

# LOCAL AGENCY FORMATION COMMISSION OF SANTA CRUZ COUNTY

701 Ocean Street, #318-D Santa Cruz, CA 95060 Phone Number: (831) 454-2055

Website: <a href="mailto:www.santacruzlafco.org">www.santacruzlafco.org</a>
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#### **REGULAR MEETING AGENDA**

Wednesday, November 3, 2021 at 9:00am

(Meeting will be conducted using Zoom Webinar)

Attend Meeting by Internet: <a href="https://us02web.zoom.us/j/87313014338">https://us02web.zoom.us/j/87313014338</a>

(Webinar ID: 873 1301 4338)

Attend Meeting by Conference Call: Dial 1-669-900-6833 or 1-253-215-8782

(Passcode is 010762)

#### **TELECONFERENCE MEETING PROCESS**

Based on guidance from the California Department of Public Health, the California Governor's Office, and the State Legislature, in order to minimize the spread of the COVID-19 virus, Santa Cruz LAFCO has established a temporary meeting process:

- a) <u>Commission Quorum:</u> Assembly Bill 361 indicates that a quorum can consist of Commissioners in person or via teleconference during these unique circumstances. This regular LAFCO meeting will be conducted remotely. A roll call vote will occur on each agenda item that requires Commission action.
- b) <a href="mailto:Public Comments">Public Comments</a>: For those wishing to make public comments remotely, please submit your comments by email to be read aloud at the meeting by the Commission Clerk. Email comments must be submitted to the Commission Clerk at <a href="mailto:info@santacruzlafco.org">info@santacruzlafco.org</a>. Email comments on matters not on the agenda may be submitted prior to the time the Chair calls for Oral Communications. Email comments on agenda items may be submitted prior to the time the Chair closes public comments on the agenda item.
  - For those wishing to speak during the online meeting, you may inform LAFCO staff of this request prior to the start of the meeting. If that has occurred, and after being recognized by the Chair, the identified individual will be unmuted and given up to 3 minutes to speak. Following those 3 minutes, their microphone will be muted.
- c) Accommodations for Persons with Disabilities: Santa Cruz LAFCO does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. If you are a person with a disability and wish to attend the meeting and you require special assistance in order to participate, please contact the Commission Clerk at (831) 454-2055 at least 24 hours in advance of the meeting to make arrangements. Persons with disabilities may request a copy of the agenda in an alternative format.

#### 1. ROLL CALL

#### 2. EXECUTIVE OFFICER'S MESSAGE

The Executive Officer may make brief announcements in the form of a written report or verbal update, and may not require Commission action.

# a. Virtual Meeting Protocol

The Commission will receive an update on the ongoing remote meeting process.

Recommended Action: No action required; Informational item only.

#### 3. ADOPTION OF MINUTES

The Commission will consider approving the minutes from the October 13, 2021 Regular LAFCO Meeting.

Recommended Action: Approve the minutes as presented with any desired changes.

# 4. ORAL COMMUNICATIONS

This is an opportunity for members of the public to address the Commission on items not on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken on an off-agenda item(s) unless authorized by law.

# 5. SPECIAL PRESENTATIONS

This is an opportunity for the Commission and members of the public to receive special presentations from city or district representatives regarding LAFCO-related matters. These presentations may or may not require Commission action.

# a. San Lorenzo Valley Water District Service and Sphere Review Update

The Commission will receive a verbal update from SLVWD General Manager Rick Rogers on the District's recovery effort following the CZU Fire.

Recommended Action: No action required; Informational item only.

#### 6. PUBLIC HEARINGS

Public hearing items require expanded public notification per provisions in State law, directives of the Commission, or are those voluntarily placed by the Executive Officer to facilitate broader discussion.

# a. "Deer Path Road Annexation" to CSA 10 (LAFCO Project No. DA 21-14)

The Commission will consider the annexation of six parcels, totaling 4-acres, into County Service Area 10 for sewer service.

Recommended Action: Adopt the draft resolution (No. 2021-18) approving the 4-acre annexation to CSA 10.

#### 7. OTHER BUSINESS

Other business items involve administrative, budgetary, legislative, or personnel matters and may or may not be subject to public hearings.

# a. Continuation of Remote Meetings

The Commission will consider conducting future meetings in accordance with Assembly Bill 361 and amended Government Code Section 54953.

<u>Recommended Action:</u> Adopt the draft resolution (No. 2021-19) approving the virtual setting for LAFCO meetings pursuant to AB 361 and GCS 54953.

# b. Legal Counsel Contracts

The Commission will consider the contractual agreements between LAFCO and two firms for legal counsel services.

Recommended Action: Approve the two draft contractual agreements to hire Best, Best & Krieger as LAFCO's general counsel and Colantuono, Highsmith & Whatley as LAFCO's special counsel.

# c. Multi-Year Work Program Update

The Commission will review the scheduled service and sphere reviews for 2022 as outlined in the adopted multi-year work program.

<u>Recommended Action:</u> Approve the scheduled service and sphere reviews for the 2022 calendar year.

# d. LAFCO Meeting Schedule

The Commission will consider the adoption of next year's meeting schedule.

Recommended Action: Adopt the meeting schedule for the 2022 calendar year.

#### e. Comprehensive Quarterly Report – First Quarter (FY 2021-22)

The Commission will receive an update on the following areas: active proposals, multi-year work program, adopted budget, recent and upcoming meetings, and other activities completed during the months of July to September.

Recommended Action: No action required; Informational item only.

#### 8. WRITTEN CORRESPONDENCE

LAFCO staff receives written correspondence and other materials on occasion that may or may not be related to a specific agenda item. Any correspondence presented to the Commission will also be made available to the general public. Any written correspondence distributed to the Commission less than 72 hours prior to the meeting will be made available for inspection at the hearing and posted on LAFCO's website.

#### 9. PRESS ARTICLES

LAFCO staff monitors newspapers, publications, and other media outlets for any news affecting local cities, districts, and communities in Santa Cruz County. Articles are presented to the Commission on a periodic basis.

# a. Press Articles during the Months of September and October

The Commission will receive an update on recent LAFCO-related news occurring around the county and throughout California.

Recommended Action: No action required; Informational item only.

#### 10. COMMISSIONERS' BUSINESS

This is an opportunity for Commissioners to comment briefly on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No discussion or action may occur or be taken, except to place the item on a future agenda if approved by Commission majority. The public may address the Commission on these informational matters.

# 11. LEGAL COUNSEL'S REPORT

LAFCO's Legal Counsel may make brief announcements in the form of a written report or verbal update, and may not require Commission action.

#### **12. ADJOURNMENT**

LAFCO's next regular meeting is scheduled for Wednesday, January 5, 2022 at 9:00 a.m.

#### **ADDITIONAL NOTICES:**

#### Campaign Contributions

State law (Government Code Section 84308) requires that a LAFCO Commissioner disqualify themselves from voting on an application involving an "entitlement for use" (such as an annexation or sphere amendment) if, within the last twelve months, the Commissioner has received \$250 or more in campaign contributions from an applicant, any financially interested person who actively supports or opposes an application, or an agency (such as an attorney, engineer, or planning consultant) representing an applicant or interested participant. The law also requires any applicant or other participant in a LAFCO proceeding to disclose the amount and name of the recipient Commissioner on the official record of the proceeding.

The Commission prefers that the disclosure be made on a standard form that is filed with the Commission Clerk at least 24 hours before the LAFCO hearing begins. If this is not possible, a written or oral disclosure can be made at the beginning of the hearing. The law also prohibits an applicant or other participant from making a contribution of \$250 or more to a LAFCO Commissioner while a proceeding is pending or for 3 months afterward. Disclosure forms and further information can be obtained from the LAFCO office at Room 318-D, 701 Ocean Street, Santa Cruz CA 95060 (phone 831-454-2055).

#### Contributions and Expenditures Supporting and Opposing Proposals

Pursuant to Government Code Sections §56100.1, §56300(b), §56700.1, §59009, and §81000 et seq., and Santa Cruz LAFCO's Policies and Procedures for the Disclosures of Contributions and Expenditures in Support of and Opposition to proposals, any person or combination of persons who directly or indirectly contributes a total of \$1,000 or more or expends a total of \$1,000 or more in support of or opposition to a LAFCO Proposal must comply with the disclosure requirements of the Political Reform Act (Section 84250). These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. Additional information may be obtained at the Santa Cruz County Elections Department, 701 Ocean Street, Room 210, Santa Cruz CA 95060 (phone 831-454-2060).

More information on the scope of the required disclosures is available at the web site of the Fair Political Practices Commission: <a href="https://www.fppc.ca.gov">www.fppc.ca.gov</a>. Questions regarding FPPC material, including FPPC forms, should be directed to the FPPC's advice line at 1-866-ASK-FPPC (1-866-275-3772).

#### Accommodating People with Disabilities

The Santa Cruz Local Agency Formation Commission does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs or activities. The Commission meetings are held in an accessible facility. If you wish to attend this meeting and you will require special assistance in order to participate, please contact the LAFCO office at 831-454-2055 at least 72 hours in advance of the meeting to make arrangements. For TDD service the California State Relay Service 1-800-735-2929 will provide a link between the caller and the LAFCO staff.

#### Late Agenda Materials

Pursuant to Government Code Section 54957.5 public records that relate to open session agenda items that are distributed to a majority of the Commission less than seventy-two (72) hours prior to the meeting will be available to the public at Santa Cruz LAFCO offices at 701 Ocean Street, #318D Santa Cruz CA 95060 during regular business hours. These records when possible will also be made available on the LAFCO website at <a href="www.santacruzlafco.org">www.santacruzlafco.org</a>. To review written materials submitted after the agenda packet is published, contact the Commission Clerk at the LAFCO office or in the meeting room before or after the meeting.

Agenda Item No. 3



#### DRAFT MINUTES

# LAFCO REGULAR MEETING AGENDA

Wednesday, October 13, 2021 Start Time - 9:00 a.m.

# 1. ROLL CALL

**Chair Justin Cummings** called the meeting of the Local Agency Formation Commission of Santa Cruz County (LAFCO) to order at 9:00 a.m. and welcomed everyone in attendance. He asked staff to conduct roll call.

The following Commissioners were present:

- Chair Justin Cummings
- Commissioner Jim Anderson
- Commissioner Roger Anderson
- Commissioner Ryan Coonerty
- Commissioner Francisco Estrada
- Alternate Commissioner Yvette Brooks
- Alternate Commissioner John Hunt
- Alternate Commissioner Manu Koenig

The following LAFCO staff members were present:

- Executive Officer Joe Serrano
- Legal Counsel, Daniel Zazueta

# 2. EXECUTIVE OFFICER'S MESSAGE

# 2a. In-Person Meeting Protocol

**Executive Officer Joe Serrano** announced that the Commission Meeting is being conducted virtually through the Zoom Webinar platform and participation by Commissioners and staff are from remote locations. Members of the public will have access to the meeting by phone or online. Mr. Serrano anticipates conducting the next LAFCO meetings remotely in accordance with the Governor's Executive Orders and the newly enacted law under Assembly Bill 361, which allows local agencies to conduct virtual meetings during a state of an emergency.

# 3. ADOPTION OF MINUTES

Chair Justin Cummings requested public comments on the draft minutes. Executive Officer Joe Serrano noted no public comments were received. Chair Justin Cummings closed public comments.

Chair Justin Cummings called for the approval of the draft minutes. Commissioner Roger Anderson motioned for approval of the September 1st Meeting Minutes and Commissioner Jim Anderson seconded the motion.

Chair Justin Cummings called for a roll call vote on the approval of the draft minutes with no changes. Commission Clerk Chris Carpenter conducted a roll call vote on the item.

MOTION: Jim Anderson SECOND: Roger Anderson

FOR: Jim Anderson, Roger Anderson, Ryan Coonerty, Justin Cummings,

Francisco Estrada, and Manu Koenig.

AGAINST: None ABSTAIN: None

**MOTION PASSED: 6-0** 

### 4. ORAL COMMUNICATIONS

**Chair Justin Cummings** requested public comments on any non-agenda items. **Executive Officer Joe Serrano** indicated that there were no requests to address the Commission. **Chair Justin Cummings** closed public comments.

# 5. PUBLIC HEARINGS

**Chair Justin Cummings** indicated that there was one public hearing item for Commission consideration today.

# 5a. Countywide Service and Sphere Review for Fire Protection Services

**Chair Justin Cummings** requested staff to provide a presentation on the service and sphere review which analyzed the 13 fire agencies in Santa Cruz County.

**Executive Officer Joe Serrano** noted that state law requires LAFCOs to conduct service and sphere reviews for all cities and special districts every five years. Mr. Serrano indicated that the countywide fire report analyzed the 13 local agencies that provide fire protection within Santa Cruz County, including two city fire departments, two County-dependent districts, and 9 independent special districts. He summarized the key findings for each local agency including their population estimates, average response time, number of fire vehicles and ISO ratings. He explained that the majority of agencies are doing well but all had areas of improvements. It would benefit the agencies, including their constituents, if their boards and staff considered LAFCO's recommendations regarding internal and external efficiencies. Mr. Serrano thanked the agencies for their assistance in completing the countywide fire report, specifically the fire chiefs and their staff.

**Chair Justin Cummings** requested public comments on the proposal. **Executive Officer Joe Serrano** indicated that there were requests to address the Commission, including the Board President of the Branciforte Fire Protection District (FPD). **Chair Justin Cummings** opened the floor for public comments.

**Pat O'Connell**, Branciforte FPD Board President, stated that the District Board did not have an opportunity to review and provide comments on the report prior to its distribution. Mr. O'Connell noted that the Board received a link to the report from their Fire Chief on September 29. He explained that the Board had areas of concerns within the report but concluded that the findings were unbiased. The Board is currently taking steps in transitioning administrative responsibilities back to the District following the end of the contractual agreement with Scotts Valley FPD.

**Becky Steinbruner**, member of the public, extended her appreciation to LAFCO staff for the detailed analysis. Ms. Steinbruner also noted her concerns towards the funding, operations, and board meeting practices under County Service Area 48.

**John Walbridge**, Central FD Fire Chief, thanked LAFCO for producing a comprehensive report that may trigger other special studies or discussions among the existing fire agencies.

**Chair Justin Cummings** called for Commission comments on the fire report.

**Commissioner Jim Anderson** explained the criteria in determining an ISO rating for a fire agency.

Commissioner Manu Koenig asked staff to explain the outreach effort to the affected agencies during the completion of the fire report. Executive Officer Joe Serrano explained that LAFCO began coordinating with the 13 agencies in early January 2021. Mr. Serrano indicated that LAFCO staff also provided updates to District during board meetings throughout the year. During those updates, LAFCO staff specifically noted that the report was going to be provided in draft form to the fire chiefs in order to verify accuracy of the data. The fire chiefs were given about a month to review and provide edits to the draft report before it was finalized and published.

**Commissioner Roger Anderson** questioned how ISO ratings and operations by fire agencies in Santa Cruz County compare with other counties. Mr. Anderson also asked how the fire agencies will use the money found in their fund balances. He pointed out that some agencies have reserves that are beyond the typical amount for special districts. **Executive Officer Joe Serrano** explained that LAFCO staff will be discussing these matters with the affected agencies in the coming months. Mr. Serrano will be encouraging the agencies to develop capital improvement plans in order to properly earmark their fund balances to future projects, purchases, or other improvements.

**Commissioner Ryan Coonerty** stated that this report could help jumpstart discussions among fire agencies to explore consolidation efforts. Mr. Coonerty highlighted the fact that the City of San Jose and Santa Cruz County are similar in size; however, the City has one fire district while the County has 13 individual fire entities. He also noted how the concept of fire volunteers has continued to decease due to the shift in more stringent requirements by the State and overall availability by residents.

**Commissioner John Hunt** asked staff what the next steps are after adopting this countywide fire report. **Executive Officer Joe Serrano** indicated that staff will be meeting with the affected agencies to discuss their current sphere boundary and determine whether boundary changes should occur in the near future. Mr. Serrano explained that staff will provide an update to the Commission on those discussions by October 2022.

Chair Justin Cummings and Commissioners Jim Anderson, Roger Anderson, Ryan Coonerty, and John Hunt extended their appreciation to staff for producing a thorough report.

**Chair Justin Cummings** called for the adoption of the countywide fire report. **Commissioner Jim Anderson** motioned for the approval based on staff's recommendation and **Commissioner Roger Anderson** seconded the motion.

**Chair Justin Cummings** noted no further Commission discussion and called for a roll call vote on motion based on staff's recommendation:

- (1) Find, pursuant to Section 15061(b)(3) of the State CEQA Guidelines, that LAFCO determined that the service and sphere of influence review is not subject to the environmental impact evaluation process because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and the activity is not subject to CEQA;
- (2) Determine, pursuant to Government Code Section 56425, that LAFCO is required to develop and determine a sphere of influence for the 13 affected agencies, and review and update, as necessary;
- (3) Determine, pursuant to Government Code Section 56430, that LAFCO is required to conduct a service review before, or in conjunction with an action to establish or update a sphere of influence; and
- (4) Adopt a Resolution (LAFCO No. 2021-17) approving the 2021 Countywide Fire Protection Service and Sphere Review with the following terms and conditions:
  - a. Reaffirm the existing spheres of influence with no conditions for Aromas TCFPD, Central FD, City of Santa Cruz, and City of Watsonville;
  - b. Reaffirm the existing spheres of influence for Ben Lomond FPD, Boulder Creek FPD, Branciforte FPD, Felton FPD, Pajaro Valley FPD, Scotts Valley FPD, and Zayante FPD with the following condition: The fire protection districts shall coordinate with LAFCO to determine each affected district's future service area. These discussions should occur by August 2022. LAFCO will consider amending the sphere boundaries based on these discussions no later than December 2022;
  - c. Adopt a zero sphere of influence for County Service Area 4 as a precursor to dissolution;
  - d. Adopt an amended sphere of influence for County Service Area 48 to eliminate the overlapping of spheres from other surrounding fire agencies; and

e. Direct the Executive Officer to distribute a copy of the adopted service and sphere review to the 13 fire agencies, Monterey LAFCO, San Benito LAFCO, and any other interested or affected parties, including but not limited to the Civil Grand Jury of Santa Cruz County, County of Santa Cruz (Office of Emergency Services), Fire Department Advisory Commission of Santa Cruz County, Fire Safe Councils of Bonny Doon, Santa Cruz County, and South Skyline, and UC Santa Cruz (Office of Emergency Services).

**Executive Officer Joe Serrano** conducted a roll call vote on the item.

MOTION: Jim Anderson SECOND: Roger Anderson

FOR: Jim Anderson, Roger Anderson, Ryan Coonerty, Justin Cummings,

Francisco Estrada, and Manu Koenig.

AGAINST: None ABSTAIN: None

**MOTION PASSED: 6-0** 

# **6. OTHER BUSINESS**

**Chair Justin Cummings** indicated that there are three business items for Commission consideration today.

# 6a. Countywide Park & Recreation Sphere and Sphere Review Update

**Chair Justin Cummings** requested staff to provide a presentation on the actions taken since the adoption of the countywide park and recreation report.

