



PROCEEDINGS OF THE  
LOCAL AGENCY FORMATION COMMISSION  
OF SANTA CRUZ COUNTY

Wednesday, October 7, 2020  
9:00 a.m.

Meeting Location: Virtual Setting (using Zoom)  
Teleconference: 1-877-853-5257

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The October 7, 2020 Santa Cruz LAFCO meeting is called to order by declaration of Chairperson Roger Anderson.

**ROLL CALL**

Present and Voting:	Commissioners Jim Anderson, Cummings, Estrada, Friend, Lather, Leopold, and Chairperson Roger Anderson
Absent:	None
Alternates Present:	Banks, Brooks
Alternates Absent:	Coonerty, Hunt
Staff:	Joe A. Serrano, Executive Officer Daniel H. Zazueta, LAFCO Counsel Debra Means, Commission Clerk

For the record, there is a quorum.

**EXECUTIVE OFFICER'S MESSAGE**

Mr. Serrano reminds Commissioners that they have complete control over their webcams and microphones. The public's webcams and microphones have been disabled but they have the ability to view and hear the meeting. They will have an opportunity to address the Commission on any agenda item by either sending an email to the Commission Clerk which she will read on their behalf or they can raise their hand on Zoom. For those joining this meeting via conference call, they can raise their hand by pressing \*9.

Any Commission action will have a roll call vote administered by the Commission Clerk.

**MINUTES**

**MOTION**

Motion: Leopold Second: Friend	To approve September 2 <sup>nd</sup> minutes. Motion carries with a unanimous voice vote.
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## PUBLIC HEARINGS

### NAVARRA DRIVE / BELLFLOWER WAY EXTRATERRITORIAL SERVICE AGREEMENT

Mr. Serrano reports that this application was submitted by a landowner for sewer service from the City of Scotts Valley. It involves a single parcel that is just under one acre, immediately adjacent to City limits, and within Scotts Valley's sphere of influence.

Typically, LAFCO encourages annexation when a municipal service is requested. In unique circumstances, connections without annexation may occur under Government Code Section 56133. This can be initiated by the affected agency or when a health and safety issue occurs in which the affected resident(s) can submit the request.

This application addresses a health and safety issue which is the failure of a septic system. State law allows the City to provide services outside its jurisdictional and sphere boundaries when there is a health risk to the landowner or the surrounding residents. The City evaluated the area and concluded that the system failure will impact the residents and the environment.

This Commission has also adopted a policy that requires further analysis to determine whether annexation is practical. The annexation process takes about four to eight months depending on the complexity of the application. This health issue needs immediate action, and the City supports this connection and has the capacity to provide the service.

Commissioner Lather asks where the existing public sewer is located.

Mr. Serrano answers that there is a sewer line immediately adjacent to the property. The City supports this proposal because there is a sewer line nearby.

Commissioner Jim Anderson thinks that LAFCO has processed several similar proposals in the same area. He wonders if it would be prudent for the City of Scotts Valley to consider annexation.

Mr. Serrano supports annexations rather than out of area service agreements, but these are case by case situations. During the next round of service reviews, he plans to identify the locations of all extraterritorial service agreements and raise the question to the City of Scotts Valley.

Commissioner Jim Anderson remembers that a septic system has to fail before property owners can request a sewer connection from Scotts Valley. It seems to add another layer of expense and time to an inevitable outcome.

Mr. Serrano adds that a community could oppose annexation, or the City may not be capable to provide the service due to financial restraints. If there are a number of extraterritorial service agreements, annexation could be appropriate.

Becky Steinbruner, an Aptos resident, wonders when the system failed and why the property owner does not repair the system. She asks if the leach field is not able to be expanded due to soil issues or if this is a cost saving. She thinks annexing the entire area affected might be worthwhile.

Mr. Serrano says that when septic systems fail, the landowner has the opportunity to fix or replace the septic system or to connect to a nearby sewer agency. This would help minimize any type of contamination to the environment. LAFCO encourages annexations or connections to public agencies and discontinuing failing septic systems.



