanted no housing at all. Arguing that the project would cause traffic congestion, ruin air quality and blemish the landscape, they coalesced to form Save Lafayette and filed their own lawsuit in 2016.

The YIMBY renter group settled with Lafayette in 2017. Save Lafayette won its suit on appeal, forcing the city to put the project before voters in 2018. The ballot referendum lost, and [O’Brien resurrected the original plan](#).

Though the project is back where it started, it’s returning in a new political environment. In September 2018, former Lafayette City Manager Steven Falk, who for years had mediated between the warring factions, had an epiphany and resigned with a letter that criticized the city’s reluctance to build new housing.

“All cities — even small ones — have a responsibility to address the most significant challenges of our time: climate change, income inequality and housing affordability,” Falk wrote. He said he could no longer keep the job when his priorities diverged so sharply from the city’s.

Falk’s story became a parable for the region. The movement had started a new conversation on housing, environmental issues and social inequity, and policymakers were listening.

Still, the debate in Lafayette remains tense. And it’s playing out against a contentious national conversation. On Wednesday, President Trump boasted on Twitter that he had rescinded an Obama administration rule for cities to build substantial housing at all income levels.

“I am happy to inform all of the people living their suburban lifestyle dream that you will no longer be bothered or financially hurt by having low-income housing built in your neighborhood,” the president tweeted, putting housing in direct confrontation with a growing movement for racial justice.

On social media, the arguments are heating up. Jeremy Levine said that even during his short period of advocacy, he’s seen Nextdoor posts that express fear and resentment of newcomers, particularly people who are not white. Benji Levine said at least one post contained neo-Nazi imagery. Yet the brothers have also seen residents present their antidevelopment stances in more genteel terms.

“People have not been shy about messaging me directly,” Jeremy Levine said.

Some observers speculate that council members may approve the project because they fear another lawsuit, which would batter a city already hemorrhaging revenue amid the COVID-19 pandemic. Were Lafayette to lose in court, it could face \$15.75 million in fines, according to Bryan Wenter, an attorney for the developer.

He seemed watchfully optimistic.

“After nine long years and every form of legal and political challenge, the (Planning) Commission recognized that the Housing Accountability Act required approval of the Terraces,” he wrote in a statement, echoing the 2015 YIMBY lawsuit.

“The Terraces will add much-needed apartment housing to the community,” Wenter continued. “Because of this vote, more people will be able to enjoy the benefits of living in Lafayette.”

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# Municipal Bankruptcy in the Time of COVID-19

The pandemic's devastating economic impact may provide an option for local governments to restructure financial obligations. [PM Magazine, August 2020]

By Ivan L. Kallick, Randall Keen, and Jacob Itzkowitz | Aug 1, 2020 | ARTICLE

The economic impact of COVID-19 is coming into sharper focus, and governmental entities across the country are in the direct line of fire. For example, on May 14, 2020, California Governor Gavin Newsom released a budget proposal projecting a \$54.3 billion deficit for the coming fiscal year.<sup>1</sup> In California, the state's deficit translates into projected deficits for counties, cities, and many special districts that are reliant on state and related variable tax revenues and are already projecting deficits.



Adding to these concerns, many municipalities across the United States are saddled with crushing bond and other debt and pension obligations. Chicago, Philadelphia, and Dallas have less than half the financial resources they need to pay existing pension liabilities.<sup>2</sup> Most recently, Fairfield, Alabama, filed for Chapter 9 bankruptcy, saying it had “exhausted its options” after several years of declining revenues and outstanding financial obligations.<sup>3</sup> Fairfield is located in Jefferson County, which itself went through Chapter 9 bankruptcy in 2011.<sup>4</sup>

The financial problems and declines in revenue are exacerbated in California, where one of the primary ways local governments have dealt with the revenue constraints of Proposition 13 has been to push a larger share of employee compensation to pensions and retirement benefits, leading to massive, unfunded, accrued liabilities. In the face of the looming recession, cities and counties will need to cover rising pension costs with less revenue coming in the door. For example, the city of Santa Monica—a city highly dependent on tourism revenues such as from hotel and sales taxes—adopted a Fiscal Year 2020–21 budget with a nearly 25 percent reduction and has moved to significantly restructure the city's overall operations.<sup>5</sup> In fact, the city is contemplating putting a local funding measure on the November 2020 ballot to raise additional revenue.<sup>6</sup> Cuts of this magnitude and a move to refocus on

core municipal services are unavoidable for most, if not all, local governments given the devastating economic impact of COVID-19.

While states are legally required to pass a balanced budget and cannot file for bankruptcy protection, municipalities and special districts that own, operate, and provide essential services to their residents and constituents may be forced to consider bankruptcy given the depth of the economic crisis.