**Executive Officer Joe Serrano** noted that the Commission adopted a service and sphere review, which analyzed the 4 park and recreation districts in the county, during its August 4th Meeting. Mr. Serrano explained that the Commission adopted a zero sphere for Alba Park & Recreation District (APRD) and Opal Cliffs Recreation District (OCRD) as a precursor to dissolution. The Commission also required the two districts to initiate the dissolution process or provide a detailed plan on how to turn things around by December 2021. He stated that the OCRD Board recently submitted an application to begin the dissolution process and the APRD Board is currently developing a strategic plan to address the issues identified in the service review.

Chair Justin Cummings requested public comments on the update. Executive Officer Joe Serrano indicated that there were no requests to address the Commission. Chair Justin Cummings closed public comments.

**Chair Justin Cummings** noted no additional comments or questions from the Commission and moved to the next item since no Commission action was required.

# 6b. CALAFCO Election & Award Announcements

**Chair Justin Cummings** requested staff to provide a presentation on CALAFCO's election and award results.

**Executive Officer Joe Serrano** noted that the CALAFCO Board seats are assigned by regions and that this year there were two seats open for the Coastal Region. Margie Mohler from Napa LAFCO was selected as the Coastal Region's city representative and Shane Stark from Santa Barbara LAFCO was selected as the Coastal Region's public representative. Mr. Serrano also informed the Commission that the Aptos/La Selva and Central Fire Consolidation did not win the "Project of the Year" Award.

**Chair Justin Cummings** requested public comments on the update. **Executive Officer Joe Serrano** indicated that there was one request to address the Commission.

**Becky Steinbruner** was surprised that the fire consolidation did not win the award but believes that the residents are the true winners following the collaborative effort between the two fire districts.

Chair Justin Cummings called for Commission comments on the update.

**Chair Justin Cummings** noted no additional comments or questions from the Commission and moved to the next item since no Commission action was required.

# **6c. Educational Workshop Update**

**Chair Justin Cummings** requested staff to provide a presentation on the upcoming virtual workshops for the independent special districts in Santa Cruz County.

**Executive Officer Joe Serrano** stated that LAFCO received a high volume of positive feedback from the first educational workshop co-hosted by LAFCO and the California Special Districts Association on August 11, 2021. As a result, two additional workshops will be held in the coming months. Mr. Serrano noted that the November 30th workshop will be a repeat from the August session and the January 25th workshop will cover the Brown Act and the California Public Records Act.

Chair Justin Cummings requested public comments on the update. Executive Officer Joe Serrano indicated that there were no requests to address the Commission. Chair Justin Cummings closed public comments.

**Chair Justin Cummings** called for Commission comments on the update.

**Chair Justin Cummings** noted no additional comments or questions from the Commission and moved to the next item since no Commission action was required.

# 7. WRITTEN CORRESPONDENCE

Chair Justin Cummings inquired whether there was any written correspondence submitted to LAFCO. Executive Officer Joe Serrano indicated that there was one involving the University's Long Range Development Plan (LRDP). Mr. Serrano reminded the Commission that LAFCO submitted two comment letters regarding the proposed developments outside the City of Santa Cruz outlined in the LRDP. The University responded back to LAFCO as part of their Final Environmental Impact Report and they determined that the University does not need LAFCO's approval, should they develop in areas outside the City. He explained that the City and the County, under their task force, continue to work closely with UCSC to address this and other issues. LAFCO staff will continue to monitor the University's plan as it unfolds.

Chair Justin Cummings requested public comments on the update. Executive Officer Joe Serrano indicated that there was one request to address the Commission.

**Becky Steinbruner** was surprised that the University does not believe they need LAFCO's approval for service provisions outside the city limits of Santa Cruz.

**Chair Justin Cummings** called for Commission comments on the update.

**Chair Justin Cummings** asked staff if LAFCO should take any follow-up actions with the University based on their comments. **Executive Officer Joe Serrano** explained that it may be premature to take any actions while there is currently a lawsuit between the City and UCSC. Mr. Serrano noted that after the ruling LAFCO may consider taking action, if needed.

**Legal Counsel Daniel Zazueta** reported on the existing lawsuit is still underway and there is no timeline when it will be resolved.

**Chair Justin Cummings** noted no additional comments or questions from the Commission and moved to the next item since no Commission action was required.

# 8. PRESS ARTICLES

**Chair Justin Cummings** requested staff to provide a presentation on the press articles. **Executive Officer Joe Serrano** indicated that this item highlights LAFCO-related articles recently circulated in local newspapers. **Chair Justin Cummings** moved to the next item since no Commission action was required.

# 9. COMMISSIONERS' BUSINESS

**Chair Justin Cummings** inquired whether any Commissioner would like to share any information. There were no comments. **Chair Justin Cummings** moved to the next item since no Commission action was required.

# 10. LEGAL COUNSEL'S REPORT

**Executive Officer Joe Serrano** indicated that there was nothing to report. **Chair Justin Cummings** moved to the next item since no Commission action was required.

# 11. ADJOURNMENT

**Chair Justin Cummings** adjourned the Regular Commission Meeting at 10:22 a.m. to the next regular LAFCO meeting scheduled for Wednesday, November 3, 2021 at 9:00 a.m.

JUSTIN CUMMINGS, CHAIRPERSON	
Attest:	
JOE A. SERRANO, EXECUTIVE OFFIC	EER



#### **Santa Cruz Local Agency Formation Commission**

Date: November 3, 2021
To: LAFCO Commissioners

From: Joe Serrano, Executive Officer

Subject: "Deer Path Road Annexation" to CSA 10 (Project No. DA 21-14)

#### SUMMARY OF RECOMMENDATION

This application proposes an annexation and sphere amendment involving County Service Area 10 ("CSA 10"). If approved, the subject area (totaling 6 parcels; 4 acres) will discontinue the use of septic tanks and will receive sewer service from a neighboring public agency.

It is recommended that the Commission adopt the draft resolution (LAFCO No. 2021-18) approving the 4-acre annexation into CSA 10.

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#### **EXECUTIVE OFFICER'S REPORT:**

The proposed annexation and sphere amendment was initiated by landowner petitions. The subject area includes six parcels, totaling 4-acres. All six landowners submitted signed consent petitions supporting the proposed governance change. The purpose of the application is for the provision of sewer services towards existing single-family homes (APN: 060-031-19 is a vacant parcel). The subject area is within unincorporated county territory and is located east of Bridlewood Court and Graham Hill Road, south of Henry Cowell Drive and Deer Path Road, west of Pasatiempo Drive, and north of Ridge Lane and Brooktree Lane. **Attachment 1** is a vicinity map of the subject area.

# **General Plan/Zoning Designation**

The subject area is uninhabited (less than 12 registered voters) and currently designated as R-UVL (Urban Very Low Residential) under the County's General Plan. The application does not propose any changes to the existing land use designation.

#### **Other Municipal Services**

No other change of organization is required. The proposal area will continue to receive municipal services from existing public agencies, including but not limited to water service from the City of Santa Cruz and fire service from the Scotts Valley Fire Protection District.

# **Affected/Interested Agency Comments**

A referral letter, which summarized the proposal, was distributed to all the affected and interested agencies within or near the subject area. This was an opportunity for an agency to provide comments regarding the proposed boundary change. LAFCO did not receive any opposition during the comment period. Representatives from CSA 10 did provide a Will-Serve Letter to LAFCO dated March 9, 2021. **Attachment 2** is a copy of the County's letter on behalf of CSA 10.

# **Property Tax Exchange Agreement**

California Revenue and Taxation Code Section 99(b)(6) requires the adoption of a property tax exchange agreement involving the affected local agency before LAFCO can consider a jurisdictional change. The Board of Supervisors (BOS) acts as the authorizing body for CSA 10 regarding property tax adjustments. On June 29, 2021, the BOS adopted the property tax exchange agreement for this proposal (refer to **Attachment 3**).

# **Proposed Sphere Amendment**

LAFCO originally adopted a sphere of influence for CSA 10 in 1984. In 2014, the Commission approved a reorganization that transferred sewer services from CSA 57 to CSA 10. In total, 299 parcels were annexed into CSA 10 under this reorganization. As part of the reorganization, CSA 10's sphere of influence was amended to reflect the annexation. More recently, the Commission approved the "De Somer Annexation" earlier this year that annexed a single parcel into CSA 10. The sphere boundary was amended to reflect that annexation, which was officially recorded on September 7, 2021. At present, the current sphere of influence is coterminous with CSA 10's service area. If this application is approved, staff is recommending that CSA 10's sphere of influence be amended to reflect the proposed annexation area. **Attachment 4** shows the proposed sphere amendment. As illustrated, the sphere change includes parcels that are not part of this application, meaning that they should be annexed in the foreseeable future.

#### **Environmental Review**

The proposal is subject to an environmental review. Santa Cruz LAFCO served as the lead agency for assessing impacts under CEQA. Based on staff's analysis, the underlying action qualifies as a project under CEQA. As the lead agency, LAFCO staff determined that the proposal was exempt pursuant to CEQA Guidelines Section 15303, Class 3(d):

Construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel or to be associated with a project within a two-year period. Examples of this exemption include but are not limited to: Water mains, sewage, electrical, gas, and other utility extensions including street improvements, to serve individual customers.

The purpose of the application is for the provision of sewer services by allowing the landowners to connect to a nearby sewer line, and therefore, aligns with the categorical exemption identified above. A Notice of Exemption, as shown in **Attachment 5**, was recorded on October 6, 2021.

### **Notice of Public Hearing**

A hearing notice for this proposal was published in the October 12th issue of the Santa Cruz Sentinel (refer to **Attachment 6**) pursuant to Government Code Section 56153. Additionally, LAFCO staff mailed out copies of the public notice to the residents within a 300-foot radius of the annexation area in accordance with Government Code Section 56157(d). Advertising this notice in a newspaper and notifying nearby residents fulfills the legal requirement and continues staff's outreach efforts with local agencies and the public.

# **Protest Proceedings**

State law requires a protest proceeding to occur if a boundary change (i.e. annexation) is approved. This protest period provides an opportunity for affected residents within the subject area to voice their opposition of the Commission's action. However, pursuant to Government Code Section 56662(d), the protest proceedings may be waived entirely if the following occurs:

- 1. The territory is uninhabited;
- 2. The proposal is accompanied by proof, satisfactory to the Commission, that all the owners of land within the affected territory, exclusive of land owned by a private railroad company, have given their written consent to the proposal and a private railroad company that is an owner of land within the affected territory has not submitted written opposition to the waiver of protest proceedings prior to the conclusion of the commission hearing; and
- 3. A subject agency has not submitted written opposition to a waiver of protest proceedings.

The subject area is uninhabited (only nine registered voters), and all affected landowners within the subject parcel submitted signed content petitions supporting the proposal. Additionally, no subject agency has submitted a written opposition to the proposed waiver of protest proceedings. LAFCO staff is recommending that the protest proceedings be waived based on the statutory criteria.

#### STAFF RECOMMENDATION

CSA 10 operates a sanitary sewer collection system and serves the residential areas of Rolling Woods and Woods Cove, as well as the Pasatiempo Golf Club. The proposal meets the criteria outlined in LAFCO law and the Commission's Proposal Evaluation Policy. County Public Works, representing CSA 10, has also indicated that there is sufficient capacity and ability to provide sewer service to the subject area.

More importantly, this proposal accomplishes two key milestones: (1) it will allow the affected residents the opportunity to transition from septic tank usage to a more sustainable public infrastructure, and (2) it allows the non-affected residents the opportunity to annex into CSA 10 in the future based on the proposed sphere expansion that includes the neighboring parcels not involved in this proposal. Therefore, staff is recommending that the Commission adopt the draft resolution approving the proposed annexation and sphere amendment (see **Attachment 7**).

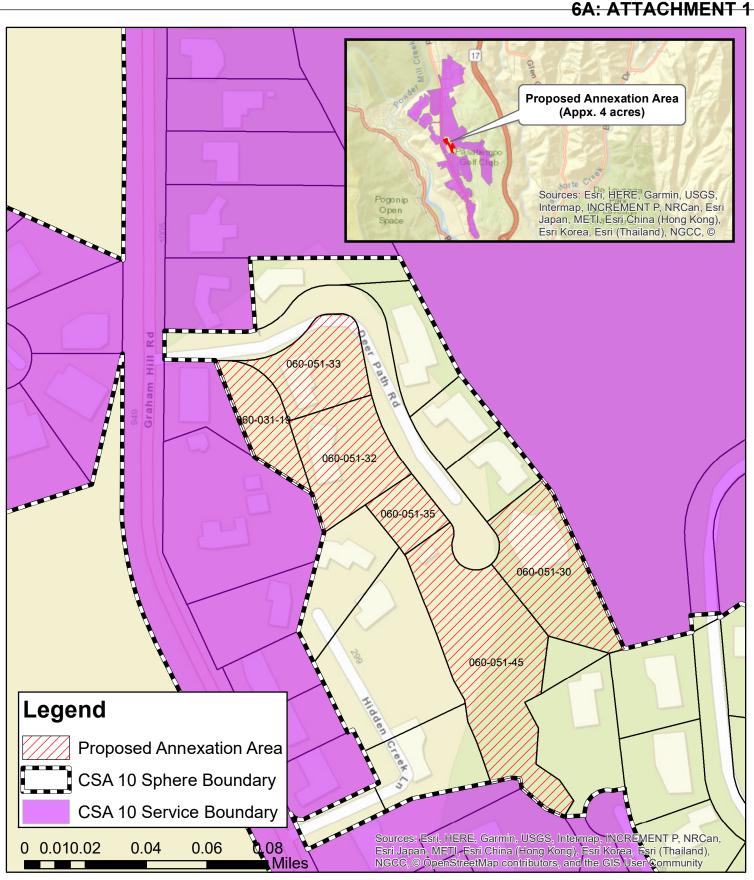
Respectfully Submitted,

Joe A. Serrano Executive Officer

# Attachments:

- 1. Vicinity Map
- 2. Will-Serve Letter
- 3. Property Tax Exchange Agreement
- 4. Proposed Sphere Amendment Map
- 5. Notice of Exemption
- 6. Notice of Public Hearing
- 7. Draft Resolution (LAFCO No. 2021-18)

cc: William Trolan, Applicant Ashleigh Trujillo, County Service Area 10







#### MATT MACHADO DEPUTY CAO DIRECTOR OF PUBLIC WORKS

# County of Santa Cruz

#### **DEPARTMENT OF PUBLIC WORKS**

701 OCEAN STREET, ROOM 410, SANTA CRUZ, CA 95060-4070 (831) 454-2160 FAX (831) 454-2385 TDD (831) 454-2123

3/9/2021

BILL TROLAN, JAY TROLAN, TRACY TROLAN 502 Graham Hill Road Santa Cruz, CA 95066

SUBJECT: SEWER AVAILABILITY AND COUNTY SANITATION'S CONDITIONS OF

SERVICE FOR THE FOLLOWING PROPOSED DEVELOPMENT

APN: 060-051-30 / 32 / 33 / 35 / 45

APPLICATION NO.: N/A

PARCEL ADDRESS: MULTIPLE ADDRESSES ON DEER PATH ROAD

PROJECT DESCRIPTION: CONNECT 5 SINGLE FAMILY HOMES TO THE CSA10

SEWER SYSTEM.

Dear Mr. Trolan:

County Sanitation has received your inquiry regarding sewer service availability for the subject parcels. Sewer service is not currently available for the subject development.

The subject parcels are not currently within the CSA10 Sewer Service Area boundaries. These parcels must be annexed into the CSA prior to service being available. This process is overseen by the Local Area Formation Committee (LAFCO).

No sewer infrastructure currently exists to serve these parcels. A private sewer collection system, private lift station, and associated sewer maintenance agreements would be required. Engineered sewer plans must be submitted for review by County Sanitation prior to approval.

Assuming the subject parcels are eligible for annexation and are able to submit an approved plan for the construction of a private sewer collection system, sewer service to these parcels is feasible via connection to the publicly maintained sewer in Graham Hill Road. No downstream capacity problem or other issue is known at this time. Note, however, that downstream sewer requirements will again be evaluated at time of permit review, at which time County Sanitation reserves the right to add or modify downstream sewer requirements, though none are anticipated at this time.

This notice is valid for one year from the date of this letter. If, after this time frame, this project has not yet received approval from the Planning Department or other agency, then this determination of availability will be considered to have expired. If that occurs or is likely to

6A: ATTACHMENT 2

occur prior to an upcoming submittal or public hearing, please call us ahead of time for a new letter. At that time, we can evaluate the then proposed use, improvements, and downstream capacity, and provide a new letter.

Also, for your reference, we have attached a list of common items required during the review of sanitation projects.

Thank you for your inquiry. If you have any questions, please call Bryan Wardlow at (831) 454-2160.

Yours truly,

MATT MACHADO District Engineer

By:

\_\_\_\_528D647137C44D4...

Ashleigh Trujillo Sanitation Engineer

BW:jv

0600513032333545 Availability Letter.doc

# Common Items Required During the Review of Sanitation Projects

#### **Design and Construction Standards**

The project sewer design and connection of the project to the publicly maintained sewer system will be required to conform to the County of Santa Cruz Design Criteria (CDC) Part 4, Sanitary Sewer Design, latest edition. The project shall meet all requirements of Santa Cruz County Code Section 7.39 and those sections of the Santa Cruz County Sanitation District Code adopted by reference.

County Design Criteria:

http://www.dpw.co.santa-cruz.ca.us/Portals/19/pdfs/Design%20Crit/DESIGNCRITERIA.pdf Santa Cruz County District Ordinances:

http://www.dpw.co.santa-cruz.ca.us/Home/SewerWater/DistrictOrdinances.aspx

# What to show on the drawings: When you begin the design process, please show:

# On the plot/site/utility plan:

- 1. Location of any existing on-site sewer lateral(s), clean-out(s), and connection(s) to existing public sewer on the site (plot) plan.
- 2. Location of any **proposed** on-site sewer lateral(s), clean-out(s), and connection(s) to existing public sewer on the site (plot) plan.

Place a note, "Existing" or "(E)", on each existing item that is to be removed. Place a note, "To be removed", on each existing item that is to be removed. Place a note, "New" or "(N)", on each item that is to be new.

#### On a floor plan:

1. All plumbing fixtures both existing and new (label "(E)" or "(N)") on a floor plan of the entire building. Completely describe all plumbing fixtures according to table T-702.1 of the California Plumbing Code.

#### **Demolition and sewer abandonment**

If the proposed plans will involve some demolition, the existing sewer lateral(s) must be properly abandoned (including inspection by District) <u>prior</u> to issuance of demolition permit or relocation or disconnection of structure. An abandonment permit (either temporary or permanent) for disconnection work must be obtained from the District. This process is often overlooked until the last minute and can result in unnecessary delays, and you are encouraged to plan for the relatively short time and small expense to fulfill this requirement. There is no charge for either permit or inspection.

#### **New Connection**

If the proposed plans will involve one or more new sewer connections, we must issue a new sewer connection permit for each new connection. The final connection charges can be determined only after the District and, as needed, other Department of Public Works divisions have reviewed and approved the final engineered sewer improvement plans.