Ken Winters, the applicant, says the system is over 50 years old. When his residence was built, it was concluded that septic was not feasible on the property. He has a legal easement that pipes his septic over a neighboring property down to another legal easement at another property where the leach field exists. His septic system spans three properties. The existing leach field fails in the winter due to seasonal rains. He went to the County with the hopes of repairing the leach field on the neighboring property that they have title to own and operate and the County said they were not allowed to.

The placement of this leach field 50 years ago was done with poor consideration. The leach field is at the base of a very steep 80-foot slope. All of the runoff from the neighboring properties inundates the leach field and fills it up every rainy season. Over the years, it ultimately failed. He had no choice but to look to the City sewer connection. There is a will serve letter on file. It is extremely expensive to connect to sewer. It probably triple what it would have cost to put in a brand new system and it would have to be paid for by the landowner.

Commissioner Jim Anderson adds that it has not been a failure of the system for some of the past annexations in that area, it is the effluent generated by the leach field which does not permeate into the ground like normal. It runs down sandstone and surfaces on other people's property downhill. It is a common problem in that area.

Commissioner Lather thinks there is a law to connect to sewer if a property owner has a failed septic and they are within 300 feet of a sewer line.

Chairperson Roger Anderson asks if the other two parcels the easement runs over is occupied and will they have to replace their own lines as well.

Mr. Winters replies that one parcel is an acre lot, but half of the acre is an unbuildable hillside. That parcel has a single family home on it but part of the parcel where the pipe runs over and down the hillside will never be buildable. The home that exists is on a level building pad. The other parcel which is off Old Coach Road is unique where it has been seen as unbuildable but the owner sold off the top easement which is under consideration for developing an expensive home. The current neighbors are concerned how it will fit on the lower parcel. The County told him to get his septic off that parcel so that the new development could get its own septic.

Chairperson Roger Anderson asks if the neighbor is asking for extraterritorial service so it would be a separate application to LAFCO.

Mr. Winters says there are three other property owners who want to join, but they cannot because their septic systems have not failed. Assuming approval, he will be running a \$100,000 pipe to connect to sewer, and he will bear that cost alone. If the neighboring properties were able to join, the cost per property owner would be significantly cut by a third or fourth. Environmentally, several septic systems would be discontinued. It is disappointing that property owners cannot do what is right for the environment and financially wise.

Commissioner Lather says she has more information about the possibility of getting repaid in the future if someone connects.

Mr. Serrano adds that Mr. Winters can provide the inquiry to him and he will forward it to Commissioner Lather.



## MOTION AND ACTION

Motion: Leopold Second: Lather	To adopt the draft Resolution No. 2020-26 approving the extraterritorial service agreement involving the City of Scotts Valley. Motion passes with a unanimous voice vote.
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## SERVICE AND SPHERE REVIEW FOR THE RESOURCE CONSERVATION DISTRICT

Mr. Serrano reports that the Resource Conservation District (RCD) was formed in 1977 to help people protect, conserve and restore natural resources. RCD has integrated a countywide network offering different types of services and programs ranging from permit assistance to financial support, and from road improvements to watershed restoration.

RCD provides an array of services which is made possible through several collaborations with local, state and federal agencies. The District has over 60 strategic partnerships that helps them provide these services throughout Santa Cruz County.

One of the services offered involves fire, particularly fire prevention and recovery. Many county residents have been affected by recent fires. RCD has been available to provide assistance. For example, RCD staff surveyed an area in Bonny Doon to explain to residents how the surrounding vegetation may affect the existing homes now that recent fires have gone through.

The District has an ended in a financial deficit since 2014. The primary source of revenue is not from property taxes or service charges like a typical special district but from grants. It is operating similar to a non-profit organization with a goal of helping communities and the environment. Their staff is already implementing changes to address their finances.

He thinks RCD has the best special district website that he has reviewed this year. It is user friendly, easy to navigate and has very useful information.

RCD's sphere of influence is countywide. He is not recommending any changes however the District should consider annexing the remaining three cities in the foreseeable future. Capitola is the only city currently within the service area. RCD provides services within the other three cities through their strategic partnerships. Annexation would simply reflect that collaboration already in place.