Chapter 9 bankruptcy may provide an option for local governments unable to otherwise survive the economic downturn and may help them more effectively restructure their operations, workforces, and debt. In addition, Chapter 9 may help struggling municipalities restructure their debt and pension obligations. While there are risks associated with filing for bankruptcy as a municipality, these risks may be offset by the benefits in the current and near-future fiscal environment.

## The Law

Chapter 9 of the U.S. Bankruptcy Code permits municipal governments to declare bankruptcy when they are unable to pay their debt service due to a lack of income, generally due to declining tax revenues. This action protects financially distressed cities, counties, and special districts from creditors and allows the filing municipality to create a plan of adjustment to resolve its outstanding debt. Chapter 9 defines municipalities broadly to include a wide variety of governmental entities such as cities and counties, as well as special utility, tax, and school districts.<sup>7</sup>

Most importantly, courts and creditors in a Chapter 9 filing generally cannot interfere with the governmental or revenue powers of a municipality while in Chapter 9. Municipalities filing for Chapter 9 bankruptcy largely retain control of policy decisions, such as spending, municipal services, and public policy.<sup>8</sup> And a municipality cannot be forced to sell property or otherwise dispose of assets.<sup>9</sup> Thus, unlike in widely publicized and used Chapter 11 reorganizations, a municipality in a Chapter 9 proceeding maintains some measure of agency over its day-to-day decisions. The bankruptcy court overseeing a municipality's Chapter 9 case cannot, for example, appoint a trustee to manage the municipality's actions or force it to take specific legislative actions. This is particularly important to municipalities, which are both subdivisions of the state and independent political entities with their own priorities, sensibilities, and constituencies.

Municipalities in Chapter 9 bankruptcies also cannot be forced to liquidate. In a Chapter 11 reorganization bankruptcy, creditors can push to convert a restructuring into a liquidation so as to maximize their return from the debtor's assets. Under Chapter 9, creditors do not have this right and must negotiate with the filing municipality (or ultimately accept a plan of adjustment as approved by the bankruptcy court). This provides municipalities more leverage than a corporation has in a traditional Chapter 11 reorganization.

Note, however, that municipalities must file their petitions in good faith.<sup>10</sup> There are a number of factors that bankruptcy courts weigh in evaluating the good faith of a petition, and these factors can include whether the municipality engaged in prepetition negotiations or sought alternatives to filing, as well as the scope and nature of the financial problems.<sup>11</sup>

## The Process

As a threshold matter, a municipality seeking to file for bankruptcy under Chapter 9 must be authorized by state law. This means that state law must include clear authority for such a filing and that permission must be “exact, plain, and direct with well-defined limits so that nothing is left to inference or implication.”<sup>12</sup> There is wide variation in the latitude that states grant to their municipalities in the ability to use Chapter 9. California provides some of the broadest permissions, although it requires municipalities to participate in a mediation first.<sup>13</sup> However, in several states, municipalities must seek individual authorization from the state legislature in order to file under Chapter 9.<sup>14</sup> This can create an additional hurdle and add significant complexity to the bankruptcy process. For example, Pennsylvania effectively blocked its own capital city, Harrisburg, from filing bankruptcy under Chapter 9 by eliminating the statutory provisions enabling municipalities to file for bankruptcy under Chapter 9.<sup>15</sup> And one state, Georgia, does not permit municipalities to file for bankruptcy at all.<sup>16</sup>

In order to use the protections of Chapter 9, a municipality must meet certain additional criteria:<sup>17</sup>

### Insolvency

The municipality must be insolvent (defined as either “(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; or (ii) unable to pay its debts as they become due”).<sup>18</sup> In a typical Chapter 7 or 11 bankruptcy, insolvency is determined by the “balance sheet test” (although insolvency is not a requirement for filing under those chapters). Because municipal assets are both hard to value and hard to liquidate, in a municipal bankruptcy, insolvency is typically judged on a cash-flow basis, where the municipality cannot pay its debts as they come due. However, bankruptcy courts have also recognized insolvency in the delivery of services. For example, in the enormous Detroit bankruptcy case, Judge Steven Rhodes observed that the city was so insolvent that it was “unable to provide basic municipal services such as police, fire, and emergency medical services to protect the health and safety of the people.”<sup>19</sup> Note that municipalities have more power to raise their cash flow than does a typical corporate debtor, and bankruptcy courts may consider factors such as the ability to raise taxes or fees when evaluating insolvency.<sup>20</sup>

### Plan to Have a Plan

The municipality must intend to effect a plan to restructure its debt obligations.<sup>21</sup> This requirement has been interpreted to mean that a Chapter 9 filing cannot be used to resolve short-term fiscal issues that would otherwise require tough political decisions or force the municipality to pay creditors it does

not want to pay. It need not have a plan of adjustment ready to go when it files, but it must at least intend to execute one and have some basic outlines of a plan prepared.<sup>22</sup>

## Consent (Or at Least Making an Effort)

Finally, the municipality must either obtain the agreement of creditors or, if it cannot, show evidence that it made a good faith effort to negotiate or that such a negotiation would be impractical or impossible. Specifically, the municipality must:

- (a) have obtained the consent of creditors holding at least a majority in the number of claims in classes that will be impaired under the plan;
- (b) have failed to obtain such consent after negotiating with creditors in good faith;
- (c) be unable to negotiate with creditors because negotiation is “impracticable”; or
- (d) reasonably believe that a creditor may attempt to obtain a transfer that is avoidable.<sup>23</sup>

In municipal bankruptcies, likely creditors include public sector employees (both current and retired) with pension benefits, employees subject to collective bargaining agreements, bondholders who have purchased municipal debt, and other entities such as institutional lenders that may be owed funds. While negotiations with these latter institutions in Chapter 9 bankruptcies may be more routine and similar to those in cases under Chapter 11, negotiations with public sector employees, pensioners, and their union representation bring politics into the equation and can create difficulties for a municipality seeking a quick exit from bankruptcy. Bankruptcy courts have noted that municipalities in particular may have difficulty negotiating with their diverse creditors and may not even be able to present an adequate initial proposal. For example, in the Detroit bankruptcy, Judge Rhodes pointed to the “sheer size of the debt and number of individual creditors,” as well as the difficulties inherent in negotiating with a large and disparate class of pension creditors.<sup>24</sup>

## The Automatic Stay

As with other bankruptcy protections, filing Chapter 9 puts in place an automatic stay, which protects the municipality from actions to collect on outstanding debts.<sup>25</sup> The protections of the automatic stay prevent a municipality’s creditors from rushing to the courthouse to satisfy their debts and/or interfere with streams of revenue, and (hopefully) to ensure an orderly adjustment process. For example, in the Chapter 9 bankruptcy filing of Mammoth Lakes, California, the automatic stay helped the town delay paying a legal judgment that would have overwhelmed its annual budget.<sup>26</sup>

## Secured vs. Unsecured Claims

In the bankruptcy process, there are two primary classes of creditor claims: secured and unsecured. At the most basic level, secured claims are tied to specific collateral or a specific revenue stream. For example, a promissory note may be secured by a mortgage or deed of trust on a house in an individual

bankruptcy. In the corporate context, various personal property assets including accounts receivable (or real estate) may serve as collateral for a note. In contrast, unsecured claims are generally tied only to a promise to pay.

In the municipal context, most debts other than wages are either pension obligations or municipally issued general revenue bonds, both of which are typically unsecured or obligations established by law.<sup>27</sup> Only bonds tied to specific sources of revenue are treated as secured; otherwise, such debts are general obligations of the municipality.

## Best Interest Standard

A bankruptcy court may confirm a plan of adjustment if it is “in the best interests of creditors and is feasible.”<sup>28</sup> This amorphous standard is important in Chapter 9 proceedings because, unlike in other bankruptcy proceedings, there are no benchmarks against which to measure what is reasonable.<sup>29</sup> Instead, courts have typically looked at whether the municipality’s plan gives its creditors a return that is as good as or better than what they currently have.<sup>30</sup>

## History

There have been fewer than 1,000 Chapter 9 bankruptcies filed in the history of the country,<sup>31</sup> as compared with over 22,000 business and 750,000 personal bankruptcies filed in 2019 alone.<sup>32</sup> The most significant include Puerto Rico, Detroit, and Orange County, California. Puerto Rico’s complex bankruptcy, which was complicated by the large portion of its debt held by private-equity and other assertive investors, was only recently confirmed in 2019.<sup>33</sup>

Two of the nation’s largest and most complex Chapter 9 bankruptcies have been those of jurisdictions in California: the city of Vallejo in 2008<sup>34</sup> and the city of Stockton in 2012.<sup>35</sup> In addition, one of the largest municipal bankruptcies in U.S. history was Orange County’s 1994 filing, in which the county sought to adjust \$1.7 billion in debt.<sup>36</sup>

## Special Districts

Special districts, such as those established under Local Area Formation Commission procedures to support local infrastructure, can also take advantage of Chapter 9.<sup>37</sup> This is particularly important in California, where the budgetary constraints of Proposition 13 have pushed numerous municipal functions into special districts. For example, the Tulare Local Health District emerged from a two-year bankruptcy process in mid-2019.<sup>38</sup>

Special districts can also use Chapter 9 to adjust their debts, which typically take the form of bond issuances backed by specific revenues and are treated as secured obligations.<sup>39</sup>

## Opportunity in the Midst of Crisis

Rahm Emanuel, someone particularly experienced with municipal budgets as the former mayor of Chicago and as President Obama's former chief of staff during the Great Recession, famously echoed the line "never let a crisis go to waste."<sup>40</sup> While the current and looming economic crisis threatens enormous economic pain for individuals and businesses as well as local governments, it may also present an opportunity to adjust municipal debt and pension obligations.