# Inspection of existing lateral for new or remodel construction

If the development will involve the reuse of an existing sewer lateral for a new or remodeled structure, then, before the approval of the building permit, the applicant shall have the sanitary

sewer system inspected and certified by a licensed plumber to be in good working order and free of obstructions and breaks. Repairs shall be made to any damaged or deteriorated pipe, misalignment of pipe segments, leaking pipes, root intrusion, open joints, cracks or breaks, sags, damaged or defective cleanout, inflow and infiltration of extraneous water, older pipe materials that are known to be inadequate, inadequate lift or pump stations, inadequate alarm systems for overflows, and inadequate maintenance of lift stations. You must obtain a sewer repair permit (no charge) from the District and shall have repairs inspected by the District inspector (no charge) prior to backfilling of pipe or structure.

#### Increase in the number of plumbing fixtures

If the proposed plans will involve an increase in the fixture unit count for the existing sewer connection, additional fixture unit fees may be due. The exact amount will be calculated at the time a Sewer Connection Permit is issued.

### **Backflow** prevention device

A backflow preventive device may be required. While this determination is often made "in the field" at the time of installation, if you are engaging a surveyor, civil engineer, or knowledgeable contractor, there is nothing to prevent you from making that determination while in the design process.

# **6A: ATTACHMENT 3**

# BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

Adopted 06/29/2021 Board of Supervisors DOC-2021-562 28.a

# RESOLUTION NO. 187-2021

On the motion of Supervisor: Friend Duly seconded by Supervisor: Koenig The following resolution is adopted:

# RESOLUTION ACCEPTING NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUES PURSUANT TO CALIFORNIA REVENUE AND TAXATION CODE SECTION 99

# LAFCO #DA 21-14 – Deer Path Road to County Service Area 10

WHEREAS, California Revenue and Taxation Code Section 99 requires that each city or county (or the county on behalf of special districts) included in a governmental reorganization or jurisdictional change accept a negotiated exchange of property tax revenues; and

WHEREAS, the governing bodies of all agencies whose service areas would be altered by the jurisdictional change referred to in Exhibit "A" have met to determine the allocation of property tax revenues; and

WHEREAS, the County of Santa Cruz agrees to accept the negotiated exchange of property tax revenue as provided for in Exhibit "A";

NOW, THEREFORE, BE IT RESOLVED that the County of Santa Cruz hereby accepts the negotiated exchange of property tax revenues as provided for in Exhibit "A" as required by California Revenue and Taxation Code Section 99; and

BE IT FURTHER RESOLVED AND ORDERED that the Clerk of the Board shall forward a copy of this Resolution to the Santa Cruz County Auditor-Controller-Treasurer-Tax Collector; and

BE IT FURTHER RESOLVED AND ORDERED that the Santa Cruz County Auditor-Controller-Treasurer-Tax Collector is directed to disperse property tax revenues as provided for in Exhibit "A" upon receipt of a copy of this Resolution and a concurring resolution of any affected cities, if any, and following recordation of a Certificate of Completion.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 29<sup>th</sup> day of June, 2021, by the following vote:

AYES: NOES: ABSENT:	Supervisos: Koenig, Fri None None	iend, Coonerty, Caput, and McPherson
TIBSEI(I.	1,0110	BRUCE MCPHERSON
		Chair of Said Board
ATTEST:		
		APPROVED AS TO FORM:
STEPHANI Clerk of Said	E CABRERA d Board	C/47/2024 (AMC)(400C2)

cc: Local Agency Formation Commission of Santa Cruz County Assessor-Recorder Auditor-Controller-Treasurer-Tax Collector County Service Area 10

# Exhibit A

Agenda: June 29, 2021

LAFCO #DA 21-14 – Deer Path Road Annexation to County Service Area 10

# 1. Description

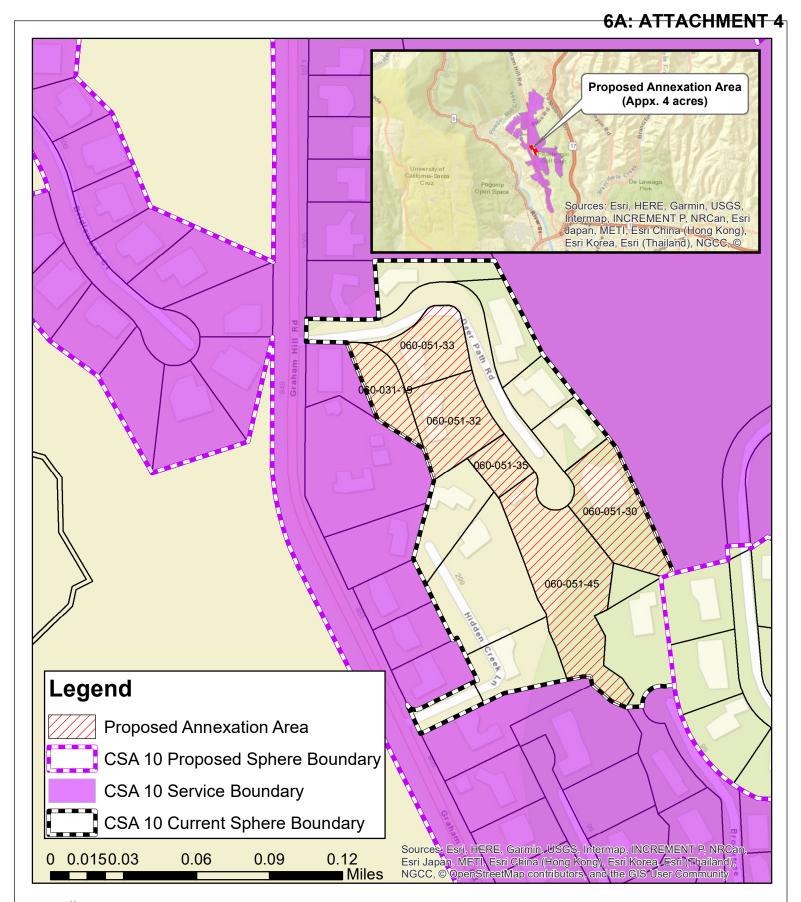
LAFCO # DA 21-14 – Deer Path Road Annexation to County Service Area 10 Assessor's Parcel Numbers: 060-031-19, 060-051-30, 060-051-32, 060-051-33, 060-051-35, 060-051-42

# 2. Property Tax Exchange

A. Base Year Full Cash Value: No Exchange

B. Incremental Full Cash Value: No Exchange

The exchange of property taxes for both Base Year and Incremental Values are based on property tax revenues after the shift to the Education Revenue Augmentation Fund (ERAF).





"Deer Path Road Annexation" to County Service Area 10 (DA 21-14)

Proposed sphere boundary considered on 11/3/21

# **Notice of Exemption**

Office of Planning and Research To:

From: (Public Agency) 1400 Tenth Street, Room 121 Santa Cruz Local Agency Formation

Commission

Sacramento CA 95814 701 Ocean Street, Room 318-D

Santa Cruz CA 95060

To:

Clerk of the Board County of Santa Cruz

701 Ocean Street, Room 500

Santa Cruz CA 95060

Project Title: "Deer Path Road Annexation" to County Service Area 10 (DA 21-14)

**Project Location:** The subject area is within unincorporated county territory and is located east of Bridlewood Court and Graham Hill Road, south of Henry Cowell Drive and Deer Path Road, west of Pasatiempo Drive, and north of Ridge Lane and Brooktree Lane. Attached is a vicinity map of the subject area (refer to **Attachment A**).

**Project Location City:** N/A **Project Location County:** Santa Cruz

Description of Nature, Purpose, and Beneficiaries of Project: The proposed annexation and sphere amendment was initiated by landowner petitions. The subject area includes six parcels, totaling 4-acres. The purpose of the application is to decommission the use of septic tanks and connect to an adjacent sewer infrastructure operated by CSA 10.

Name of Public Agency Approving Project: Local Agency Formation Commission of Santa Cruz County ("Santa Cruz LAFCO"). A public hearing on this proposal is scheduled for 9:00 a.m. on November 3, 2021. Additional information on the upcoming meeting is available on the LAFCO website.

Name of Person or Agency Carrying Out Project: Santa Cruz LAFCO

**Exempt Status:** (check one)

Ministerial (Sec. 21080(b)(1); 15268); Declared Emergency (Sec. 21080(b)(3); 15269(a)); Emergency Project (Sec. 21080(b)(4); 15269 (b)(c)); Categorical Exemption: State type and section number Statutory Exemptions: State code number Other: The activity is not a project subject to CEQA.

Reason Why Project is Exempt: Pursuant to CEQA Guidelines Section 15303, Class 3(d): Construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel or to be associated with a project within a two-year period. Examples of this exemption include but are not limited to: Water mains, sewage, electrical, gas, and other utility extensions including street improvements, to serve individual customers.

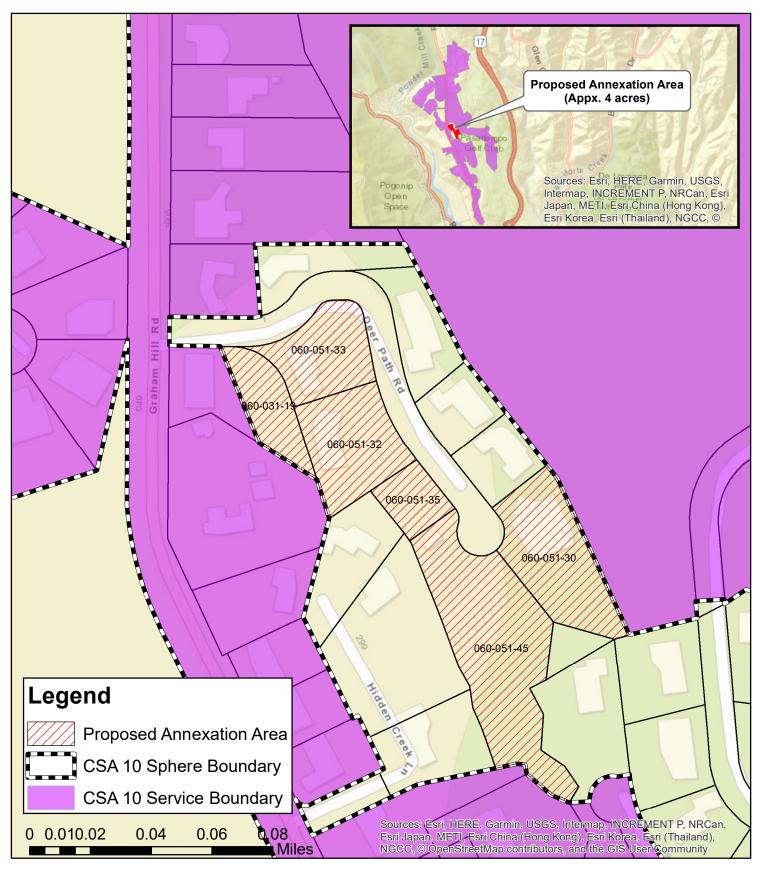
**Lead Agency Contact Person:** Joe A. Serrano

Area Code/Phone Extension: 831-454-2055

Signature: Date: October 6, 2021

Joe A. Serrano, Executive Officer

Signed by Lead Agency







NOTICE IS HEREBY GIVEN that at 9:00 a.m., Wednesday, November 3, 2021, the Local Agency Formation Commission of Santa Cruz County (LAFCO) will hold a public hearing on the following:

Deer Path Road Annexation: Consideration of a 4-acre annexation into County Service
Area 10 (LAFCO Project No. DA 21-14). The purpose of the proposal is for the provision of
sewer service to six separate parcels. The subject area is within unincorporated county
territory and is located east of Bridlewood Court and Graham Hill Road, south of Henry
Cowell Drive and Deer Path Road, west of Pasatiempo Drive, and north of Ridge Lane and
Brooktree Lane. In compliance with the California Environmental Quality Act (CEQA), LAFCO
staff has prepared a Categorical Exemption for this report.

Due to COVID-19, this meeting will be conducted as a teleconference pursuant to the provisions of the Governor's Executive Orders and Assembly Bill 361, which suspend certain requirements of the Ralph M. Brown Act. Members of the public are encouraged to observe the shelter-in-place order and participate remotely. Instructions to participate remotely are available in the Agenda and Agenda Packet: <a href="https://www.santacruzlafco.org/meetings/2021-agenda-packets/">https://www.santacruzlafco.org/meetings/2021-agenda-packets/</a>

During the meeting, the Commission will consider oral or written comments from any interested person. Maps, written reports, environmental review documents and further information can be obtained by contacting LAFCO's staff at (831) 454-2055 or from LAFCO's website at <a href="https://www.santacruzlafco.org">www.santacruzlafco.org</a>. LAFCO does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs or activities. If you wish to attend this meeting and you will require special assistance in order to participate, please contact the LAFCO office at least 48 hours in advance of the meeting to make arrangements.

Joe A. Serrano Executive Officer

Date: October 12, 2021

**6A: ATTACHMENT 7** 

# LOCAL AGENCY FORMATION COMMISSION OF SANTA CRUZ COUNTY RESOLUTION NO. 2021-18

On the motion of Commissioner duly seconded by Commissioner the following resolution is adopted:

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND ORDERING THE "DEER PATH ROAD ANNEXATION" TO COUNTY SERVICE AREA 10 (LAFCO PROJECT NO. DA 21-14)

\*

WHEREAS, an application requesting the annexation and subsequent sphere of influence amendment was filed by landowner petition pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.); and

WHEREAS, the proposal was initiated by landowner petition. The subject area includes six parcels totaling 4 acres. The landowners of each subject parcel support the proposal and have each signed a consent form. The purpose of the proposal is for the provision of sewer services from a nearby public agency to existing single family homes; and

WHEREAS, the proposal was assigned the short-term designation of "Deer Path Road Annexation"; and

WHEREAS, the subject area is within unincorporated county territory and is located east of Bridlewood Court and Graham Hill Road, south of Henry Cowell Drive and Deer Path Road, west of Pasatiempo Drive, and north of Ridge Lane and Brooktree Lane; and

WHEREAS, the proposal consists of the following changes of organization: (1) annexation to County Service Area 10; and (2) sphere amendment to County Service Area 10; and

WHEREAS, correspondence summarizing the proposal was sent to all affected and interested agencies requesting comments on June 7, 2021. LAFCO did not receive any opposition following the conclusion of the comment period; and

WHEREAS, California Revenue and Taxation Code Section 99(b)(6) requires the adoption of a property tax exchange agreement involving the affected local agency before LAFCO can consider a jurisdictional change. The Board of Supervisors acting as the authorizing body for CSA 10 regarding property tax adjustments adopted a property tax exchange agreement on June 29, 2021; and

WHEREAS, the Executive Officer conducted an analysis on the proposal and prepared a report including staff's recommendations thereon, and presented staff's findings for Commission consideration; and

WHEREAS, a public hearing by the Commission was held on November 3, 2021; and at the hearing the Commission heard and received all oral and written protests, objections, and evidence that were presented.

NOW, THEREFORE, the Local Agency Formation Commission of Santa Cruz County does HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

<u>Section 1</u>. The foregoing recitals are true and correct.

Section 2. Compliance with the California Environmental Quality Act (CEQA) has been met by a categorical exemption pursuant to State CEQA Guidelines Section 15303, Class 3(d): Construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel or to be associated with a project within a two-year period. Examples of this exemption include but are not limited to: Water mains, sewage, electrical, gas, and other utility extensions including street improvements, to serve individual customers.

<u>Section 3.</u> The Commission considered the requirements set forth for annexation and sphere amendment in the Cortese-Knox-Hertzberg Act, Government Code Section 56133, and found the proposal to be consistent with those requirements as outlined below:

- a) <u>District Annexation</u>: Government Code Section 56668.3(a) requires the Commission to analyze several factors as part of the change of organization. These factors include:
  - The case of district annexation, whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district;
  - Any factors which may be considered by the Commission as provided in Government Code Section 56668;
  - c. Any resolution raising objections to the action that may be filed by an affected agency; and
  - d. Any other matters which the Commission deems material.

LAFCO analyzed these and other factors as part of the November 3, 2021 staff report.

b) <u>District Annexation</u>: Government Code Section 56857(a) requires the Commission to notify the affected agency if the proposal was not filed by the district to which annexation of territory is proposed. The affected agency may transmit to the Commission a resolution requesting termination of the proceedings. LAFCO staff did not receive any terminating resolution or correspondence from CSA 10 opposing the application.

<u>Section 4.</u> The Commission determined that the proposal is consistent with the Policies and Procedures Relating to Proposals and Sphere Amendments as outlined below:

- a) <u>Agency Endorsement:</u> The Executive Officer shall not file the application unless the affected public agency has submitted a written endorsement indicating its willingness to provide the service if the Commission approves the request. County Public Works, on behalf of CSA 10, provided a Will-Serve Letter to the applicant on March 9, 2021, and has continued to express support throughout the LAFCO process.
- b) <u>Fee Deposit:</u> The applicant shall pay the costs of processing the application as specified in the Commission's Schedule of Fees and Deposits. The applicant submitted a fee deposit of \$2,500 as part of the application packet.
- c) Map & Legal Description: A map of any proposed boundary changes shall show the present and proposed boundaries of all affected agencies in the vicinity of the proposal site. The Commission shall assure that any approved boundary changes are definite and certain. The required metes and bounds were submitted on September 1, 2021, as shown on Exhibit A.
- d) Sphere Amendment: LAFCO originally adopted a sphere of influence for CSA 10 in 1984. In 2014, the Commission approved a reorganization that transferred sewer services from CSA 57 to CSA 10. In total, 299 parcels were annexed into CSA 10 under this reorganization. CSA 10's sphere of influence was amended to reflect the 2014 reorganization. The "Deer Path Road Annexation" requires a sphere amendment to reflect the proposed change of organization, as shown in Exhibit B. The sphere amendment includes the subject area and other parcels that are not part of this proposal as a precursor to future annexations.
- e) <u>Commission Hearing:</u> The Commission shall consider the request after it has been placed on an agenda of a Commission meeting. After deeming the proposal complete, the Executive Officer advertised the proposal in the Santa Cruz Sentinel newspaper on October 12, 2021, and scheduled the proposal for Commission consideration on November 3, 2021.

<u>Section 5.</u> The applicant shall agree, as a condition of the approval of the application for annexation and sphere amendment, to be bound by the LAFCO Indemnification and Defense Form signed on May 3, 2021.

<u>Section 6.</u> The Certificate of Completion for the proposal shall not be issued until all of the following terms and conditions are met:

- a) <u>State Board of Equalization:</u> The proponent shall provide a legal map, description, and fees to meet State Board of Equalization requirements.
- b) <u>District Fees & Charges</u>: CSA 10 shall levy and collect within the territory being annexed any previously established and collected benefit assessment of property-related fees or charges that are collected within all or part of the district at the time

of annexation. The applicant shall be responsible for all fees and costs associated with the connection of sewer service with CSA 10.

c) <u>LAFCO Processing Fees</u>: The applicant shall pay any remaining processing fees as set in this Commission's Schedule of Fees and Deposits.