Commissioner Jim Anderson asks if a future annexation of the three cities enhance their finances.

Mr. Serrano answers that if any or all of the cities are annexed, their revenue source from property taxes is less than 1% of their entire budget. They rely heavily on state and federal grants. It may help them financially, but it will not increase their revenue stream dramatically.

Commissioner Jim Anderson thinks it may be revenue positive if they are still working in those three cities.

Commissioner Lather thinks they are a great agency. She worked with them a lot when she worked for the County Public Works Department. They convinced her to do several sewer projects to help clean the environment such as getting rid of a sewer system in Aptos Creek that was exposed.

Clerk Means adds that RCD has educated and assisted her family's property over the years. Most recently, her family's property in Boulder Creek was devastated by the recent fire and RCD had representatives come out to their neighborhood to discuss potential future flooding and erosion issues as a result of the fire.



Commissioner Estrada asks what a game changer would be for RCD financially.

Mr. Serrano replies that they are trying to find a way to have their revenue sources offset their expenses. For example, one of the reasons they saw spikes in their special district expenses is because they have been working on capital improvement projects and construction. Their staff is looking to find how they could align their revenue source with current and future expenses so they can be financially sound at the end of each fiscal year. More prudent budgetary management would be a game changer.

Commissioner Estrada wonders about forming a Joint Powers Agreement (JPA).

Mr. Serrano says he identified that as a governance option because there are some surrounding Resource Conservation Districts (RCDs) which could help maximize efficiencies. Just because they are one public entity does not restrict them from going beyond collaborative efforts within the County. They could take advantage of this by having a JPA or other form of regional purview. There are additional options that can help them improve their goal of helping the community and the environment such as a JPA or boundary changes, such as annexation.

Chairperson Roger Anderson wonders about the large increase in the 2019-20 expenditures and revenues. He suspects a large grant became available for a project. Whenever there is an organization funded by a grant, there is the possibility of indirect costs. He notices their special district expense has increased substantially in the last few years.

Mr. Serrano says the special district expense involved construction, permits, project materials, signage, and soil testing. They were working on project construction activities over that time.

John Ricker has been on the RCD board for many years. He has dealt with the finances over that time. Their finances have been similar from year to year. He thinks close to 80% of their funding comes from grants most of the time. They receive a limited amount of funding from property tax. The County has provided some funding through their special district augmentation fund. Those sources have been pretty static over the years. The RCD has been able to leverage the local funding by bringing in substantial grants.

The special district expenditure may be more of a function of how they are showing it in different budget categories. Their overall budget has been pretty similar for at least the last five years. Their budget does fluctuate depending on the timing of the grants and the construction projects.

Long term funding is a statewide issue for RCDs. They have been working with their State organization and the State Department of Conservation to carve out long term dependable funding sources for RCDs since they provide similar types of services throughout the State and they are valued by many of their partners.

Many of these grants put a limit on indirect costs and they are not able to recover the full cost of providing some of these services. That is why their fund balance has been currently declining. They have worked with auditors to complete a cost analysis so they can justify charging a higher level of administrative cost with some of these grants which is allowed if they have gone through the full accounting process. Some of the grants still have a cap on them and they are not able to fully recover their grants' administrative costs.

They are considering charging fees for some of their services instead of being free. If there is substantial benefit to the property owner, they may be willing to help pay for it. When working with



the cities and some of the other partners, they do provide significant services to the city in terms of watershed protection for their water supply areas. They are exploring options of entering agreements with the cities where they could help fund some of these ongoing efforts that directly benefit their population or water supplies.

They recently completed their strategic plan update addressing the financing issue.

Ms. Steinbruner thanks staff for the good report. RCD is one of her favorite organizations. She was on the Fire Safe Santa Cruz Council board and they have been keeping the good effort going. Because of RCD, rural neighborhoods like her own is able to get free chipping service so they can keep their fire defensible space.

RCD has done an enormous amount of work during the recent fires. She hopes their services can remain free.