### Power to Reject Contracts

One particular opportunity available to municipalities in bankruptcy is the power to reject executory contracts.<sup>41</sup> A debtor in bankruptcy, including a Chapter 9 debtor municipality, can reject contracts that were executed prior to the filing. While the other party to the contract will have a claim against the municipality for breach, this claim is treated as a general unsecured claim for damages (the lowest-priority claim in bankruptcy) and, thus, any payment on account of such claim is often significantly less than the contract value.

The most significant use of this power is in a municipality's ability to reject collective bargaining agreements (CBAs) and other employment agreements with municipal workers. While there are certain steps that a municipality must take before rejecting a CBA, including making a reasonable effort to negotiate, this power can allow a municipality to escape particularly onerous agreements.<sup>42</sup>

Note that a municipality seeking to reject contracts may be required to comply with any additional state rules regarding modification or rejection of contracts, although the extent of this requirement has not been fully settled by the courts. For example, in California, municipalities may be required to satisfy state law as to when and how they can make emergency contract changes.<sup>43</sup>

### Pension Liabilities

While a municipality can reject executory contracts in Chapter 9 bankruptcy, it was until recently less clear whether it could modify existing pension liabilities. Because pension obligations are settled debts and the benefits owed are "vested rights," it was not certain whether they could be modified in the same fashion as other obligations. However, Judge Sandra Klein of the U.S. Bankruptcy Court for the Eastern District of California addressed this question directly in the Stockton bankruptcy. Specifically, the court addressed the question of whether, as a matter of law, pension contracts entered into by the city, including the pension administration contract, may be rejected pursuant to Bankruptcy Code § 365.<sup>44</sup>

Note, however, that the court in Stockton specifically focused on the role of the California Public Employees' Retirement System (CalPERS) and the fact that the city's pension was administered by the retirement system to provide third-party pension benefits to the city's retired employees.<sup>45</sup> Also note that the Stockton court made its decision despite California law prohibiting a municipal debtor in

Chapter 9 from breaking a contract with CalPERS.<sup>46</sup> The Stockton court found that the statute conflicted with the federal Bankruptcy Code.<sup>47</sup> Thus, the Stockton court analyzed the CalPERS contract as a standard executory contract, which the city was entitled to terminate, and did not specifically address a situation where a municipality administers its own pension system without a third-party contractor.

## Understanding the Risks

There are, of course, several significant risks, both fiscal and political, for a municipality filing for bankruptcy.

Top of mind in any bankruptcy is the risk to the municipality's credit rating and the possibility of a downgrade. Filing for bankruptcy can reduce creditworthiness, make future borrowing more expensive, and limit the pool of willing lenders. While these risks are significant and should be carefully weighed by elected officials and municipal managers, they may prove less substantial when compared with similar impacts that may result from doing nothing at all.

In cities with more workforce or resident mobility, the negative publicity and attention generated from a Chapter 9 filing, as well as a fear of tax increases to cover municipal budget shortfalls, may drive residents or businesses to move to other jurisdictions, which could have negative impacts on the municipality's future tax base.

In more extreme cases, significant restructuring and reductions in pension benefits and/or public sector salaries could cause municipal workers to seek greener pastures. Where strong local government unions are a major factor, these tensions could become significant.

As many commentators have observed, there are political risks to going after pension liabilities in Chapter 9. For example, Diane Lourdes Dick, a professor at Seattle University School of Law focusing on commercial finance and bankruptcy, notes that while recent case law has made clear that pension write-downs can be conducted in Chapter 9, "[b]ankrupt cities have mostly declined to use [C]hapter 9 to adjust their pension promises, instead advancing plans of adjustment that privilege pension claims over others [...] the political economy of [C]hapter 9 has enabled large and prominent pension administrators to exert more power and influence over restructurings."<sup>48</sup>

Many cities have chosen to avoid confrontation with pension holders. For example, the city of San Bernardino considered reducing its pension payments to CalPERS, but eventually decided to leave its pension obligations intact and to force reductions in other debt payments.<sup>49</sup> Similarly, the final plan in the Detroit bankruptcy left pension payments whole while cutting related items such as cost-of-living increases and other minor benefits.<sup>50</sup>

## Conclusion

While the looming recession and COVID-19-related financial crisis pose existential threats to municipalities across California, they also provide an opportunity. Cities and counties that take a proactive approach and act decisively can take advantage of this crisis to tackle debt and pension obligations that might pose greater problems down the road. With effective leadership and counsel, municipalities can work with local stakeholders to adjust their obligations and get their fiscal houses in order, while also finding a path to lead their residents out of the pandemic recession.



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### Endnotes and Resources

<sup>1</sup> Governor Newsom Submits May Revision Budget Proposal to Legislature (May 14, 2020), available at <https://www.gov.ca.gov/2020/05/14/governor-newsom-submits-may-revision-budget-proposal-to-legislature-5-14-20/>.