<u>Section 7.</u> The annexation and sphere amendment shall be effective as of the date of recordation of the Certificate of Completion.

<u>Section 8.</u> The Commission shall approve, disapprove, or approve with conditions the proposed annexation and sphere amendment. If the proposal is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration. If the Commission denies a request, a similar application cannot be refiled for one year unless the Commission grants an exception to this rule.

<u>Section 9.</u> The Executive Officer will hereby conduct a 30-day request for reconsideration in accordance with Government Code Section 56895.

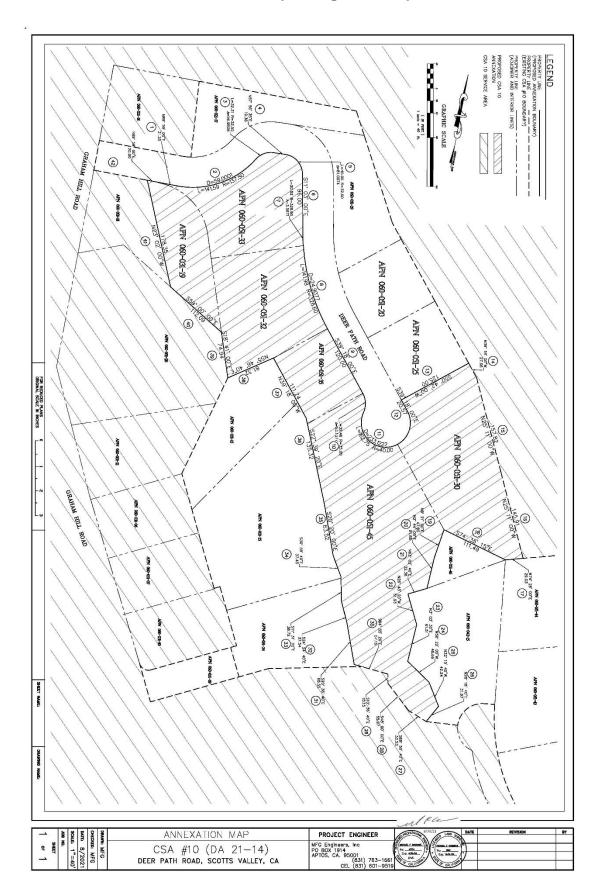
<u>Section 10.</u> The Executive Officer is hereby authorized and directed to waive the protest proceedings entirely because the proposal meets the criteria outlined in Government Code Section 56662(d).

<u>Section 11.</u> The Executive Officer is hereby authorized and directed to mail certified copies of this resolution in the manner and as provided in Government Code Section 56882.

PASSED AND ADOPTED by the Local Agency Formation Commission of Santa Cruz County this 3rd day of November 2021.

<del></del>
Approved as to form:
Daniel H. Zazueta LAFCO Counsel

**Exhibit A: Map & Legal Description** 



# Legal Description For Annexation of APN 060-51-30,32,33,35,45 & APN 060-031-19 (Santa Cruz County)

To

# Santa Cruz County Service Area 10 LAFCO Number DA 21-14

Situate in the County of Santa Cruz State of California. Being a part of the Carbonero.

Being a part of that certain map entitled "Subdivision of Pasatiempo Woods, Tract No. 192" filled at Volume 34 page 69 Santa Cruz County records.

BEGINNING at the most westerly corner of Lot 7, as shown on the above referenced map. Thence from said point of beginning the following courses:

- North 89°59' East 31.20 feet, along the southerly line of Deer Path Road (formerly Forest Drive) as shown said map. Thence continuing along southerly and westerly line of Deer Path Road following courses;
- 2. Through a curve to the left with a radius of 137.50 feet and a length of 141.59 feet, thence;
- 3. Through a curve to the right with a radius of 32.50 feet and a length of 32.31 feet, thence:
- 4. North 87°36'35" East 19.38; thence:
- 5. Through a curve to the right with a radius of 32.50 feet and a length of 45.95 feet, thence;
- 6. South 11°03'East 96.00 feet, thence:
- 7. Through a curve to the left with a radius of 329.60 feet and a length of 20.52 feet to the north east corner of lot 7, thence;
- 8. Through a curve to the left with a radius of 329.60 feet and a length of 141.99 feet to the north east corner of lot 6, thence;
- 9. Continuing along the westerly line of Deer Path Road South 39°18' East 120.00 feet, thence;
- 10. Through a curve to the right with a radius of 35.00 feet and a length of 32.46 feet, thence;
- 11. Through a cul-de-sac bulb curving to the left with a radius of 40' and a length of 162.75 to the easterly side of Deer Path Road, thence;
- 12. North 39°18' West 20.54 feet, to the westerly corner of lot 4, thence;
- 13. Leaving the Deer Path Road right of way North 50°42'East 125.00 feet to the most northerly corner of lot 4; thence
- 14. South 39°18'East 27.06 feet; thence
- 15. South 25°11' East 157.82 feet; thence
- 16. South 25°11'East 145.91 feet to the easterly corner of lot 4; thence
- 17. South 74°28' West 29.03 feet, thence:

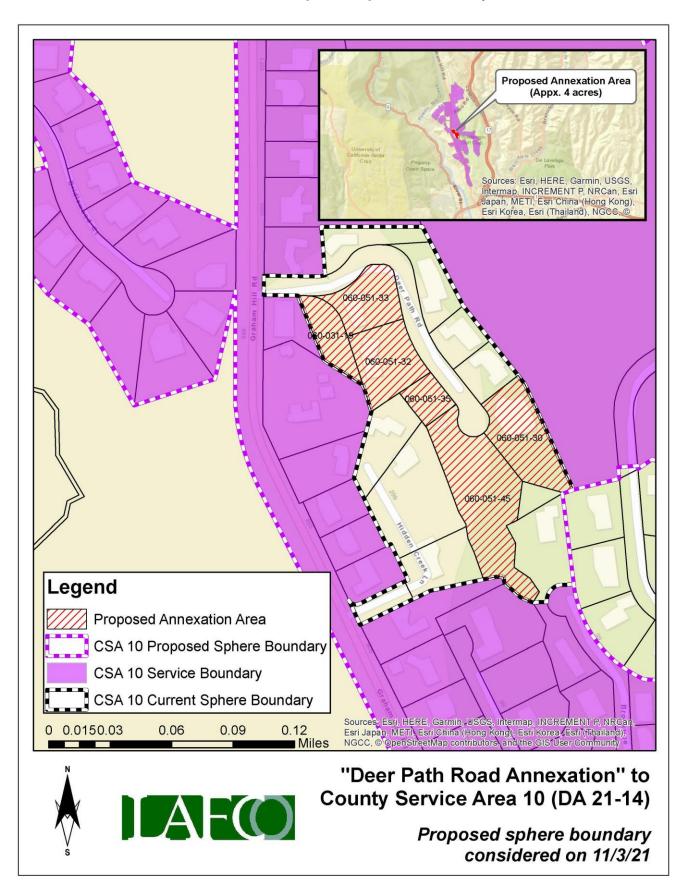
Page 1 of 2

- 18. North 74°35'15" West 111.49 feet to the common southerly corner of lots 4 and 5, thence:
- 19. South 8°21'West 47.85 feet, thence;
- 20. South 2°44' West 51.85 feet, thence:
- 21. South 63°02'40" West 32.38 feet, thence:
- 22. South 26°43'20" East 51.93 feet, thence;
- 23. South 3°03'30" East 61.51 feet, thence;
- 24. South 56°22' West 48.66 feet, thence;
- 25. South 32°15'40" East 42.42 feet, thence;
- 26. South 28°18'40" West 31.97 feet, thence;
- 27. North 68°50'40" West 33.53 feet, thence:
- 28. North 48°00' West 55.97 feet, thence;
- 29. North 10°36'40" West 15.15 feet, thence:
- 30. North 84°55'20" West 57.15 feet, thence;
- 31. North 20°38'40" West 68.55 feet, thence;
- 32. North 24°24'40" West 37.54 feet, thence;
- 33. North 11°31'20" West 38.72 feet, thence;
- 34. North 30°58'40" West 37.45 feet, thence;
- 35. North 20°20' West 83.52 feet, thence;
- 36. North 22°39'20" West 144.52 feet, thence;
- 37. North 39°18' West 111.24 feet, thence;
- 38. South 55°46'40" West 81.32 feet, thence;
- 39. North 18°41' West 74.94 feet, thence;
- 40. North 59°00' West 112.09 feet, thence;
- 41. North 23°02' West 178.35 feet, thence;
- 42. North 89°59' East 20.00 feet to the Point of Beginning



Michael F. Goodhue, P.E., L.S.

**Exhibit B: Proposed Sphere Boundary** 



Agenda Item No. 7a



## **Santa Cruz Local Agency Formation Commission**

Date: November 3, 2021
To: LAFCO Commissioners

From: Joe Serrano, Executive Officer

Subject: Continuation of Remote Meetings

#### SUMMARY OF RECOMMENDATION

Santa Cruz LAFCO has been conducting virtual meetings since May 2020 under the Governor's Executive Orders. These orders expired on September 30, 2021. Following the enactment of Assembly Bill 361, state law now allows local agencies, until January 1, 2024, to use teleconferencing as a method to fulfill Brown Act requirements during certain state emergencies. AB 361 had an urgency clause meaning it took effect immediately upon signature on September 16, 2021.

It is recommended that the Commission adopt resolution (No. 2021-19) approving the virtual setting for LAFCO meetings pursuant to AB 361 and amended Government Code Section 54953.

#### **EXECUTIVE OFFICER'S REPORT:**

Beginning in March 2020, Governor Newsom issued a series of Executive Orders aimed at containing the pandemic. Among these were several Executive Orders (N-25-20, N-29-20, and N-35-20) which waived requirements in the Brown Act expressly or impliedly requiring the physical presence of elected officials, staff, or the public during local agency meetings. Specifically, the Governor's Executive Orders waived the following requirements:

- Holding physical meeting locations that are open to the public to attend and provide comments during those local agency meetings;
- Identifying and noticing the teleconference location of each member of the local agency that is participating by teleconference;
- Allowing teleconference locations of each local agency member to be accessible to the public and the ability for the public to address the local agency at each teleconference location;
- Posting agendas at all teleconference locations; and
- Ensuring that at least a quorum of the local agency board members participate from locations within the boundaries of the local agency's jurisdiction.

#### **CONTINUATION OF REMOTE MEETINGS**

In June 2021, the Governor issued Executive Order N-08-21 to begin winding down some of the prior measures that were adopted to respond towards COVID-19. Notably, the order included a sunset date of September 30, 2021 for the previous three Brown Actrelated orders. However, on September 16, the Governor signed Assembly Bill 361 which amends the Brown Act to allow continued flexibility for public meetings following the September expiration date. Similar to the previous orders, AB 361 provides similar modified requirements listed on the first page of this report with some additional requirements, as shown below:

- Local agencies cannot require that written comments be submitted in advance of a meeting and public agencies may only close the comment period at the same time it is closed during the meeting;
- Local agencies must clearly advertise the means by which the public can observe the
  meeting and offer comment during the meeting via either a call in or internet based
  option. The public must be given an opportunity for the public to comment directly
  during the meeting; and
- In the event of a disruption in broadcasting the meeting, the legislative body shall take no further action until meeting access is restored to the public.

In order for the Commission to continue the modified teleconference meeting rules under AB 361, LAFCO meetings must meet one of the following provisions:

- a) The local agency is holding a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; or
- The local agency is holding a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- c) The local agency is holding a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

It is staff's understanding that the modified meeting rules can only be used in the event when the Governor issues a state of emergency. Therefore, the Governor's COVID-19 State of Emergency satisfies this requirement under AB 361 – allowing this Commission to continue conducting virtual meetings.

#### STAFF RECOMMENDATION

If the Commission desires to continue to virtual meetings, the Commission needs to formally vote and adopt a resolution directing staff to fulfill the requirements under AB 361. In addition, AB 361 requires the Commission to frequently evaluate the COVID-19 crisis and determine if remote meetings will continue due to the current state of emergency and facts related to the potential risks to the health and safety of meeting attendees.

At present, COVID-19 and its variants continue to pose significant health risks and is highly contagious. That is why staff is recommending that the Commission approve the draft resolution directing staff to continue holding remote meetings during the current COVID-19 State of Emergency (refer to **Attachment 1**). Staff will provide the Commission periodic updates on the status of the ongoing pandemic and may offer further direction related to future Commission meetings pursuant to the provisions of AB 361.

Respectfully Submitted,

Joe A. Serrano Executive Officer

Attachment:

1. Draft Resolution (LAFCO No. 2021-19)

## LOCAL AGENCY FORMATION COMMISSION OF SANTA CRUZ COUNTY RESOLUTION NO. 2021-19

On the motion of Commissioner duly seconded by Commissioner the following resolution is adopted:

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND ORDERING THE CONTINUATION OF TELECONFERENCE MEETINGS DUE TO THE GOVERNOR'S PROCLAMATION OF STATE EMERGENCY AND STATE RECOMMENDATIONS RELATED TO PHYSICAL DISTANCING DUE TO THE THREAT OF COVID-19

\*

WHEREAS, the Local Agency Formation Commission of Santa Cruz County ("Commission" or "LAFCO") is committed to preserving and nurturing public access and participation in meetings of the Commission; and

WHEREAS, all Commission meetings are open and public, as required by the Ralph M. Brown Act (Government Code Section 54950 et seq.), so that any member of the public may attend, participate, and observe how the Commission conducts its business; and

WHEREAS, the Brown Act, pursuant to Government Code Section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code Section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code Section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code Section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the state; and

WHEREAS, such conditions now exist in the state, specifically, the Governor of the State of California proclaimed a state of emergency on March 4, 2020, related to the threat of COVID-19, which remains in effect; and

WHEREAS, on September 16, 2021, the Governor signed Assembly Bill 361 ("AB 361"), urgency legislation effective immediately, that amended Government Code section 54953 to permit legislative bodies subject to the Brown Act to continue to meet under modified teleconferencing rules provided they comply with specific requirements set forth in the statute; and

WHEREAS, pursuant to AB 361, the Commission may hold an initial teleconference meeting under the modified teleconferencing rules and may continue to hold such teleconference meetings during a proclaimed state of emergency where the Commission has reconsidered the circumstances of the state of emergency, the state of emergency continues to directly impact the ability of the Commission to meet safely in person, and state or local officials have recommended measures to promote physical distancing; and

WHEREAS, the California Division of Occupational Safety and Health ("Cal/OSHA") regulations at Title 8 Section 3205 recommends physical distancing in the workplace as precautions against the spread of COVID-19 and imposes certain restrictions and requirements due to a "close contact" which occurs when individuals are within six feet of another in certain circumstances; and

WHEREAS, the proliferation of the Delta variant of the virus continues to pose imminent risk to health and safety and directly impacts the ability of the public and the Commission to meet safely in person, accordingly, the Commission hereby recognizes the proclamation of state of emergency by the Governor of the State of California and the regulations of Cal/OSHA recommending physical distancing; and

WHEREAS, as a consequence of the emergency related to COVID-19, the Commission does hereby find that the Commission shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code Section 54953, as authorized by subdivision (e) of section 54953, and that the Commission shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of Section 54953; and

WHEREAS, the Commission meetings will be accessible to the public to attend virtually or via phone.

NOW, THEREFORE, BE IT RESOLVED THAT THE COMMISSION DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

- 1. <u>Recitals</u>. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.
- 2. <u>State of Emergency due to COVID-19</u>. The Commission hereby recognizes the imminent threat to the health and safety of attendees at public meetings due to the impacts of COVID-19 and the continued recommendation of state officials to promote physical distancing to minimize any potential adverse health and safety risks.
- 3. Remote Teleconference Meetings. The Executive Officer is hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings of the Commission in accordance with Government Code Section 54953(e) and other applicable provisions of the Brown Act for remote only teleconference meetings.

- 4. Reconsideration of the State of Emergency. The Commission has reconsidered the state of emergency proclaimed by the Governor of the State of California and finds that the state of emergency continues to directly impact the ability of the members to meet safely in person.
- 5. Reoccurring Evaluation by the Commission. The Executive Officer is hereby directed to continue to monitor the conditions and health and safety conditions related to COVID-19, the status of the Governor's State of Emergency, and the state regulations related to social distancing, and present to the Commission at its next regularly scheduled meeting the related information and recommendations for remote only meetings pursuant to the provisions of Government Code Section 54953(e)(3) and to extend the time during which the Commission may continue to teleconference without compliance with paragraph (3) of subdivision (b) of Section 54953.

PASSED AND ADOPTED by the Local Agency Formation Commission of Santa Cruz County this 3rd day of November 2021.

AYES:	
NOES:	
ABSTAIN:	
JUSTIN CUMMINGS, CHAIRPERSON	
Attest:	Approved as to form:
Joe A. Serrano Executive Officer	Daniel H. Zazueta  LAFCO Counsel

Agenda Item No. 7b



## **Santa Cruz Local Agency Formation Commission**

Date: November 3, 2021
To: LAFCO Commissioners

From: Joe Serrano, Executive Officer

Subject: Legal Counsel Contracts

#### SUMMARY OF RECOMMENDATION

Government Code Section 56384(b) requires the Commission to appoint legal counsel to advise it on LAFCO-related actions. If the Commission's counsel is subject to a conflict of interest on a matter before LAFCO, the Commission is required to appoint an alternate legal counsel to advise it. A request for proposal was circulated in July to select LAFCO's new legal counsel. A total of six legal firms expressed interest in providing legal services to LAFCO.

It is recommended that the Commission approve the two draft contractual agreements to hire Best, Best & Krieger as LAFCO's general counsel and Colantuono, Highsmith & Whatley as LAFCO's special counsel.

#### **EXECUTIVE OFFICER'S REPORT:**

In June 2021, as part of the final budget adoption, the Commission directed staff to analyze how legal services are provided to LAFCO. It is staff's understanding that the County has been providing legal services for decades now without an official contractual agreement. To rectify this matter, LAFCO staff and its personnel committee distributed a *Request for Proposal* (RFP) on July 1, 2021, to select LAFCO's new legal counsel.

A total of 35 legal firms, including the Santa Cruz County, received a copy of the RFP. The deadline to submit proposals was August 31, 2021. In total, LAFCO received six (6) proposals before the deadline. This staff report provides an overview of two key components: (1) summary of each legal firm's proposal, and (2) staff's recommendation on which firm is the most suitable for Santa Cruz LAFCO.

## **RANKING OF LEGAL FIRMS (BASED ON WEIGHTED CRITERIA)**

A total of six legal firms submitted a proposal expressing interest in becoming LAFCO's new legal counsel. The six firms are listed in **Table A** on page 2. In accordance with the RFP, all proposals were evaluated based on the following criteria and weighting: (1) Qualifications – 30%, (2) Costs/Rates – 30%, (3) Conflicts of Interest – 25%, (4) Local and State Client References – 10%, and (5) Additional Information – 5%. **Attachment 1** provides a more detailed evaluation of each firm based on the weighted criteria. In order to calculate the weighted criteria, LAFCO staff first used a 1-10 scale with 10 points being the best, and then factored in the weighted criteria to rank each legal firm, as shown in Attachment 1.