#### MOTION AND ACTION

Motion: J. Anderson Second: Leopold	To approve staff's recommendation to approve the Resource Conservation District's service and sphere review, Motion carries with a unanimous voice vote.
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#### PROPOSED POLICY UPDATES

Mr. Serrano reports there are only four policies remaining that need to be reviewed. The final two policies will be presented at LAFCO's November meeting. In January, staff will combine all the policies into one Policies and Procedures Handbook which will make it easier for the Commission to review all of the policies at once to ensure they are updated in a timely fashion.

The Special Districts Governance Policy was adopted back in 1994 and has not been updated since. The purpose of this policy is to clarify the laws regarding a district's authority and power. The adoption of this policy was important because prior to 2000, these laws were found in three different acts. After 2000, those three acts were merged into one which is known as the Cortese-Knox-Hertzberg Act. As a result, all the code sections within the policy are no longer in existence.

Staff revamped the entire policy. It still clarifies a district's authority and power but goes a step further by defining the districts' governance outlined in their principal acts. It also discusses board composition and the election process. All this information is available in a comprehensive table within the policy.

The City Incorporation Policy was adopted back in 1989 and it has not been updated since. This policy identifies the necessary steps to form a new city. Staff is not recommending any substantial changes other than implementing the new standard format.

He believes this policy is necessary, but he does not think there will be any successful incorporation in Santa Cruz County or the State in a long time. It is very expensive to become a city and vehicle license fee funds are no longer available for proposing new cities. That revenue source was a key component in past incorporations. The last incorporation attempt in this County occurred in 1988 involving Aptos.

Commissioner Leopold says during his time on the CALAFCO Board, he knows how difficult it was to get the Vehicle License Fees for the most recently incorporated cities. Before the recession, it was a major issue for those cities to stay in existence.

Ms. Steinbruner thinks the policy updates are important. She asks if there is wording about the impacts that a special district could endure. She wonders what happens if impacts caused by a special district affect neighboring areas and what recourse those areas not within the district could take. She wonders about the impacts of the Soquel Creek Water District's proposed Pure Water Soquel Project where they want to inject treated sewage water into the aquifer that other neighboring water agencies and private well owners depend on but have no say in what would happen.

Mr. Serrano replies that there is no specific language in this policy regarding a district's actions or projects that affect the community. The goal of this policy was to clarify a district's governance, their authority, how they are governed, and how they all relate to LAFCO's purview of special districts in this County.

The specifics of what the recourse would be is not covered in this policy. Such evaluation would occur if an application was submitted to LAFCO, at which point staff would be able to answer that question. This policy focuses on the code sections within LAFCO law.

#### MOTION AND ACTION

Motion: Leopold Second: J. Anderson	To adopt draft Resolutions No. 2020-28 and 2020-29 approving the proposed amendments to the Special Districts Governance and City Incorporation Policies.
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#### OTHER BUSINESS

##### RECRUITMENT PROCESS – EMPLOYMENT CONTRACT

Mr. Serrano reports that staff continues to move forward with the recruitment of a new Commission Clerk. They are now in the hiring phase. Staff developed a contract which was reviewed by LAFCO Counsel as well as the candidate, Chris Carpenter. If approved, this contract may be used as a template for any future employment.

The Commission earmarked about \$15,000 for an overlap between the two Commission Clerks during the transition phase. Based upon the current budget and Mr. Carpenter's starting salary, he may be able to start working with LAFCO in mid-December without surpassing the earmarked amount.

#### MOTION AND ACTION

Motion: Leopold Second: Cummings	To approve the draft Contractual Agreement between LAFCO and the new Commission Clerk, outlining the starting salary, benefits and starting date, as recommended by staff. Motion carries with a unanimous voice vote.
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#### WRITTEN CORRESPONDENCE

Mr. Serrano reports that a letter was sent by LAFCO staff to the two fire districts regarding Assembly Bill 1140 which was approved and signed by the Governor last month. The letter was to inform the districts and their union representatives that the bill passed and will go into effect January 1<sup>st</sup>, 2021.



This bill allows the existing benefit and pension plans to be transferred over and live under the successor agency. The employees of both districts will not see any change to their pension under CalPERS.