<sup>2</sup> Jen Sidorova, “Coronavirus Will Make America’s Cities Feel the Pressure of Pension Debt,” MarketWatch (April 23, 2020), available at <https://www.marketwatch.com/story/coronavirus-will-make-americas-cities-feel-the-pressure-of-pension-debt-2020-04-20>.

<sup>3</sup> Amanda Albright, “Small Alabama City Says It’s Broke, Files for Bankruptcy,” Bloomberg Law (May 19, 2020), available at <https://www.bloomberg.com/news/articles/2020-05-20/small-alabama-city-says-it-s-broke-files-for-bankruptcy>.

<sup>4</sup> Mary Williams Walsh, “In Alabama, a County That Fell Off the Financial Cliff,” *New York Times* (February 18, 2012), available at <https://www.nytimes.com/2012/02/19/business/jefferson-county-ala-falls-off-the-bankruptcy-cliff.html>.

<sup>5</sup> See City of Santa Monica Department of Finance, FY 2020-21 Adopted Budget, [https://finance.smgov.net/#:~:text=On%20June%2023%2C%202020%2C%20the,million%20in%20FY%](https://finance.smgov.net/#:~:text=On%20June%2023%2C%202020%2C%20the,million%20in%20FY%20)

<sup>6</sup> See City of Santa Monica Local Funding Measure Fact Sheet, available at <https://finance.smgov.net/Media/Default/home/LocalFundingMeasureFactSheet.pdf>.

<sup>7</sup> 11 U.S.C. § 101(40) (defining “municipality” as a “political subdivision or public agency or instrumentality of a State”).

<sup>8</sup> 11 U.S.C. § 904.

<sup>9</sup> See *In re Valley Health System*, 429 B.R. 692, 714 (Bankr. C.D. Cal. 2010) (the debtor “retains title to, possession of, and complete control over its property and its operations, and is not restricted in its ability to sell, use, or lease its property”).

<sup>10</sup> 11 U.S.C. § 921.

<sup>11</sup> See, e.g., *In re Villages at Castle Rock Metro. Dist. No. 4*, 145 B.R. 76, 81 (Bankr. D. Colo. 1990); see also Rachael E. Schwartz, “This Way to the Egress: Should Bridgeport’s Chapter 9 Filing Have Been Dismissed?,” 66 *Am. Bankr. L.J.* 103, 130 (1992).

<sup>12</sup> *In re County of Orange*, 183 B.R. 594, 604 (Bankr. C.D. Cal. 1995).

<sup>13</sup> Cal. Gov’t. Code §§ 53760, 53760.3.

<sup>14</sup> See John Gramlich, “Municipal Bankruptcy Explained: What It Means to File for Chapter 9,” The Pew Charitable Trust (November 22, 2011), available at <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2011/11/22/municipal-bankruptcy-explained-what-it-means-to-file-for-chapter-9>.

<sup>15</sup> Act of June 30, 2011, § 1601-D.1, Pa. Laws 159, No. 26 (“Notwithstanding any other provision of law, including section 261 of the Municipalities Financial Recovery Act, no distressed city may file a petition for relief under 11 U.S.C. Ch. 9 (relating to adjustment of debts of a municipality) or any other Federal bankruptcy law, and no government agency may authorize the distressed city to become a debtor under 11 U.S.C. Ch. 9 or any other Federal bankruptcy law.”).

<sup>16</sup> Ga. Code Ann. 36-80-5(a).

<sup>17</sup> See 11 U.S.C. § 109(c).

<sup>18</sup> 11 U.S.C. § 101(c)(32).

<sup>19</sup> *In re City of Detroit*, 524 B.R. 147, 261 (Bankr. E.D. Mich. 2014).

<sup>20</sup> See Vincent S.J. Buccola, “Law and Legislation in Municipal Bankruptcy,” 38 *Cardozo L. Rev.* 1301, 1319 (2017).

<sup>21</sup> 11 U.S.C. § 109(c)(4).

<sup>22</sup> See *In re City of Vallejo*, 408 B.R. at 297 (“[W]e emphasize that while a complete plan is not required, some outline or term sheet of a plan which designates classes of creditors and their treatment is necessary.”).

<sup>23</sup> 11 U.S.C. § 109(c)(5).

<sup>24</sup> *In re City of Detroit*, 504 B.R. at 17-79.

<sup>25</sup> 11 U.S.C. § 362.

<sup>26</sup> Jim Christie, “Mammoth Lakes, California, Files for Bankruptcy,” Reuters (July 3, 2012), available at <https://www.reuters.com/article/us-mammoth-lakes-bankruptcy/mammoth-lakes-california-files-for-bankruptcy-idUSBRE8621E920120703>.

<sup>27</sup> See David Skeel, “The Education of Detroit’s Pension and Bond Creditors,” 2 *PENN WHARTON PUB. POL’Y INITIATIVE* 1, 3 (2014), available at <http://publicpolicy.wharton.upenn.edu/live/files/166-a>.