## Most Suitable Legal Firm

It is staff's position that the most important areas are the qualifications of the legal firm and the costs of services. LAFCO's goal is to ratify a contract with a legal firm that is qualified and cost effective. Based on the firms' responses, and in conjunction with the weighted criteria, LAFCO staff and its personnel committee identified Best, Best & Krieger as the most suitable legal firm to be LAFCO's new legal counsel. **Table A** on page 2 shows the ranking of each legal firm. An explanation of each legal firm's ranking can be found on pages 2-4.

**Table A: Legal Firm Rankings (In Order of Weighted Points)** 

Legal Firm	Total Points	Weighted Points
Best, Best & Krieger	48	9.45
Colantuono Highsmith & Whatley	47	9.20
White Brenner	45	9.20
Griffith Masuda & Hobbs	40	8.65
Lozano Smith	41	8.60
Hanson Bridgett	39	8.10

## Ranked #1: Best, Best & Krieger (BBK)

BBK earned 48 out of 50 points based on their proposal, resulting in a weighted total of 9.45 out of 10 possible points. This firm serves as the general counsel to CALAFCO and six other LAFCOs: El Dorado, Merced, Marin, Orange, San Bernardino and Santa Clara. Two of these LAFCOs are located in the Coastal Region (Marin since 2018 and Santa Clara since 2009). BBK has an in-depth knowledge on a variety of LAFCO-related categories including but not limited to the CKH Act, CEQA, Props 13 and 218, special taxes, intergovernmental relations, and litigation matters relating to LAFCOs. BBK has identified Joshua Nelson as LAFCO's primary legal counsel, in addition to six other attorneys as LAFCO's legal team. Mr. Nelson has exceptional LAFCO experience including, acting as back-up counsel for Merced and El Dorado LAFCOs, assisting in a recent water consolidation, and litigating a service dispute between two fire departments. If selected, BBK is willing to provide their services at \$275/hour. This is \$25 or 10% more than the County's rate of \$250/hour.

BBK currently provides special counsel services to the City of Santa Cruz and general counsel services to Soquel Creek Water District. This appears to be a possible conflict of interest, but the firm indicated that there is no interest that may constitute a conflict preventing them to provide services to LAFCO. BBK also provided three references: Soquel Creek Water District, Santa Clara LAFCO, and the North Tahoe Public Utility District located in Placer County. BBK was the only legal firm that included professional references involving a LAFCO and a public agency located in Santa Cruz County.

## Ranked #2: Colantuono Highsmith & Whatley (CHW)

CHW earned 47 out of 50 points based on their proposal, resulting in a weighted total of 9.20 out of 10 possible points. This firm provides legal services to various local governments, including six LAFCOs: Calaveras, Nevada, Orange, Sonoma, Yolo, and Yuba. CHW has an in-depth knowledge on a variety of LAFCO-related categories including but not limited to the CKH Act, CEQA, and litigation matters relating to LAFCOs. CHW has identified David Ruderman as LAFCO's potential legal counsel and one other attorney as LAFCO's legal team. If selected, CHW is willing to provide their services at \$250/hour. This is the same as the County's rate of \$250/hour.

While CHW does not provide legal services in Santa Cruz County at this time, the firm is one of two finalists to become the City of Watsonville's new general counsel. If selected, this may be a reoccurring conflict of interest since Watsonville is the most active city regarding boundary changes and other LAFCO actions. CHW provided three references: Yuba LAFCO, City of Lakeport located in Lake County, and Tahoe Forest Hospital District located in Nevada County.

## Ranked #3: White Brenner (WB)

WB earned 45 out of 50 points based on their proposal, resulting in a weighted total of 9.20 out of 10 possible points. This firm serves as general and special counsel for various cities and special districts throughout the State. This firm does have experience with LAFCO, specifically helping four different cities annex territory within Stanislaus County. However, this firm does not have any LAFCO-related litigation or Santa Cruz County-related experience. This may require a learning-curve by the legal firm if selected. WB has identified Douglas White as LAFCO's potential legal counsel and one other attorney as LAFCO's legal team. If selected, WB is willing to provide their services at \$225/hour. This is \$25 or 10% less than the County's rate of \$250/hour. WB does not have any conflict of interest within Santa Cruz County. The firm provided two references: City of Dixon located in Solano County and the City of Riverbank located in Stanislaus County.

## Ranked #4: Griffith Masuda & Hobbs (GMH)

GMH earned 40 out of 50 points based on their proposal, resulting in a weighted total of 8.65 out of 10 possible points. This firm serves a limited number of public agencies, including 7 special districts, a county, and five joint powers agencies in eight different counties. While the firm has knowledge of the CKH Act, it does not have direct LAFCO experience when compared with the other firms. GMH has identified David Hobbs as LAFCO's potential legal counsel and two other attorneys as LAFCO's legal team. If selected, GMH is willing to provide their services at \$250/hour. This is the same as the County's rate of \$250/hour. WB does not have any conflict of interest relating to Santa Cruz County. The firm provided three references: Marina Coast Water District located in Monterey County, Turlock Irrigation District and Turlock Mosquito Abatement District – both located in Stanislaus County.

## Ranked #5: Lozano Smith (LS)

LS earned 42 out of 50 points based on their proposal, resulting in a weighted total of 8.60 out of 10 possible points. This firm serves hundreds of public agencies, including local agencies such as Soquel Creek Water District (special counsel), five different school districts, and UCSC. Even though the firm did not identify a conflict of interest in their proposal, LAFCO staff believes there is a significant conflict regarding UCSC due to the ongoing issue with the University's Long Range Development Plan (LRDP). Any potential conflict, regardless of the degree, may affect LAFCO's position when taking action involving the University. In addition, the firm does not have any LAFCO experience.

LS has identified Mary Lerner as LAFCO's potential legal counsel and three other attorneys as LAFCO's legal team. If selected, LS is willing to provide their services at \$250/hour. This is the same as the County's rate of \$250/hour. The firm provided three references: City of Greenfield located in Monterey County, City of Lemoore located in Kings County, and Madera County Mosquito and Vector Control District.

## Ranked #6: Hanson Bridgett (HB)

HB earned 39 out of 50 points based on their proposal, resulting in a weighted total of 8.10 out of 10 possible points. This firm serves a variety of public agencies, including local agencies such as Soquel Creek Water District (special counsel) and the Santa Cruz Metro Transit District. This firm does have experience with LAFCO, specifically helping cities and districts complete boundary changes and some LAFCO-related litigation experience. HB has identified Catherine Groves as LAFCO's potential legal counsel and two other attorneys as LAFCO's legal team. If selected, WB is willing to provide their services at \$364/hour. This is \$114 or 46% more than the County's rate of \$250/hour. While HB did not identify any conflict of interest, LAFCO staff does see a limited conflict regarding Soquel Creek Water District – similar to BBK & LS. The firm provided two references: Livermore Amador Valley Transit Authority and San Mateo County Transit District.

## **COST ANALYSIS (CURRENT VS POTENTIAL)**

As previously mentioned, qualifications and the cost of service are two critical factors when selecting a new legal counsel. The first part of this staff report summarized each legal firm. LAFCO staff would also like to provide more insight on the anticipated expenses for each potential candidate. In Fiscal Year 2020-21, staff received 72 hours of legal services from the County. For discussion purposes, staff calculated the projected annual expense of each legal firm based on their hourly rate and travel time expenses with the assumption that each legal firm provided 72-hours' worth of services and attended each meeting in-person during FY 2020-21.

Under this scenario, BBK would have been approximately \$5,400 more than the County, as shown in **Table B**. Even though the total cost would have been higher, under this hypothetical timeframe, staff believes that BBK's seven (7) member team would have provided more technical expertise during the last year on various proposals and projects including but not limited to the service review evaluations, preliminary consideration of the consolidation between two water districts, and the ongoing UCSC-City lawsuit regarding the University's Long Range Development Plan (LRDP).

Table B: Cost Analysis (In order of Projected Annual Expense)

Legal Firm	General Counsel (Hourly Rate)	Travel Cost (FY 20-21: 10 Mtgs)	Proposed Cost (FY 20-21 Total: 72 hours)	Difference (\$)	Difference (%)
White Brenner	\$225	\$0	\$16,200	-\$1,800	-10%
Current Provider: County	\$250	\$0	\$18,000	-	-
Lozano Smith	\$250	\$5,000	\$23,000	\$5,000	28%
Best, Best & Krieger	\$275	\$3,575	\$23,375	\$5,375	30%
Griffith Masuda & Hobbs	\$260	\$6,500	\$25,220	\$7,220	40%
Colantuono Highsmith & Whatley	\$250	\$8,750	\$26,750	\$8,750	49%
Hanson Bridgett	\$364	\$10,920	\$37,128	\$19,128	106%

#### STAFF RECOMMENDATION

Santa Cruz LAFCO continues to evolve. The Commission's reports and service reviews now involve more in-depth analysis while continuing to be an un-biased local government resource to agencies and the public. In addition, more controversial projects may be in the horizon, including the University's LRDP, extraterritorial service agreements, possible dissolutions and/or consolidations involving distressed special districts, and potential annexations of unincorporated islands. That is why it would benefit the Commission to consider a highly qualified legal firm that is well-verse with LAFCO law. Based on analysis conducted by staff and the personnel committee, it is recommended that BBK be selected to be LAFCO's new general counsel.

## Special Legal Counsel

Government Code Section 56384(b) states that "the Commission shall appoint legal counsel to advise it. If the Commission's counsel is subject to a conflict of interest on a matter before LAFCO, the Commission shall appoint an alternate legal counsel to advise it." Based on LAFCO law, in conjunction with potential complex projects in the near future, staff is recommending that the Commission also select CHW as LAFCO's special counsel. CHW was ranked second in staff's analysis and has extensive LAFCO knowledge. The draft contractual agreements between BBK and CHW are attached for the Commission's consideration (refer to **Attachments 2 and 3**).

Respectfully Submitted,

Joe A. Serrano Executive Officer

#### Attachments:

- 1. Weighted Criteria Ranking (Detailed Table)
- 2. General Counsel Contract with Best, Best & Krieger (Draft Version)
- 3. Special Counsel Agreement with Colantuono Highsmith & Whatley (Draft Version)

# RFP Response – Weighted Criteria (Scale 1 to 10; highest score being 10)

<b>Legal Firm</b> (Alphabetical Order)	Qualification of Firm & Personnel (30% Criteria Weight)	Budget, Retainer, and/or Rates (30% Criteria Weight)	Potential Conflicts of Interest (25% Criteria Weight)	Local & State Govt Client References (10% Criteria Weight)	Additional Information (5% Criteria Weight)	Total
Best, Best & Krieger	10	9	9	10	10	48
Criteria Weight	3	2.7	2.25	1	0.5	9.45
Colantuono H&W	10	9	8	10	10	47
Criteria Weight	3	2.7	2	1	0.5	9.20
White Brenner	8	10	10	9	8	45
Criteria Weight	2.4	3	2.5	0.9	0.4	9.20
Griffith M&H	8	9	10	8	5	40
Criteria Weight	2.4	2.7	2.5	0.8	0.25	8.65
Lozano Smith	9	9	8	8	8	42
Criteria Weight	2.7	2.7	2	0.8	0.4	8.60
Hanson Bridgett	9	7	9	7	7	39
Criteria Weight	2.7	2.1	2.25	0.7	0.35	8.10

**7B: ATTACHMENT 2** 

#### AGREEMENT FOR LEGAL SERVICES

This AGREEMENT is made and entered into by and between the Local Agency Formation Commission of Santa Cruz County, hereinafter referred to as "LAFCO", and the law firm of Best Best & Krieger LLP, hereinafter referred to as "Counsel." LAFCO and Counsel agree to the following terms and conditions by which Counsel will be engaged to represent LAFCO in connection with the provision of legal services.

#### **RECITALS**

- A. WHEREAS, LAFCO desires to obtain from Counsel all legal services which Counsel can provide in the capacity of legal counsel for LAFCO; and
- B. WHEREAS, this Agreement is entered into pursuant to the provisions of Government Code section 56384(b).

NOW, THEREFORE, LAFCO and Counsel, for the consideration hereinafter named, agree as follows:

## 1.0 **Scope of Services**

1.1 Counsel shall perform all general and specialized legal services as may be required by LAFCO and shall attend all meetings of LAFCO as well as other meetings as required.

#### 1.1.1 General Counsel Services

All services with the exception of the Special Counsel Services described in Section 1.1.2 and ARC Services as described in Section 1.1.3 shall be considered General Counsel Services for purposes of this Agreement.

### 1.1.2 Special Counsel Services

- A. Litigation and formal administrative or other adjudicatory hearing matters
- B. Labor relations and employment matters, including benefits, tax and ERISA related matters
- C. Non-routine real estate matters
- D. Land acquisition and disposal matters (including pre-condemnation)
- E. Taxes, fees and charges matters (e.g. Prop. 218 & Mitigation Fee Act)
- F. Non-routine contract negotiation matters (including non-BB&K model agreements and franchise agreements)
- G. Environmental law, water law and toxic substance matters
- H. Intergovernmental Relations and Advocacy efforts (e.g. legislative and regulatory representation) at the federal and state level.
- I. Other matters mutually agreed upon between Counsel and the Executive Officer.

#### 1.1.3 Advanced Records Center (ARC) Services

- A. Processing: Support LAFCO in the processing of public records by:
  - (i) Working with LAFCO staff, including technology staff, to identify and collect records that are responsive to public records requests
  - (ii) Using processing and review software to efficiently treat and handle paper and electronic responsive records
  - (iii) Reviewing and redacting records, uncovering complex legal questions, and analyzing records for potential significance
- B. Policy Drafting: Assist LAFCO in updating the following policies to reflect industry standards and best practices:
  - (i) Document retention policy and schedule, specifically the purging of emails and other electronic records
  - (ii) Litigation hold policy, including procedures for when and how to suspend document destruction schedule
  - (iii) Electronic devices policy, including LAFCO issued and personal devices (BYOD) as well as responsible and personal use
  - (iv) Social media policy, including responsible use and document retention
- C. Training: Provide the following training for LAFCO staff and officials:
  - (i) Overview of Public Records Act
  - (ii) Electronic devices
  - (iii) Social media (including guidance and best practices for staff and elected officials)

## 2.0 **Personnel**

- 2.1 Joshua Nelson shall serve as legal counsel to LAFCO. Mr. Nelson shall be responsible for the performance of services hereunder and shall supervise any services performed by other members of Counsel.
- 2.2 Malathy Subramanian shall provide backup to Mr. Nelson regarding the provision of legal services.
- 2.3 In addition, Mr. Nelson shall make available to LAFCO other Counsel attorneys having the requisite experience on LAFCO matters, and shall make available other Counsel attorneys services specifically requested by LAFCO or its staff.

#### 3.0 **Compensation**

3.1 General Counsel Services:

LAFCO shall compensate Counsel on an hourly basis for General Counsel Services rendered as follows:

\$275.00 per hour for all attorneys \$155.00 per hour for paralegals and clerks

3.2 LAFCO shall compensate Counsel on an hourly basis for Special Counsel Services rendered as follows:

\$325.00 per hour for all attorneys \$165.00 per hour for paralegals and clerks

3.3 LAFCO shall compensate Counsel on an hourly basis for ARC Services rendered as follows:

\$220.00 per hour for attorneys, paralegals, analysts and clerks

- 3.4 Counsel's hourly rates shall automatically increase effective for services provided by Counsel on and after July 1 of every calendar year (commencing July 1, 2024) in an amount equal to the increase in the Consumer Price Index (CPI) for the previous calendar year (January 1 through December 31) for all Urban Consumers in the Consumer Price Index, All Urban Consumers, San Francisco-Oakland-Hayward area; provided that the CPI adjustment shall be rounded up to the near full dollars, and further provided that the CPI adjustment shall not exceed four percent (4%) for any year.
- 3.5 Reimbursement of costs advanced by Counsel on LAFCO's behalf, as well as other expenses, shall be billed in addition to the amount billed for fees. These include automobile mileage at the current IRS approved rate per mile, actual expenses away from Counsel's office on LAFCO's business, and extraordinary photocopy charges. All costs will be itemized on LAFCO's monthly statement and supporting documents of the direct costs will be provided to LAFCO for payment. For purposes of mileage reimbursement to and from LAFCO meetings the parties agree that Counsel shall bill for mileage to and from its Walnut Creek office. Attorney travel time for attendance at LAFCO meetings shall be capped at 1.3 hours each meeting.
- 3.6 Counsel shall submit monthly to LAFCO a statement of account for services which clearly sets forth by date the type of work for which the billing is submitted. LAFCO shall review Counsel's monthly statements and pay Counsel for services rendered and costs incurred, as provided for in this Agreement, on a monthly basis.

## 4.0 **Insurance Coverage**

Counsel carries errors and omissions insurance with Lloyd's of London. After a standard deductible amount, this insurance provides coverage which exceeds what is required by the State of California. Counsel shall provide LAFCO with a copy of this insurance policy. Counsel agrees to notify LAFCO if this policy is cancelled or non-renewed.

## 5.0 **Mutual Cooperation**

- 5.1 Counsel has an extensive public law practice on a regional basis. Counsel represents various public agencies in Santa Cruz County. Counsel will not represent LAFCO and one of Counsel's public agency clients interacting with LAFCO unless both LAFCO and the public agency client have consented to such dual representation.
- 5.2 Counsel understands that clients interested in matters under California Rule of Professional Conduct 3-310 are clients qualifying as "affected agencies" under the Cortese-Knox-Hertzberg Act. Counsel will provide the Executive Officer notice under Rule 3-310 as clients appear on staff's work in progress matrix or as counsel otherwise becomes aware of their involvement as "affected agencies." The Executive Officer will forward such notices to the Commission prior to Commission workshops, or if no workshop occurs, with notices of hearings. The Executive Officer may acknowledge disclosures and may waive conflicts under Rule 3-310, subject to revocation by the Commission prior to the workshop or hearing.

## 6.0 Term of Agreement

This Agreement become effective on	, 2021, and shall continue until
, 2024. This Agreement may be	e extended by LAFCO with written notice
to Counsel for an additional three (3) year term	, which shall be provided by LAFCO prior
to the expiration of the then-existing term. In a	ddition, this Agreement may be terminated
without cause by either party with thirty (30) of	lays written notice to the other party.