Supervisors Leopold and Friend conducted a virtual town hall meeting last week to discuss the fire consolidation with the community. Representatives from both fire districts attended. They discussed the purpose and benefits of the consolidation and that it will be presented to the Commission in November.

One of the remaining documents needed to deem the project complete was a Plan for Service. The document outlines what will transpire under this consolidation and how will the services be provided once the successor agency is formed. This document was received by LAFCO last week. After reviewing this and the application, he deemed this project ready for Commission consideration. He signed a Certificate of Filing which legally allows him to put this item on the next Commission meeting's agenda which will be November 4<sup>th</sup>.

He thanks Supervisors Leopold and Friend for hosting that town hall meeting which had over 70 people in attendance. It is good to know the residents have an opportunity to discuss this item before it comes to LAFCO.

Commissioner Leopold thanks Mr. Serrano for participating in that town hall meeting. He also thanks the fire chiefs for encouraging them to have a meeting. The meeting was posted on YouTube and available on the Districts' websites. It is a good way for the community to learn about this fire consolidation.

Commissioner Friend says he learned a lot from some of the questions asked at the meeting. He appreciated Mr. Serrano's willingness to ensure that his report addresses some of the questions raised. There were questions about levels of service, where the savings would be realized, whether stations would continue to stay open or be closed, and the governance model. This level of engagement was a good sign that people are satisfied currently with the level of service, and they just want to know why a consolidation would make it better. It is good to have a consolidation proposed not because there is an issue but because it can enhance the situation. He thinks people are happy with both Central and Aptos / La Selva FPDs. Both fire chiefs did a good job helping to explain why this is a good move.

Chief John Walbridge from Central FPD thanks the Commission and Mr. Serrano. Chief Jarvis mentioned if this was easy, consolidation would have happened already. It has been quite the effort to get this far.

Ms. Steinbruner commends Chief Walbridge for his work and for recommending the town hall meeting. She participated in the September 30<sup>th</sup> town hall meeting and it was very well attended. She was happy to hear the consolidated district will have board members elected from districts within the consolidated district area.

She thinks seven board members is better than five. Some say more than five members would be unwieldy, but she does not think so. Many governing boards in the area such as the City of Watsonville have seven board members.

She also thinks there should be a transition board while the consolidation is happening. There are five board members that have been appointed in lieu of election. Those people will not be involved if their positions go away when the consolidation is finalized. Of the ten board members, she thinks



seven random names should be chosen to serve as the transition consolidation board. In 2022, when the census is updated, an election could be held.

Mr. Serrano understands that the board composition is based on the fire districts Principle Act. Under State law, the successor agency may have three, five, seven, nine or eleven board members in accordance with Health and Safety Code 13800. This is an item that will be discussed in staff's analysis and it will be addressed in the draft resolution as a condition. Both districts discussed this at a public meeting and adopted resolutions which is not required in the LAFCO process.


To be more transparent, they adopted separate but similar resolutions indicating the board composition for the new successor agency. They wanted to have some equality having representatives from both districts once they are consolidated. Two board members from Aptos / La Selva and three from Central FPD are going to be under the successor agency board until their term limit ends. Then there will be an election. The fire districts have been considering having at-large elections changed to district or zoned-based elections which may be implemented after the consolidation.

## **PRESS ARTICLES**

Ms. Steinbruner says that her legal challenge to the inadequate Environmental Impact Report (EIR) for the Pure Water Soquel project is moving forward in the 6<sup>th</sup> District Court of Appeal. She has filed her opening brief. She finds it concerning that the EIR did not address the issue of impacts to future growth. Water has been an inhibiting factor to development in the Mid-County area. She has challenged it with the Coastal Commission who approved a consolidated use permit for the project in March. She thinks it is imperative that better environmental analysis be done for this project. If this project goes forward, it will affect neighboring water agencies and private well owners. The Live Oak community was left out of the CEQA process for the placement of a treatment plant in their community, and not within the Soquel Creek Water District.

## **ADJOURNMENT**

The next LAFCO meeting is scheduled for 9:00 a.m. Wednesday, November 4, 2020.

  
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CHAIRPERSON ROGER W. ANDERSON

Attest:

  
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Joe A. Serrano, Executive Officer