<sup>28</sup> 11 U.S.C. § 943(b)(7).

<sup>29</sup> For example, a bankruptcy court can evaluate the liquidation value of a debtor’s real estate to approximate its value and potential recovery for creditors, but such tools are unavailable where a municipal debtor cannot be required to liquidate.

<sup>30</sup> See, e.g., *In re Pierce Cty. Hous. Auth.*, 414 B.R. 702, 718 (Bankr. W.D. Wash. 2009) (“The ‘best interest of creditors’ requirement of § 943(b)(7) is ‘generally regarded as requiring that a proposed plan provide a better alternative for creditors than what they already have.’”).

<sup>31</sup> <https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/chapter-9-bankruptcy-basics>.

<sup>32</sup> <https://www.uscourts.gov/news/2019/07/26/june-2019-bankruptcy-filings-fall-03-percent>.

<sup>33</sup> *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 361 F. Supp. 3d 203, 216 (D.P.R.), judgment entered, 366 F. Supp. 3d 256 (D.P.R. 2019), and reconsideration denied, No. 17 BK 3283-LTS, 2019 WL 8403509 (D.P.R. March 15, 2019).

<sup>34</sup> *In re City of Vallejo*, 403 B.R. 72, 74 (Bankr. E.D. Cal. 2009), *aff’d*, *Int’l Bhd. of Elec. Workers, Local 2376 v. City of Vallejo, CA* (*In re City of Vallejo, CA*), No. 2:09-cv-02603, 2010 WL 2465455 (E.D. Cal. June 14, 2010).

<sup>35</sup> In re City of Stockton, California, 526 B.R. 35, 38 (Bankr. E.D. Cal.), aff'd in part, dismissed in part, 542 B.R. 261 (B.A.P. 9th Cir. 2015).

<sup>36</sup> In re County of Orange, 179 B.R. 177, 184 (Bankr. C.D. Cal. 1995).

<sup>37</sup> See Cal. Gov't. Code §58000, et seq.

<sup>38</sup> Sheyanne Romero, "Tulare Hospital District Completes Bankruptcy Filing: 'A Remarkable Turnaround,'" *Visalia Times Delta* (August 22, 2019), available at <https://www.visaliatimesdelta.com/story/news/2019/08/22/tulare-hospital-district-completes-bankruptcy-filing/2075686001/>.

<sup>39</sup> See Special District Formation Guide, California Special Districts Association, available at [https://higherlogicdownload.s3.amazonaws.com/CSDA/b24702e8-8a42-4614-8c45-bc3cba37ea2c/UploadedImages/About\\_Districts/2016-Formation-Guide-WEB.pdf](https://higherlogicdownload.s3.amazonaws.com/CSDA/b24702e8-8a42-4614-8c45-bc3cba37ea2c/UploadedImages/About_Districts/2016-Formation-Guide-WEB.pdf); see also Alexander D. Flachsbart, "Municipal Bonds in Bankruptcy: S 902(2) and the Proper Scope of "Special Revenues" in Chapter 9," 72 Wash. & Lee L. Rev. 955, 969 (2015).

<sup>40</sup> Rahm Emanuel, "Let's Make Sure This Crisis Doesn't Go to Waste," *The Washington Post* (March 25, 2020), available at <https://www.washingtonpost.com/opinions/2020/03/25/lets-make-sure-this-crisis-doesnt-go-waste/>.

<sup>41</sup> 11 U.S.C. § 365.

<sup>42</sup> See NLRB v. Bildisco & Bildisco, 465 U.S. 513 (1984).

<sup>43</sup> In re County of Orange, 179 B.R. 177, 184 (Bankr. C.D. Cal. 1995); but see In re City of Vallejo, 403 B.R. 72, 74 (Bankr. E.D. Cal. 2009), aff'd, Int'l Bhd. of Elec. Workers, Local 2376 v. City of Vallejo, CA (In re City of Vallejo, CA), No. 2:09-cv-02603, 2010 WL 2465455 (E.D. Cal. June 14, 2010).

<sup>44</sup> In re City of Stockton, California, 526 B.R. 35, 38 (Bankr. E.D. Cal.), aff'd in part, dismissed in part, 542 B.R. 261 (B.A.P. 9th Cir. 2015).

<sup>45</sup> *Id.*, at 40.

<sup>46</sup> Cal. Gov't. Code § 20487.

<sup>47</sup> *Id.*

<sup>48</sup> "Bondholders vs. Retirees in Municipal Bankruptcies: The Political Economy of Chapter 9," 92 Am. Bankr. L.J. 73, 74 (2018).

<sup>49</sup> See Paloma Esquivel and Joe Mozingo, "San Bernardino's Bankruptcy Plan Favors CalPERS," *Los Angeles Times* (May 18, 2015).

<sup>50</sup> In re City of Detroit, 524 B.R. 147, 179-81 (Bankr. E.D. Mich. 2014).

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# How Should We Rebuild Government After COVID-19?