## 7.0 **Notice of Parties**

All notices permitted or required under this Agreement notices shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

LAFCO: Local Agency Formation Commission of Santa Cruz County

701 Ocean Street, Room 318-D

Santa Cruz, CA 95060

Attention: Executive Officer

500 Capitol Mall, Suite 1700 Sacramento, CA 95818 Attention: Joshua Nelson 8.0 **Enforcement** This Agreement shall be construed and enforced in accordance with the laws of the State of California. 9.0 **Entire Agreement** This Agreement constitutes the entire written agreement for legal services between LAFCO and Counsel and may be modified only by further written agreement between the parties. Dated this \_\_\_\_\_\_, 2021. LOCAL AGENCY FORMATION COMMISSION OF SANTA CRUZ COUNTY Joe Serrano, Executive Officer **BEST BEST & KRIEGER LLP** Joshua Nelson, Partner

Best Best & Krieger LLP

Counsel:

**7B: ATTACHMENT 3** 

## COLANTUONO HIGHSMITH WHATLEY, PC

DAVID J. RUDERMAN | (530) 798-2417 | DRUDERMAN@CHWLAW.US

Our File No. 99904.0216

October 8, 2021

### VIA ELECTRONIC MAIL

Joe Serrano Executive Officer Santa Cruz LAFCo 701 Ocean Street, Room 318-D Santa Cruz, CA 95060

> Re: Representation of Local Agency Formation Commission of Santa Cruz County re Special Counsel Legal Services

Dear Joe:

As you asked, I write to propose the terms under which we agree to represent the Local Agency Formation Commission of Santa Cruz County ("you" or "LAFCo") regarding special counsel services and other matters as to which your general counsel has a conflict of interest. If we can assist you on other matters, please let me know. Colantuono, Highsmith & Whatley, PC and all of its professionals are very pleased to have the opportunity to represent you in this way.

This letter sets forth the basis upon which our firm will provide legal services to you and bill you for services and costs. The firm maintains a conflict of interest index which lists all clients of our firm and matters in which we represent them. We will not represent any party with an interest that may be adverse to an indexed person without first determining if a professional conflict of interest would arise. We propose to index the following with respect to this matter:

**Client-Affiliated Parties:** 

Santa Cruz County Local Agency Formation Commission

420 SIERRA COLLEGE DRIVE, SUITE 140, GRASS VALLEY, CALIFORNIA 95945-5091 | (530) 432-7357

GRASS VALLEY | PASADENA | SACRAMENTO | SOLANA BEACH | SONOMA

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> Parties Subject to LAFCo Jurisdiction: City of Capitola

City of Santa Cruz

City of Scotts Valley

City of Watsonville

Pajaro Valley Cemetery District

### **COUNTY SERVICE AREAS**

- 2 Place de Mer
- 3 Aptos Seascape
- 4 Pajaro Dunes
- 5 Sand Dollar/Canyon del Sol
- 7 Boulder Creek Country Club
- 9 County Public Works
- –Zone A Neighborhood Street Lighting
- —Zone B School Crossing
- Zone C Refuse Disposal
- —Zone D Road Maintenance
- –Zone E Steet/Landscaping Maintenance
- —Zone F Public Parking

- 10 Rolling Woods
- 11 County Parks
- 12 Septic Maintenance
- 13 Hutchinson Road
- 15 Huckleberry Woods
- 16 Robak Drive
- 17 Empire Acres
- 18 Whitehouse Canyon
- 20 Trestle Beach
- 21 Westdale
- 22 Kelly Hill
- 23 Old Ranch Road
- 24 Pineridge
- 25 View Point Road
- 26 Hidden Valley
- 28 Lomond Terrace
- 30 Glenwood Acres
- 32 View Circle
- 33 Redwood Drive (Aptos)

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• 34 Larsen Road

• 35 Country Estates

• 36 Forest Glen

• 37 Roberts Road

• 38 Sheriff's Patrol

• 39 Reed Street

• 40 Ralston Way

41 Loma Prieta Drive

• 42 Sunlit Lane

• 43 Bonita Encino

• 44 Sunbeam Woods

46 Pinecrest Drive

47 Braemoor Drive

• 48 County Fire

50 The Vineyard

• 51 Hopkins Gulch Road

• 52 Upper Pleasant Valley Road

• 53 County Mosquito Abatement

54 Summit West Water (Mt. Charlie)

• 55 Riverdale Park

• 56 Felton Grove

• 57 Graham Hill

58 Ridge Drive

• 59 McGaffigan Mill Road

Aromas Tri-County Fire District (in Santa Cruz, San Benito & Monterey Counties)

Ben Lomond Fire District

Boulder Creek Fire District

**Branciforte Fire District** 

Central Fire District

Felton Fire District

Pajaro Valley Fire District

Scotts Valley Fire District

Zayante Fire District

Santa Cruz Port District

Reclamation District No. 2049

Alba Recreation and Park District

Boulder Creek Recreation and Park District

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La Selva Beach Recreation

District

**Opal Cliffs Recreation District** 

Midpeninsula Regional Open

Space District

Resource Conservation District of

Santa Cruz County

**Davenport Sanitation District** 

Freedom Sanitation District

Salsipuedes Sanitation District

Santa Cruz County Sanitation

District (mid-county)

Central Water District

Pajaro Valley Water Management

Agency

San Lorenzo Valley Water District

Scotts Valley Water District

Soquel Creek Water District

Please let me know if any of these names are incorrect or misspelled, or if there are other parties with an interest that we should list such as the parties to a pending matter(s) on which you expect to seek our assistance. Unless we hear from you to the contrary, we will assume that the above listing is accurate and complete.

I have checked our firm's conflict of interest database and find no previous or current relationships that would conflict with our services to LAFCo as described above. As we have discussed, we have represented cities, joint exercise of powers authorities and special districts in Santa Cruz County, typically on public finance matters. We currently are general counsel to the Pajaro Regional Flood Protection Authority, a joint powers authority of Monterey and Santa Cruz Counties, Watsonville and the two Counties' flood control agencies charged with operating flood control improvements on the Pajaro River. We also and represent the City of Santa Cruz in ratemaking and associated litigation. As you assign each task to us, we will determine if a conflict of interest arises and, if so, whether and how it can be resolved. We will avoid work for cities and special districts touching on LAFCo's responsibilities to allow our firm to continue to assist you, but some assignments may require written consents of both LAFCo and another client of our firm under the Rules of Professional Conduct which govern the practice of law in California.

As we have discussed, the nature of the matter makes it impossible for us to precisely estimate the fees you may incur. You will receive monthly statements informing

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you of the fees and costs incurred during the prior month. We will, of course, do our best to represent you efficiently and without undue expense.

Please make payments payable to Colantuono, Highsmith & Whatley, PC directly to our Grass Valley office at:

Colantuono, Highsmith & Whatley, PC 420 Sierra College Drive, Suite 140 Grass Valley, CA 95945-5091

Our federal employer identification number is 75-3031545.

I will have primary responsibility for your representation, and the firm will use other attorneys and legal assistants in the best exercise of our professional judgment. If you have questions, concerns or criticisms at any time, please contact me at once. Naturally, we expect you to keep us reasonably informed of all significant developments regarding this representation.

This letter agreement has a term of two years from the date you execute it and you have an option to renew it for a third year should you wish to do so.

We review all statements before they are issued to ensure the amount charged is appropriate. The statement for fees is simply the product of the hours worked multiplied by the hourly rates for the attorneys and legal assistants who did the work.

Our hourly rates are based upon the experience, reputation and ability of the lawyer or legal assistant performing the services, and for 2021 range between \$220 and \$525 per hour for attorneys' time, and between \$125 and \$170 for the time of paralegals and legal assistants. As a courtesy to you, however, we agree to cap our rates to LAFCo at \$325 per hour for advisory services and \$350 per hour for litigation services. Our rate structure in general and the rates of particular lawyers may be increased from time to time, and are usually adjusted as of the beginning of each calendar year.

It may be necessary to bill you for items such as, but not limited to, authorized travel, long distance telephone calls, filing fees, photocopying, computerized legal research outside the scope of our Westlaw contract and the like. These items are

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separately itemized on our statement as "disbursements." These amounts will be billed in addition to our fees.

We will send you monthly statements, and expect payment within 15 days of the billing date. If payment is not received within 30 days of the billing date, we reserve the right to charge interest on the unpaid balance at the rate of 1% per month and to terminate our representation.

We rarely have disputes with clients over our fees. Nevertheless, you should be aware that you are entitled to require that any fee dispute be resolved by binding arbitration pursuant to the arbitration rules for legal fee disputes of the County Bar Association in any county in which we maintain an office. We agree that all disputes between us regarding the services rendered or fees charged not resolved via County Bar fee arbitration will be submitted to binding arbitration in San Francisco or San Jose to be conducted by ADR Services, Inc. in accordance with its commercial arbitration rules. YOU SHOULD REVIEW THIS PARAGRAPH CAREFULLY AND, IF YOU WISH, SEEK INDEPENDENT LEGAL COUNSEL REGARDING IT, AS YOU AND WE ARE AGREEING TO FOREGO SIGNIFICANT RIGHTS IN THE EVENT OF A DISPUTE BETWEEN US, INCLUDING THE RIGHT TO A JURY TRIAL.

You have the right to terminate our representation at any time. We have the same right, subject to an obligation to give you reasonable notice to arrange alternative representation. In either circumstance, you agree to secure new counsel to represent you as quickly as possible and to cooperate fully in the substitution of the new counsel as counsel of record in any litigation in which we may subsequently agree to represent you. Notwithstanding the termination of our representation, you will remain obligated to pay to us all fees and costs incurred previously.

You agree that we may, in our discretion, maintain all or part of your client file in electronic format. The firm may store part or all of your documents using secure cloud storage services. If so, the firm will apply all reasonable methods to maintain the confidentiality of your files, just as it does for your non-digital information. Your data will be password protected and encrypted using currently available technology. Clients requiring information from their files may obtain that information only by written request to us.

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You also agree that following termination of our attorney-client relationship, we will not be required to maintain your client file for more than two years. If you ask us to deliver your file to you, you agree that delivery of an electronic version, together with any materials that cannot be saved electronically, satisfies our obligation to release all your client papers and property to you. Two years after termination of our relationship, and after reasonable notice, you agree that we will be free to destroy your client file, including all electronic records. We may also discharge our obligation to maintain your file before two years expire by mailing a copy to you at your address last known to us. You agree that "reasonable notice" means our mailing a notice of our intent to destroy your client file to you at that address.

I apologize for the formality of this letter, but we are required by California law to provide this information to you in writing. We are also required to inform you that we currently maintain professional liability insurance coverage.

Please review the foregoing and, if it meets with your approval, execute it and return it to me. If you have any questions, please feel free to call me at the direct-dial number above. Thank you for the opportunity to represent you!

Sincerely,

nan Rus-

David J. Ruderman

DJR:djr

c: Michael G. Colantuono, Esq.

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On behalf of the Local Agency Formation Commission of Santa Cruz County, I agree to retain Colantuono, Highsmith & Whatley, PC to provide legal services as set forth above.

	Date:	, 2021
Signature		
By:		
Title:		

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### **Santa Cruz Local Agency Formation Commission**

Date: November 3, 2021
To: LAFCO Commissioners

From: Joe Serrano, Executive Officer
Subject: Multi-Year Work Program Update

### **SUMMARY OF RECOMMENDATION**

Government Code Section 56425 requires LAFCO to review and update each sphere of influence every five years. Pursuant to Government Code Section 56430, a service review shall either be conducted before or in conjunction with the sphere update. The adoption of the multi-year work program back in November 2019 indicates when the next round of service and sphere reviews will be conducted for each city and district until 2024.

It is recommended that the Commission approve the scheduled service and sphere reviews for the 2022 calendar year.

#### **EXECUTIVE OFFICER'S REPORT:**

At present, there are 80 agencies that are subject to Santa Cruz LAFCO's purview: 4 cities, 22 independent special districts, and 54 other districts (primarily county service areas). This year, the Commission adopted 4 service reviews under the multi-year work program that analyzed 1 city, 1 water district, 4 park districts, and 13 fire agencies. The scheduled service reviews between 2020 to 2024 are shown in **Attachment 1**. The adopted schedule ensures that this Commission is up-to-date and in compliance with LAFCO law. In order to continue fulfilling this state mandate, LAFCO staff has identified 41 public agencies that require review in 2022. A total of three separate reports will be completed next year to evaluate the 41 public agencies, as shown below.

Table A: Proposed Service & Sphere Reviews in 2022

Agency	Commission Meeting (Proposed Hearing Date)	
City of Capitola	May 4	
Water Districts (6 in total)	August 3	
Road Maintenance CSAs (34 in total)	November 2	

Respectfully Submitted

Joe A. Serrano Executive Officer

Attachment: Adopted Service & Sphere Review Multi-Year Work Program

## Service Review Work Program (2020 to 2024) Adopted on November 6, 2019

	Last Service Review Cycle	Next Service Review Cycle
Cities		
Capitola	August 2017	August 2022
Santa Cruz	December 2018	December 2023
Scotts Valley	October 2016	October 2021
Watsonville	April 2018	April 2023
Cemetery District		
Pajaro Valley	April 2015	March 2020
County Service Areas		
CSA 2 (Place de Mer)	October 2019	October 2024
CSA 3 (Aptos Seascape)	June 2019	June 2024
CSA 4 (Pajaro Dunes)	October 2016	October 2021
CSA 5 (San Dollar/Canyon del Sol)	October 2019	October 2024
CSA 7 (Boulder Creek Country Club)	October 2019	October 2024
CSA 9 (County Public Works)	July 2015	May 2020
CSA 10 (Rolling Woods)	October 2019	October 2024
CSA 11 (County Parks)	May 2018	May 2023
CSA 12 (Septic Maintenance)	August 2018	August 2023
CSA 13 (Hutchinson Road)	July 2017	July 2022
CSA 15 (Huckleberry Woods)	July 2017	July 2022
CSA 16 (Robak Drive)	July 2017	July 2022
CSA 17 (Empire Acres)	July 2017	July 2022
CSA 18 (Whitehouse Canyon)	July 2017	July 2022
CSA 20 (Trestle Beach)	October 2019	October 2024
CSA 21 (Westdale)	July 2017	July 2022
CSA 22 (Kelly Hill)	July 2017	July 2022
CSA 23 (Old Ranch Road)	July 2017	July 2022
CSA 24 (Pineridge)	July 2017	July 2022
CSA 25 (View Point Road)	July 2017	July 2022
CSA 26 (Hidden Valley)	July 2017	July 2022
CSA 28 (Lomond Terrace)	July 2017	July 2022
CSA 30 (Glenwood Acres)	July 2017	July 2022
CSA 32 (View Circle)	July 2017	July 2022
CSA 33 (Redwood Drive)	July 2017	July 2022
CSA 34 (Larsen Road)	July 2017	July 2022
CSA 35 (Country Estates)	July 2017	July 2022
CSA 36 (Forest Glen)	July 2017	July 2022
CSA 37 (Roberts Road)	July 2017	July 2022
CSA 38 (Sheriff's Patrol)	August 2018	August 2023
CSA 39 (Reed Street)	July 2017	July 2022
CSA 40 (Ralston Way)	July 2017	July 2022
CSA 41 (Loma Prieta Drive)	July 2017	July 2022
CSA 42 (Sunlit Lane)	July 2017	July 2022
CSA 43 (Bonita Encino)	July 2017	July 2022
CSA 44 (Sunbeam Woods)	July 2017 July 2017	July 2022
CSA 46 (Pinecrest Drive)	July 2017 July 2017	July 2022
CSA 47 (Braemoor Drive)	July 2017 July 2017	July 2022
CSA 48 (County Fire)	June 2018	June 2023
CSA 50 (The Vineyard)	July 2017	July 2022
CSA 50 (The Vineyard) CSA 51 (Hopkins Gulch Road)	July 2017 July 2017	July 2022 July 2022
CSA 52 (Upper Pleasant Valley Road)	July 2017 July 2017	July 2022 July 2022
CSA 53 (County Mosquito Abatement)	·	
COA DO (County Mosquito Abatement)	October 2018	October 2023

## Service Review Work Program (2020 to 2024) Adopted on November 6, 2019

	Last Service	Next Service
	Review Cycle	Review Cycle
CSA 54 (Summit West Water)	July 2017	July 2022
CSA 55 (Riverdale Park)	July 2017	July 2022
CSA 56 (Felton Grove)	July 2017	July 2022
CSA 57 (Graham Hill)	June 2019	June 2024
CSA 58 (Ridge Drive)	July 2017	July 2022
CSA 59 (McGaffigan Bill Road)	July 2017	July 2022
CSA 60 (Huckleberry Island)	July 2017	August 2020
Fire Districts	<del>July 2013</del>	August 2020
Aptos/La Selva	October 2016	October 2021
Aromas Tri-County	October 2016	October 2021
Ben Lomond	October 2016	October 2021
Boulder Creek	October 2016	October 2021
Branciforte	October 2016	October 2021
Central	June 2018	June 2023
Central Fire District of Santa Cruz County	N/A	October 2021
Felton	October 2016	October 2021
Pajaro Valley	October 2016 October 2016	October 2021
Scotts Valley	October 2016 October 2016	October 2021
Zayante		
Port District	October 2016	October 2021
Santa Cruz Port District	July 2010	1 2024
Reclamation District	July 2019	July 2024
No. 2049	Navarahar 2017	Navanahar 2022
Recreation and Park Districts	November 2017	November 2022
	NA 1 2046	M 1 2024
Alba	March 2016	March 2021
Boulder Creek	March 2016	March 2021
La Selva Beach	March 2016	March 2021
Opal Cliffs	March 2016	March 2021
Resource Conservation District		
Resource Conservation Districts of Santa Cruz County	July 2015	July 2020
Regional Open Space District		
Midpeninsula Regional Open Space District	November 2019	November 2024
Sanitation Districts		
Davenport	October 2019	October 2024
Freedom	October 2019	October 2024
Salsipuedes	October 2019	October 2024
Santa Cruz County	October 2019	October 2024
Water Districts		
Central	August 2017	August 2022
Pajaro Valley Water Management Agency	November 2017	November 2022
San Lorenzo Valley	July 2014	November 2020
Scotts Valley	October 2016	October 2021
Soquel Creek	May 2017	May 2022

## <u>Footnotes</u>

- $(1) \ Proposed \ dates \ may \ be \ subject \ to \ change \ but \ shall \ occur \ within \ that \ designated \ year$
- (2) CSA 60 was dissolved on 2/3/21
- (3) Aptos/La Selva FPD and Central FPD were consolidated on 2/4/21

Agenda Item No. 7d



## **Santa Cruz Local Agency Formation Commission**

Date: November 3, 2021
To: LAFCO Commissioners

From: Joe Serrano, Executive Officer

Subject: LAFCO Meeting Schedule for 2022

#### SUMMARY OF RECOMMENDATION

Each year, LAFCO approves a meeting schedule for the upcoming year. This type of action informs the Commission, local agencies, and the general public when the next regular LAFCO meetings will be held.

It is recommended that the Commission adopt the meeting schedule for the 2022 calendar year.

#### **EXECUTIVE OFFICER'S REPORT:**

LAFCO normally meets at 9:00am on the first Wednesday of each month. The attached draft meeting schedule outlines next year's anticipated regular LAFCO meetings, with the following exceptions:

- **February 8, 2022** LAFCO Meeting will be held on the second Wednesday to address a scheduling conflict with staff;
- July 6, 2022 No LAFCO Meeting will be held to allow a summer recess; and
- December 7, 2022 No LAFCO Meeting will be held to allow a holiday recess.

The Commission may set special meetings in accordance with the Commission's adopted policies, if needed. Due to the ongoing pandemic, the Commission may continue utilizing online platforms, such as Zoom, in order to conduct meetings remotely. This virtual approach is consistent with the guidelines from the California Department of Public Health, the Governor's Executive Orders, and Assembly Bill 361.