By Susannah Parsons, Senior Policy Associate

July 14, 2020

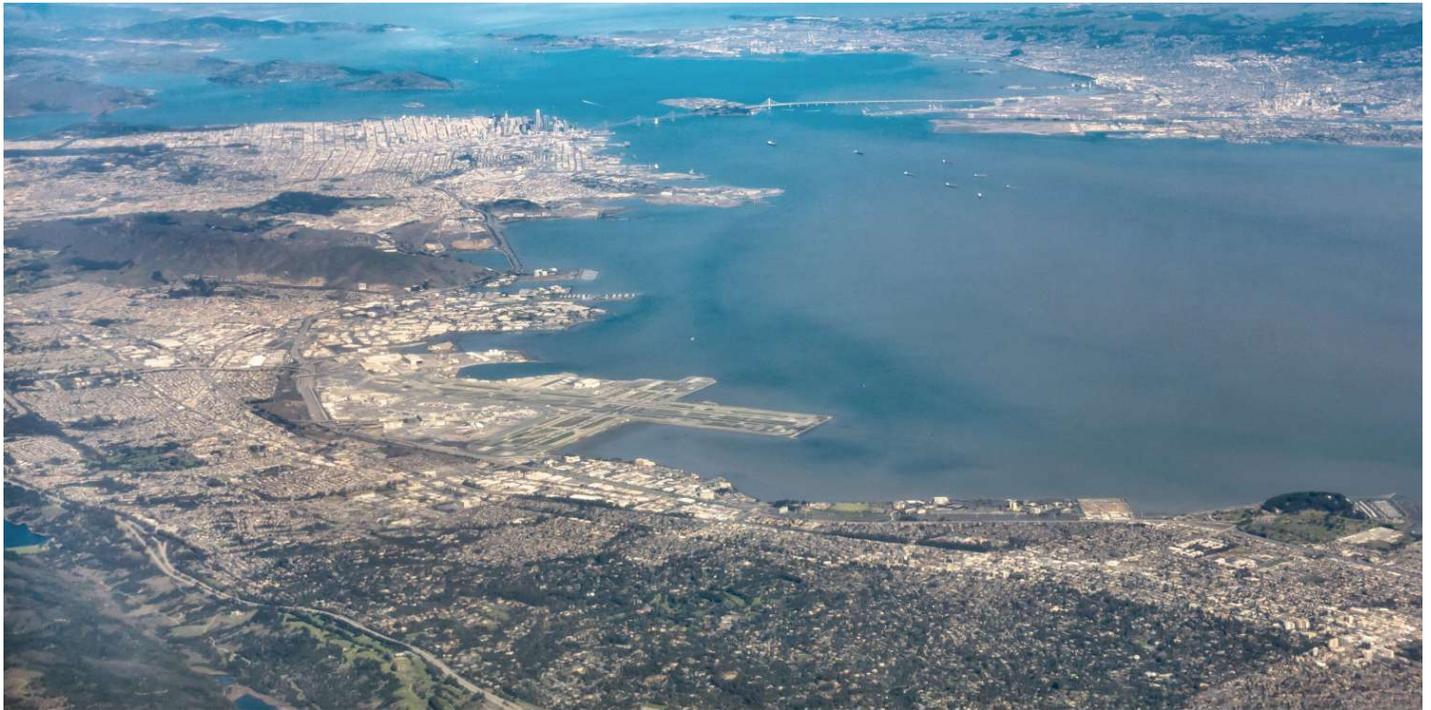


Photo by [Sergio Ruiz](#)

At a [recent meeting](#), the chair of the Metropolitan Transportation Commission suggested merging smaller cities as a way to weather the economic fallout wrought by COVID-19. The idea of consolidating some government entities isn't new, but the serious fiscal strain that Bay Area cities face [gives it fresh relevance](#): COVID-19 has prompted declining tax revenues to cities, counties and public agencies, threatening their ability to deliver services now and into the future. The pandemic will have a significant impact on local governments, but it might also present a once-in-a-generation opportunity to rebuild a governance system that better serves the Bay Area. How might we remake government to meet our current challenges — and even deliver better outcomes?

## Governance Challenges: Scope and Scale

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fire, parks, library, transportation and planning departments. This fragmentation comes at a significant financial cost and administrative burden. Instead of pooling resources, transit agencies build individual procurement contracts; cities purchase their own police cars and fire trucks and create their own trash collection services. While some cities have recovered from the last recession, a number were still struggling to shore up structural budget deficits and refill vacated positions before the pandemic hit. Now, cities across the region are facing reduced sales and hotel tax revenues and [the prospect of hiring freezes, layoffs and cuts to services](#).