Respectfully Submitted,

Joe A. Serrano Executive Officer

Attachment: LAFCO Meeting Schedule for 2022 (draft version)



**Local Agency Formation Commission of Santa Cruz County** 

## 2022 SCHEDULE OF REGULAR LAFCO MEETINGS

(Approved on November 3, 2021)

January 5

February 9

March 2

April 6

May 4

June 1

July - No Meeting

August 3

September 7

October 5

November 2

December - No Meeting

All regular meetings begin at 9:00am and are typically held in the Board of Supervisors Chambers, located on the fifth floor of the County Governmental Center – 701 Ocean Street (Room 525), Santa Cruz CA

## **VIRTUAL LAFCO MEETINGS**

LAFCO Meetings may be conducted remotely in light of the ongoing pandemic.

Based on guidance from the California Department of Public Health, the
California Governor's Office, and Assembly Bill 361, Santa Cruz LAFCO has
established a temporary virtual meeting process in order to minimize the spread
of the COVID-19 virus.



#### **Santa Cruz Local Agency Formation Commission**

Date: November 3, 2021

To: LAFCO Commissioners

From: Joe Serrano, Executive Officer

**Subject:** Comprehensive Quarterly Report – First Quarter (FY 2021-22)

### SUMMARY OF RECOMMENDATION

This report provides an overview of projects currently underway, the status of the Commission's Multi-Year Work Program, the financial performance of the annual budget, and staff's outreach efforts from July through September. This agenda item is for informational purposes only and does not require any action. Therefore, it is recommended that the Commission receive and file the Executive Officer's report.

#### **EXECUTIVE OFFICER'S REPORT**

The Cortese-Knox-Hertzberg Act delegates LAFCOs with regulatory and planning duties to coordinate the logical formation and development of local governmental agencies. The following sections summarize how several of these statutory mandates are being met through the consideration of boundary changes, the development of scheduled service reviews, and staff's ongoing collaboration with local agencies.

### **Active Proposals**

Santa Cruz LAFCO currently has two active applications:

1. <u>"Deer Path Road Annexation" to County Service Area 10 (Project No. DA 21-14)</u>: The proposed annexation and concurrent sphere amendment was initiated by landowner petition on May 10, 2021. The subject area includes six parcels totaling 4 acres. The purpose of the application is for the discontinuation of existing septic tanks and the connection to CSA 10's sewer infrastructure.

**Latest Status:** A hearing date was scheduled for November 3. If approved, there are still several statutory steps before the annexation can be finalized, including a 30-day request for reconsideration period. Staff anticipates recording the annexation mid-December.

2. "Roaring Camp Annexation" (Project No. 967): This application was initiated by landowner petition on March 4, 2019 and proposes to annex approximately 170 acres to the San Lorenzo Valley Water District. The purpose of the annexation is to provide water service to an unincorporated area commonly known as Roaring Camp.

**Latest Status:** The applicant only needs to submit a map and legal description in order for LAFCO to deem the proposal complete. If the required documentation is not submitted by December, staff may consider terminating the application due to inactivity.

## Multi-Year Work Program (Service Reviews)

A five-year work program was adopted in 2019 to ensure that service reviews for each local agency under LAFCO's purview are considered within the legislative deadline. This year, a total of 19 local agencies were evaluated in 4 separate service and sphere reviews. Below is a status update on each scheduled report for the 2021 calendar year.

1. City of Scotts Valley – This City was incorporated in 1966 and operates as a general law city. The City contains approximately five square miles of land and provides various municipal services, including but not limited to police, animal control, wastewater treatment, and stormwater management.

<u>Tentative Hearing Date</u>: A service and sphere review was adopted by the Commission on March 3.

2. Scotts Valley Water District – This water district was formed in 1961 and operates pursuant to the County Water District Act. The District provides water service to approximately 4,000 connections in a six square-mile service area.

<u>Tentative Hearing Date</u>: A service and sphere review was adopted by the Commission on May 5.

3. Recreation & Park Districts (4 in total) – The four recreation and park districts in Santa Cruz County are Alba Park, Boulder Creek, La Selva Beach, and Opal Cliffs. These districts operate pursuant to the Recreation and Park District Law.

<u>Tentative Hearing Date</u>: A service and sphere review for all four districts was adopted by the Commission on August 4.

4. Fire Protection Districts (13 in total) – The 9 fire districts in Santa Cruz County are Aromas Tri-County, Ben Lomond, Boulder Creek, Branciforte, Central, Felton, Pajaro Valley, Scotts Valley, and Zayante Fire Protection Districts. The Cities of Santa Cruz and Watsonville, and two county service areas (CSA 4 and 48) also provide fire protection services and were evaluated in this countywide fire report.

<u>Tentative Hearing Date</u>: A service and sphere review for all 13 fire agencies was adopted by the Commission on October 13.

#### **Budget Report**

The first quarter of Fiscal Year 2021-22 ended on September 30, 2021. During this three-month period, the Commission received \$404,838 in revenue. A total of \$239,550 is also available as unrestricted revenue from the Commission's Fund Balance. In total, this first quarter amount represents approximately 100% of the anticipated revenue for the entire year. During the same period, the Commission incurred \$137,139 in total expenses which represents 21% of estimated costs for the entire year.

A detailed review of LAFCO's financial performance during the first quarter (July to September) is attached to this report (refer to **Attachment 1**).

## Recent & Upcoming Meetings

LAFCO staff values the collaboration with local agencies, members of the public, and other LAFCOs to explore and initiate methods to improve efficiency in the delivery of municipal services. In light of the ongoing pandemic, staff conducted most meetings remotely to discuss current and/or upcoming LAFCO projects. A summary of those and more recent meetings are discussed below.

- 1. <u>Santa Cruz County Parks (Countywide Park & Rec Report)</u>: LAFCO staff met with representatives from County Service 11 on July 8th. CSA 11 provides park services to areas outside the 4 existing park and recreation districts. This meeting focused on the County's current contractual agreement with Opal Cliffs Recreation District. Under this agreement, the County provide administrative services to the District.
- 2. <u>Central Fire District (Educational Workshop)</u>: LAFCO staff attended the District's board meeting on July 8th to inform them about the August 11th educational workshop tailored specifically for independent special districts.
- **3.** <u>Scotts Valley Water District (Educational Workshop)</u>: LAFCO staff attended the District's board meeting on July 8th to inform them about the upcoming workshop.
- 4. <u>California Special Districts Association (Educational Workshop)</u>: LAFCO staff met with CSDA representatives on July 13th to discuss the free virtual session and finalize the order of the presentations.
- **5.** <u>Scotts Valley Fire Protection District (Educational Workshop)</u>: LAFCO staff attended the District's board meeting on July 14th to inform them about the workshop.
- **6.** Pajaro Valley Fire Protection District (Educational Workshop): LAFCO staff attended the District's board meeting on July 15th to inform them about the workshop.
- 7. <u>Felton Fire Protection District (Educational Workshop)</u>: LAFCO staff attended the District's board meeting on July 19th to inform them about the upcoming workshop.
- **8.** <u>Soquel Water District (Educational Workshop)</u>: LAFCO staff attended the District's board meeting on July 20th to inform them about the upcoming workshop.
- 9. <u>Ben Lomond Fire Protection District (Educational Workshop)</u>: LAFCO staff attended the District's board meeting on July 21st to inform them about the workshop.
- 10. <u>Santa Cruz Civil Grand Jury (LAFCO 101)</u>: LAFCO staff attended the Grand Jury's board meeting on August 3rd to provide them an overview of LAFCO's responsibilities and purview within the county. This was an opportunity to answer any questions and discuss the synergy between LAFCO and the Grand Jury.
- 11. <u>CALAFCO's New Legislative Liaison (Santa Cruz LAFCO)</u>: LAFCO staff met with CALAFCO's Executive Director on August 5th to discuss the role and responsibilities as the new legislative liaison. Responsibilities include updating the CALAFCO Board and all LAFCOs about the omnibus bill's status during the entire legislative process.

- 12. <u>Branciforte Fire Protection District (Community Residents)</u>: LAFCO staff met with residents from the Branciforte community on August 10th to discuss LAFCO's initial findings and recommendations regarding the fire district. This was an opportunity for the residents to learn more about LAFCO and the upcoming countywide fire report.
- **13.** CSDA/LAFCO Webinar (Educational Workshop): LAFCO staff co-hosted a virtual workshop with CSDA on August 11th. A total of 70 district representatives signed up for the free workshop, including approximately 30 board members and 12 general managers/fire chiefs. The remaining 28 attendees included other district representatives.
- **14.** Supervisor Manu Koenig's Office (Branciforte): LAFCO staff met with Supervisor Manu Koenig and his staff on August 16th to discuss LAFCO's initial findings from the draft countywide fire report regarding the Branciforte Fire Protection District.
- **15.** Opal Cliffs Recreation District (Countywide Park & Rec Report): LAFCO staff attended the District's board meeting on August 17th. During the meeting, the Board unanimously adopted a resolution to initiate the dissolution process as a result of LAFCO's recommendation found in the countywide park and recreation report.
- **16.** Branciforte Fire Protection District (Countywide Fire Report): LAFCO staff attended the District's board meeting on August 19th. This was an opportunity to hear how the District will assume administrative responsibilities once the contract with Scotts Valley Fire Protection Districts ends in September 2021.
- 17. Santa Clara LAFCO (Countywide Fire Report): LAFCO staff attended Santa Clara LAFCO's virtual session on August 25th which focused on their upcoming fire report. The session was an opportunity for local agencies and members of the public to provide input as Santa Clara LAFCO and their hired consultant begin their efforts to produce a comprehensive report analyzing how fire protection is currently provided within Santa Clara County.
- **18.** Branciforte Fire Protection District (Community Residents): LAFCO staff met with residents from the Branciforte community on August 26th to discuss LAFCO's initial findings and recommendations regarding the fire district. This was an opportunity for the residents to learn more about LAFCO and the upcoming countywide fire report.
- 19. <u>Alba Park & Recreation District (Countywide Park & Rec Report)</u>: LAFCO staff met with representatives from the District on August 27th to discuss LAFCO's findings and recommendations from the recently adopted Countywide Park & Recreation Service and Sphere Review. The meeting focused on whether the District could develop a detailed plan to address all the issues found in LAFCO's report.
- **20.** Branciforte Fire Protection District (Countywide Fire Report): LAFCO staff attended the District's special board meeting on August 31st. This was an opportunity for the District to address the concerns identified by LAFCO and its constituents. The meeting included a facilitator who identified key issues that the District must tackle once the contract with Scotts Valley Fire Protection District ends.

- **21.** Supervisor Manu Koenig Community Outreach (Branciforte): LAFCO staff attended the Supervisor Koenig's community meeting on September 1st. This was an opportunity for representatives from the Branciforte Fire Protection District and Supervisor Koenig's office to address concerns by the residents regarding the level of service as the District prepares to assume all administrative responsibilities.
- **22.** CALAFCO Annual Conference Decision (CALAFCO Board): LAFCO staff attended CALAFCO's special board meeting on September 2nd. During the meeting, the CALAFCO Board decided to cancel the annual conference due to the ongoing pandemic.
- 23. <u>CALAFCO Legislative Committee (Omnibus Bill)</u>: LAFCO staff attended CALAFCO's legislative committee meeting on September 10th. During the meeting, LAFCO staff provided an overview of the omnibus bill process.
- **24.** Branciforte Fire Protection District (Countywide Fire Report): LAFCO staff attended the District's board meeting on September 16th. During the meeting, the Board unanimously approved the hiring of an interim part-time fire chief (name was not announced).
- 25. <u>LAFCO Personnel Committee (Legal Services)</u>: LAFCO staff met with the Commission's Personnel Committee on September 22nd. The committee consists of Commissioners Justin Cummings and Roger Anderson. During the meeting, the committee discussed the results of the Request for Proposal that was sent out in July. A total of six legal firms expressed interest in becoming LAFCO's new legal counsel.
- 26. <u>University of California, Santa Cruz (Long Range Development Plan)</u>: LAFCO staff attended the Regent's board meeting on September 29th. Prior to the meeting, LAFCO staff resubmitted two comment letters previously sent by the Commission which outlined LAFCO's statutory authority over the delivery of municipal services in areas outside the City of Santa Cruz. During the meeting, the Board unanimously approved 2040 Long Range Development Plan.

Respectfully Submitted,

Joe A. Serrano Executive Officer

Attachment:

1. LAFCO FY 2021-22 Budget Review (First Quarter – July to September)

FISCAL YEAR 2021-22		FY 21-22 First Qtr. (Jul - Sep)		FY 21-22 Adopted Budget		ifference	Budget Line Item Notes	
						(\$)		
REVENUES DESCRIPTION	U	ui - Scpj		Duuget				
Interest	\$	212	\$	3,000	\$	2,788	Anticipated Funds	
interest			Ψ				Surplus Funds Pay	
Contributions from Other Govt Agencies	\$	401,800	\$	399,300	\$	(2,500)	Auditor-Controller Fees	
LAFCO Processing Fees	\$	2,500	\$	-	\$	(2,500)	Filing fee for DA 21-14	
Medical Charges-Employee	\$	325	\$	-	\$	325	Surplus Funds	
Re-budget from Fund Balance	\$		\$	239,550	\$	239,550	Net Position Funds (if needed)	
TOTAL REVENUES	<u>\$</u>	404,838	\$	641,850	\$	237,663	Additional Funds in Total Revenue	
EXPENDITURES DESCRIPTION								
Regular Pay	\$	42,610	\$	220,000	\$	177,390	Remaining Funds	
Overtime Pay	\$	-	\$	-	\$	-	Remaining Funds	
Extra Help	\$	-	\$	-	\$	-	Remaining Funds	
Sick Leave	\$	-	\$	1,000	\$	1,000	Remaining Funds	
Holiday Pay	\$	1,549	\$	10,000	\$	8,451	Remaining Funds	
Social Security	\$	3,433	\$	18,000	\$	14,567	Remaining Funds	
PERS	\$	65,254	\$	68,000	\$	2,746	Overbudget Amount	
Insurances	\$	10,688	\$	50,000	\$	39,312	Remaining Funds	
Unemployment	\$	-	\$	450	\$	450	Remaining Funds	
Workers Comp	\$	156	\$	1,000	\$	844	Remaining Funds	
Salaries Sub-total	\$	123,690	\$	368,450	\$	244,760	Remaining Funds in Salaries & Benefits	
							Salaries & Delicits	
Telecom	\$	114	\$	2,000	\$	1,886	Remaining Funds	
Office Equipment	\$	13	\$	200	\$	187	Remaining Funds	
Memberships	\$	4,766	\$	7,500	\$	2,734	Remaining Funds	
Hardware	\$	-	\$	300	\$	300	Remaining Funds	
Duplicating	\$	125	\$	1,000	\$	875	Remaining Funds	
PC Software	\$	-	\$	600	\$	600	Remaining Funds	
Postage	\$	110	\$	800	\$	690	Remaining Funds	
Subscriptions	\$	-	\$	500	\$	500	Remaining Funds	
Supplies	\$	=	\$	1,000	\$	1,000	Remaining Funds	
Accounting	\$	-	\$	1,500	\$	1,500	Remaining Funds	
Attorney	\$	6,563	\$	150,000	\$	143,438	Remaining Funds	
Data Process GIS	\$	284	\$	12,000	\$	11,716	Remaining Funds	
Director Fees	\$	715	\$	6,000	\$	5,285	Remaining Funds	
Surveyor	\$	-	\$	-	\$	-	Remaining Funds	
Prof. Services	\$	-	\$	50,000	\$	50,000	Remaining Funds	
Legal Notices	\$	410	\$	7,000	\$	6,590	Remaining Funds	
Rents	\$	-	\$	9,000	\$	9,000	Remaining Funds	
Misc. Expenses	\$	350	\$	5,000	\$	4,650	Remaining Funds	
Books	\$	-	\$	-	\$	-	Remaining Funds	
Air Fare	\$	-	\$	3,000	\$	3,000	Remaining Funds	
Auto Rental	\$	-	\$	200	\$	200	Remaining Funds	
Training	\$	-	\$	1,800	\$	1,800	Remaining Funds	
Lodging	\$	-	\$	5,200	\$	5,200	Remaining Funds	
Meals	\$	-	\$	500	\$	500	Remaining Funds	
Mileage	\$	-	\$	3,000	\$	3,000	Remaining Funds	
Travel-Other	\$	-	\$	300	\$	300	Remaining Funds	
Registrations	\$	-	\$	5,000	\$	5,000	Remaining Funds	
Supplies Sub-total	\$	13,449	\$	273,400	\$	259,951	Remaining Funds in Services & Supplies	
TOTAL EXPENDITURES	<u>\$</u>	137,139	<u>\$</u>	641,850	\$	504,711	Remaining Funds in Total Expenditures	

Agenda Item No. 9a



#### **Santa Cruz Local Agency Formation Commission**

Date: November 3, 2021
To: LAFCO Commissioners

From: Joe Serrano, Executive Officer

Subject: Press Articles during the Months of September and October

### SUMMARY OF RECOMMENDATION

LAFCO staff monitors local newspapers, publications, and other media outlets for any news affecting local agencies or LAFCOs around the State. Articles are presented to the Commission on a periodic basis. This agenda item is for informational purposes only and does not require any action. Therefore, it is recommended that the Commission receive and file the Executive Officer's report.

#### **EXECUTIVE OFFICER'S REPORT**

The following is a summary of recent press articles. Full articles are attached.

Article #1: "Scotts Valley Interim City Manager Comes in With Wealth of Experience": The article, dated September 17, highlights the City's recent hiring of Brian Haddix as the Interim City Manager. Mr. Haddix is a retired municipal employee who has held high staff-level positions such as City Manager and City Administrator for the Cities of Sanger in Fresno County and Chowchilla in Madera County, respectively. He will be Scotts Valley's Interim City Manager until a permanent replacement is selected.

Article #2: "Contra Costa County and East Contra Costa Fire Board Give Greenlight to Fire District Annexation Plan": The article, dated September 20, indicates that two fire districts in Contra Costa County have agreed to reorganize by adopting similar resolutions. Under this joint effort, the East Contra Costa Fire Protection District will dissolve and the dissolved area will be concurrently annexed into the Contra Costa County Fire Protection District. Benefits of the proposed reorganization are expected to include more coordinated, cohesive and streamlined fire and emergency services as well as better alignment of firefighting models across districts that could net both increased fire services and improved firefighter safety.

Article #3: "Monterey Peninsula water officials OK costs for repeated studies": The article, dated September 21, explains that a water district in Monterey County will be conducting a feasibility study to determine the District's financial ability to buy out a privately-owned water company and deliver water to the affected residents. If feasible, Monterey Peninsula Water District will submit an annexation application to Monterey LAFCO to assume the California American Water Company's responsibility and provide water services to approximately 94,000 residents.