Special districts reveal similar challenges around inefficiencies and waste caused by too many institutions that are too narrow in scope. The Bay Area is home to over 200 of these unique local governments which, separate from counties and cities, provide limited services including transit, sewer, fire protection, cemetery management and mosquito control. Most people don't know that special districts exist, even though they [controlled over \\$68 billion in total state revenues in 2018](#) and their governing boards are chosen in the same public elections as city councilmembers and county supervisors. Special districts are empowered to build capital projects, raise revenue and levy fees for service. While this kind of hyper-local government is intended to be responsive to constituents' needs, it also creates added administrative burden and duplicative services. Solano County, for example, includes six fire protection special districts, which are separate from the seven city-level fire departments serving the larger communities, such as Vallejo and Benicia. The system requires significant coordination between districts and departments, as well as individual revenue streams. The Cordelia Fire Protection District, which serves 5,000 residents, announced earlier this year that [financial challenges threaten its existence beyond 2021](#). Consolidation with other fire districts in the county is an alternative the district may consider.

Beyond the compounded financial and administrative challenges of COVID-19, the region's governance system faces other inherent challenges. As examples from the Bay Area bear out, fragmented local governments also [reinforce regional inequity](#). Well-resourced cities can afford excellent public services and education, and they wield undue power over the land use decisions that determine [who can live within these enclaves of opportunity](#). The municipal fragmentation of the Bay Area can trace its recent roots to racial exclusion in the 1950s, when suburban communities like Fremont incorporated. Explicit zoning codes limited large housing developments that could house low-income people and people of color. The Bay Area remains a [deeply segregated place](#) today despite its diversity, a challenge caused — and reinforced — by a highly fragmented governance system that mostly serves parochial needs. Inequity plays out in other ways as well, driven by a competition between too many government institutions (cities, counties or public agencies) that generates poor results. For example, congestion management agencies, which operate at the county level to plan and fund transportation projects, rely on local funding from sales taxes. County-by-county funding benefits wealthy communities who can leverage significant sales tax revenues. But less wealthy counties, whose constituents would particularly benefit from high-quality public transit, are left struggling to fund needed projects and declining service.

Finally, our numerous, fragmented municipalities and institutions confound our ability to solve some of the greatest collective action challenges the region faces. Individual cities can vote to provide better services to people without homes, raise taxes to fund affordable housing or raise the minimum wage. But when so many of our challenges are regional in nature — including climate change, housing unaffordability, transportation and shared prosperity — these small-scale decisions cannot add up to meaningful impact across the Bay Area.

In fact, many decisions made at the local level work at cross purposes and reduce our ability to solve these

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Longer-standing examples include the region's history of [local transportation decisions that fail to support regional mobility](#) and land use choices that [worsen housing affordability across jurisdictional lines](#).

## Remaking Government Beyond COVID-19

The pandemic reveals the administrative and financial strain that the Bay Area's governance system has wrought. Cities, counties and public agencies have difficult decisions ahead. It also offers a once-in-a-generation opportunity to rebuild a governance system that more effectively and equitably serves the Bay Area and is empowered to solve the biggest challenges we face. Here are two policy options the region could consider:

### 1. Share resources among different jurisdictions and consider combining smaller cities into larger units.

Over a third of the region's cities have populations under 20,000 and will likely face significant fiscal strain in the coming months and years. As interim steps, cities could share staff in departments such as police, fire, human resources, IT and building inspection, and explore sharing tax revenues (like sales tax) across jurisdictional boundaries. Examples of this sort of tax sharing already exist in the region. The Bay Area Toll Authority collects toll revenues across six bridges to invest in mobility projects around the region that serve those bridges. And the Bay Area Restoration Authority collects revenue from parcel taxes to fund shoreline adaptation projects region-wide. In the longer term, smaller cities could be merged with larger, contiguous jurisdictions to combine resources, reduce overheads, benefit from economies of scale and coordinate more effectively.

### 2. Strategically merge single-purpose agencies to deliver better, more coordinated services.

Aside from cities, other government agencies could merge to both shore up budgets and provide better service. One example to explore is combining some of the region's 28 transit agencies — particularly the Bay Area's regional transit operators (including BART, Caltrain, ACE, WETA and others). Uniting them under one umbrella would provide a more coordinated service, potentially significant administrative experience and a more seamless rider experience.

Another option would be to combine multiple special districts that provide the same service and operate within the same county, or simply merge them into county governments. Doing so could improve equity in service delivery, as well as cut costs and duplication.

There are certainly tradeoffs to consider with combining cities and government agencies. Small, hyper-local governments can be more flexible and responsive to constituent's needs. In some cases, fragmentation has conferred power to excluded and disenfranchised communities in the Bay Area. Single-purpose entities were originally [created in response to government's inability to deliver services](#), and they can sometimes be more accountable to voters in addressing the need they were created for. Unfortunately, the decline of the local press means that often voters are unable to inform themselves and weigh in at elections. Significant work would also need to be done to understand the impacts of specific mergers, from governance to union contracts to public debt covenants. And any attempt to consolidate government should be led by a robust and inclusive effort to ensure more representation, not less.

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