Article #4: "Regents approve 20-year growth plan of UC Santa Cruz": The article, dated September 30, notes that the University of California Regents approved the University's Long Range Development Plan. The primary goal of this plan is to address the growing student population by securing more housing opportunities. At present, UCSC houses 50% of its students on campus. As the Commission is aware, staff does not oppose the plan's goals; however, staff continues to reiterate that LAFCO has a statutory role if the University desires to receive municipal services from the City of Santa Cruz for any developments outside the city limits.

Article #5: "Former Santa Cruz mayor announces county supervisor candidacy": The article, dated October 6, states that Santa Cruz City Councilmember Justin Cummings has announced his intention to run for County Board of Supervisor. Current District 3 Supervisor Ryan Coonerty announced earlier this year that he will not be running for reelection in 2022.

Article #6: "County Board of Supervisors responds to CZU Complex grand jury report": The article, dated October 7, indicates that the County Board of Supervisors responded to the Civil Grand Jury's fire report titled "The CZU Lightning Complex Fire – Learn...or Burn?" This fire report was released in June 2021 and evaluated the lessons learned from the wildfire's aftermath.

Article #7: "Interim Zayante Fire Chief Hopes to Improve Station": The article, dated October 10, summarizes Interim Fire Chief Dan Walters' plans to improve Zayante FPD's fire station and internal operations. Chief Walters replaced long-serving Fire Chief John Stipes earlier this year.

Article #8: 8. "Report: Fixes, kudos for 13 Santa Cruz fire agencies": The article, dated October 13, discusses LAFCO's statutorily-required service and sphere review which analyzed all the fire agencies within the county. The article highlighted the Commission's key findings from the countywide fire report.

Article #9: "Public Law Newsletter – Fall 2021 Edition": LAFCO staff receives periodic newsletters from Colantuono, Highsmith & Whatley PC, a law firm familiar with LAFCO and the Cortese-Knox-Hertzberg Act. This edition focuses on a number of interesting topics including but not limited to the approval of Senate Bill 323. This bill requires legal challenges towards water and sewer rates that were "adopted, modified or amended after January 1, 2022" to be filed as validation suits within 120 days.

Respectfully Submitted,

Joe A. Serrano Executive Officer

#### Attachments:

- 1. "Scotts Valley Interim City Manager Comes in With Wealth of Experience"
- 2. "Contra Costa County and East Contra Costa Fire Board Give Greenlight to Fire District Annexation Plan"

- 3. "Monterey Peninsula water officials OK costs for repeated studies"
- 4. "Regents approve 20-year growth plan of UC Santa Cruz"
- 5. "Former Santa Cruz mayor announces county supervisor candidacy"
- 6. "County Board of Supervisors responds to CZU Complex grand jury report"
- 7. "Interim Zayante Fire Chief Hopes to Improve Station"
- 8. "Report: Fixes, kudos for 13 Santa Cruz fire agencies"
- 9. "Public Law Newsletter Fall 2021 Edition"

## Scotts Valley Interim City Manager Comes in With Wealth of Experience

By: Drew Penner

3-4 minutes

Scotts Valley has hired an interim city manager, as it begins its search for a permanent replacement for <u>Tina Friend</u>, who recently took the city manager position in Coronado.

Brian Haddix, a retired long-time municipal employee from the Central Valley, says he's thrilled to be here and help out in the meantime.

"It's a wonderful community," he said. "I hope to do it justice."

Scotts Valley has retained Bob Murray & Associates to scour job boards for the long-term manager, but Mayor Derek Timm says he's excited about having Haddix, for now.

"We're actually feeding off of his experience," he said. "I'm learning from him already."

During a Tuesday meeting, according to Timm, Haddix was able to contribute some interesting ideas toward a discussion of how to keep the Town Center plan moving forward.

"I love that we have that opportunity to have him here," he said.

"There's a lot for him to tackle, for sure."

Haddix was raised in Fresno.

He served as an undersecretary at the California Environmental Protection Agency, starting in 1999, before going on to work as an administrator of Tulare County, then Butte County.

Later, he helped run the city of Sanger in Fresno County as a city

manager, and the city of Chowchilla in Madera County as a city administrator.

Haddix says one of his strategies is to keep businesses front and center.

"You can't have a healthy city unless you consider the business community as your partner," he said. "We help and reinforce each other."

But he says there will be other things that will be top of mind for him, too, such as rebuilding the Parks and Recreation Department, and ensuring childcare options are maintained—something he says will be increasingly important in the work-from-home age.

Haddix has also been working as a lecturer at Cal State Fresno as part of the Masters in Public Administration program.

The mayor says it's great to have someone who can help the community pick up where Friend left off and notes Haddix came out of retirement to do it.

"We have so many balls in motion at the City," he said. "We couldn't afford to have them drop."

The fact that Haddix's resume included some smaller Californian municipalities was attractive to local officials. It hinted at his broad range of experience running local government, Timm said, noting that's important because of Scotts Valley's ambitious agenda on several fronts.

"Making sure that we had someone who was competent and with a lot of experience was very important," he said. "We're such a small city, you really have to be hands-on."

As Haddix arrived to start his first day at work on Sept. 7, he was struck by the redwoods and oak trees stretching up toward the sky.

"What a beautiful community," he thought to himself. "You're next to heaven."

But he didn't just mean the way it looks, he was considering the

character of the place, too.

"It's a community that seems to be pretty mature," he said, adding it "has really good bones."

Haddix sees his role as the "conductor of an orchestra."

And just like an orchestra, he says, it will take a lot of players to be successful.

"I'm here as a member of a team," he said. "We need to ensure we're here to support each other."

# Contra Costa County and East Contra Costa Fire Board Give Greenlight to Fire District Annexation Plan

by ECT

6-7 minutes

CONCORD, CALIF. – Contra Costa County Fire Protection District (Con Fire) and East Contra Costa Fire Protection District (ECCFPD) today announced their boards of directors have each approved resolutions for the annexation of ECCFPD into the Contra Costa County Fire Protection District. The agencies are now expected to make applications to the Contra Costa Local Agency Formation Commission (LAFCo) for formal approval of the annexation.

When approved, Con Fire will absorb the firefighting staff, support staff, facilities and equipment of today's ECCFPD and the newly merged organization will provide improved fire and emergency services to the more than 128,000 residents of eastern Contra Costa County. The annexation approval process is expected to take four-to-six months followed by operational and administrative consolidation of the two entities.

"I am so excited and proud of the team work that has brought us to this point," said District 3 Supervisor and Board Chair **Diane Burgis**, Contra Costa County Board of Supervisors. "With the Contra Costa County Board of Supervisors acting as the Con Fire fire board unanimously approving the request to formally apply for annexation of ECCFPD, and the ECCFPD board voting unanimously to move forward, we are a giant step closer to providing improved fire and rescue services in East Contra Costa County."

Burgis added, "I look forward to continuing to work to push this across the finish line."

"Annexation into Con Fire is a huge victory for the businesses and residents of East Contra Costa," said Board President **Brian**Oftedal, East Contra Costa Fire Board of Directors. "We explored every option to fix this historically underfunded district and provide a better service delivery model. Annexation will improve response times, open fire stations and provide a paramedic level of service for our communities."

"I am pleased by the decisions of the two agencies' boards, approving our requests to formally apply for annexation of East Contra Costa Fire into Con Fire," said **Lewis Broschard**, fire chief, Contra Costa County Fire Protection District. "I look forward to now beginning in earnest the implementation of this long-studied initiative that will provide more effective, efficient and safer fire and emergency services across our county."

"ECCFPD's citizens and businesses are one step closer to receiving adequate fire and rescue service levels," said Fire Chief **Brian Helmick**, East Contra Costa Fire Protection District. "As the fire chief of East Contra Costa Fire, my staff and I will continue to diligently work to ensure the remaining consolidation processes go through seamlessly and in a timely manner."

Benefits of annexation for residents are expected to include more coordinated, cohesive and streamlined fire and emergency services. While both fire districts already work very closely on mutual aid assignments across current borders, each maintains separate operations, training and administrative functions, creating potential for economies of scale by bringing the separate operational entities under one administrative structure.

Another important benefit will be better alignment of firefighting models across districts that could net both increased fire services and improved firefighter safety. Annexation is also expected to reduce current burdens on the agencies' busiest stations by increasing resources within Battalion 5 in east county.

The Contra Costa County Board of Supervisors, acting as the Con Fire Board, unanimously approved a resolution for Con Fire to annex East Contra Costa Fire in its regular monthly meeting on September 14, 2021.

The East Contra Costa Fire Protection District Board of Directors

voted unanimously to move forward with consolidation with Contra Costa County Fire Protection District at a special Fire Board meeting on September 16, 2021.

### **About Contra Costa County Fire Protection District (Con Fire)**

— A recognized fire service leader — Con Fire provides fire and emergency medical services to more than a million people across its 304 square-mile District area, and through mutual aid, in and around the 20 cities and unincorporated communities of Contra Costa County, California. With few exceptions, county emergency ambulance transport services are provided by Con Fire through its unique sub-contractor Alliance model across the District and beyond to include some 520 square miles of the county. In 2020, the District responded to some 75,000 fire and EMS emergencies and dispatched some 95,000 ambulances, providing expert medical care on more than 74,000 ambulance transports. The District, with 26 fire stations and more than 400 employees, is dedicated to preserving life, property, and the environment.

About East Contra Costa Fire Protection District — The East Contra Costa Fire Protection District (ECCFPD) is a rural-funded fire district that currently operates 3 fire stations and has a 3-station deficit. The District protects a population of more than 128,000 across its 249 square-mile service area. ECCFPD provides firefighting personnel, emergency medical services (basic life support) and fire prevention to the residents and businesses of the cities of Brentwood and Oakley, and unincorporated communities of Discovery Bay, Bethel Island, Knightsen, Byron, Marsh Creek, and Morgan Territory. Learn more at www.eccfpd.org or social media via Facebook (East Contra Costa Fire Protection District), Instagram(@east\_contra\_costa\_fire), Twitter (@ECCFPD ) or our YouTube channel (East Contra Costa Fire Protection District).



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## Monterey Peninsula water officials OK costs for repeated studies

Dennis L. Taylor

3 minutes

MONTEREY — The Monterey Peninsula water district will be spending more than \$400,000 to repeat analyses required by an intergovernmental board before it can move ahead with acquiring the assets of California American Water Co.

Monday's unanimous vote by the board of directors of the Monterey Peninsula Water Management District allocated \$428,000 for fees for studies that the Local Agency Formation Commission, or LAFCO, effectively ordered that will analyze the district's ability to deliver water as well as having the financial wherewithal to buy out Cal Am.

LAFCO generally concerns itself with approving new annexations of land by cities. In this case, it must approve what's called the district's "latent powers," since a special district such as the water district cannot provide a "new or different service" without LAFCO's approval. The takeover of Cal Am will constitute a new or different service.

The study must be conducted if the water district wants to move forward with its plans to acquire the for-profit water delivery company's infrastructure. The water district has argued that all the information LAFCO commissioners want has already been provided in a 119-page feasibility report conducted by Raftelis Financial Consultants in late 2019.

LAFCO staff found the 2019 Raftelis analysis adequate but the

board thought differently.

The result of the financial study was a \$513 million acquisition appraisal for Cal Am. But Cal Am has stated its value is closer to \$1 billion. The disparity between the two values was one of the reasons the LAFCO commissioners wanted another third-party analysis.

Water district General Manager Dave Stoldt has noted that Cal Am's claim of a \$1 billion value included its proposed desalination plant, which hasn't been built yet.

None of the funds for the additional analysis were budgeted, so the additional costs will come from the district's reserves. The district's effort to acquire and manage the water system was defined by Measure J, the 2018 ballot measure approved by district voters.

The analyses range from additional legal costs as the district moves closer to making a bonafide offer for the publicly traded water retailer's infrastructure to another appraisal of the company's assets.

On Monday Stoldt estimated that 40% of the expenditures will be on repeating work that has already been done.

"Intervention by outside parties has cost us," Stoldt told his board.

"They are trying to cost us money and drain us."

### 9A: ATTACHMENT 4

#### UNIVERSITY OF CALIFORNIA

#### By Ryan Stuart

<u>rstuart@santacruzsentinel.com</u>

SANTA CRUZ >> The University of California Regents approved on Wednesday morning UC Santa Cruz's Long-Range Development Plan.

The university last submitted an LRDP in 2005 for its 15-year growth plan. Its newest submission details the growth steps the university plans to make during the next 20 years.

What first jumps off the paper is where UCSC expects its enrollment to reach by 2040. The university anticipates enrollment will eclipse 28,000 students in the next 20 years. However, does not mean the university

intends to meet that goal.

UCSC's previous LRDP, which expired at the end of last year, estimated the university would

UNIVERSITY >> PAGE2

#### University

#### FROMPAGE 1

reach a student population of 19,500. The university reports that it has about 18,500 students for the Fall 2021 quarter, according to Chancellor Cynthia Larive.

Jolie Kerns, director for Physical and Environmental Planning Services, also made it clear that the LRDP is not a direct enrollment plan when the university first released the draft in January. Instead, the LRDP maps how the university expects enrollment to grow and details its plans to accommodate that anticipated growth.

"Enrollment of 28,000 students in 2040 is consistent with the original vision for the campus described in the 1963 LRDP, which anticipated accommodating 27,500 students by the year 1990," Larive said. "It also reflects the enrollment growth rate at UC Santa Cruz over the past 20 years."

The LRDP addresses two major concerns with a growing student population. However, UCSC has mitigation plans in place to limit the school's water The first is housing. Secure housing is already an issue in Santa Cruz and continues to worsen when an additional 18,000 people need homes.

Students are just as likely to face housing insecurity, Rebecca Ora, a grad student at UCSC, noted. Some students even live in their cars when they struggle to find housing, she added. A handful of students have even been working to start a homeless shelter for their classmates.

Currently, the university houses 50% of its students on campus, according to Chancellor Larive. Moving forward, the university is making a commitment to provide housing for 100% all new students that enroll in the university over the previous LRDP's threshold of 19,500 students.

That commitment will see the university add an additional 8,500 beds to the campus within the next 20 years. It is also committing to providing homes for 25% of new staff that comes in as a result of the university's growth.

"More housing is needed. Housing our additional enrollment lessens our influence on the local housing market," Larive said. "In pursuing Student Housing West and additional housing at Kresge College, UCSC has demonstrated its commitment to build housing needed by our students."

The plan is create this growth while preserving the natural beauty of the campus, according to Larive. Therefore, the university will work to make campus more dense and new development will be infill development.

"The LRDP focuses on the compact and clustered development primarily in the already developed areas core and in infill sights along with some expansion in the north and south of the core. The plan embraces density to maximize land use," Larive said. "In our plan, developable land use areas avoid slopes, maintain existing watersheds, retain critical views and avoid critical habitat when possible."

With more housing comes the concern of water use. Currently, UCSC uses about 6% of the city's water supply, Larive noted. As the school grows, it expects to have to use more of the city's water to properly function.

The school could not provide a proper estimate of what that usage would be as an estimate such as that is hard to predict 20 years out, Vice Chancellor Sarah Latham noted.

usage. The biggest mitigation strategy is the use of storm and recycled water for all non-potable water needs such as flushing toilets and irrigation.

The university also believes providing more oncampus housing opportunities for students will help lower the water burden the university puts on the city. Students that live on campus tend to use less water than students that live in town due to the university's water use mitigation strategies, Larive said.

"Part of the commitment to house enrollment growth and faculty and staff growth on campus will likely increase the absolute amount of water we use," she added. "The important thing for us is to be really responsible stewards of that resource."

UCSC's 20-year growth plan received unanimous support from the UC Regents following Chancellor Larive's presentation to the board, Wednesday.

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candidacy on Sept. 9.

### Former Santa Cruz mayor announces county supervisor candidacy

Ryan Stuart

7-8 minutes

SANTA CRUZ – City councilmember and former Mayor Justin Cummings on Tuesday morning announced his intention to run for the Santa Cruz County District 3 Supervisor.

Cummings is the second councilmember to announce their intention to campaign for the soon-to-be-open position.

Councilmember Shebreh Kalantari-Johnson announced her

Cummings was elected to Santa Cruz City Council in November 2018 and then served a year as the city's vice mayor before taking on the mayoral role in 2020. He said he believes having served in those roles has prepared him for the step up to the county supervisor level because of how closely he had to work with the supervisors while serving his city.

"Last year in particular given the public health crisis, social unrest and national disasters we had, I was constantly working with county elected officials," Cummings said. "I was able to get a really good understanding on what is the role of the city versus what is the role of the county on a wide variety of different issues."

While this may seem like a normal progression through local government, Cummings noted this wasn't his plan the whole time. In fact, he said he was urged to by his constituents. Santa Cruz residents that were pleased with his leadership during a global pandemic, social unrest and the CZU Lightning Complex fires encouraged Cummings to climb the political ladder.

Then the stars aligned. Current District 3 Supervisor Ryan Coonerty announced in April that he would not run for reelection in 2022, the same year Cummings' term with the City Council ends.

The District 3 supervisor seat has been held by a Coonerty for the nearly 16 years. Ryan Coonerty has held the position since 2014, and the end of his term will give him an eight-year tenure with the board of supervisors. Prior to that, Neal Coonerty held the seat for another eight years, from 2006-2014.

"It wasn't always the plan. People had brought it up to me before and I was feeling it out this year," Cummings said. "When Ryan announced he wasn't going to run again, it really became a reality and I really had to make that choice."

Cummings needed more than just the stars to align before he entered the race. It is common for councilmembers to carry full-time jobs outside of their public duties due to meager compensation for the job which averages less than \$21,000 a year, according to Transparent California. Pension and other benefits increase the total closer to \$36,000 a year.

However, the duties of the mayor are much more demanding than that of every other councilmember, Cummings noted. Therefore, he had to step back from his job during 2020. As a result, the former mayor had to readjust to balancing work and council before punching his ticket to the supervisor race.

"I've been working with a great group of folks and was finally able to just get everything pulled together," he said. "This is the soonest I was able to announce so I finally made it happen."

If his campaign is successful, Cummings plans to step away from his job once again to focus on his duties as a county supervisor. The act will be much easier to balance as compensation for the supervisor role was around \$130,500 in 2019, according to Transparent California.

Cummings' campaign has three key aspects to it: creating an equitable Santa Cruz, helping with the CZU fire rebuild and future natural disaster response and improving the county's response to climate change.

When it comes to creating a more equitable Santa Cruz, Cummings said he wants to find ways to provide more opportunities to low-income families and marginalized group. The effort starts with affordable housing, an issue the city council has been focused on, but it extends beyond that.

Cummings wants to lead young people in locals into high-paying job opportunities and coveted internships, work that can done through community groups and partnerships with local organizations and educational institutions, he said. It's not just about making the city affordable but making sure its residents can pay to live there.

As for the fire rebuild, the supervisor hopeful has noted a mounting frustration coming from fire survivors. Frustrations particularly surround rebuilding and going through the proper channels to reestablish themselves.

I've heard from friends who have lost their homes, often times they'll start on the process, and they think they're making progress. They'll go back to the county, and something has changed," Cummings said. "I've heard from residents who live there, there is frustration around getting clear messaging. How can we help facilitate a really streamlined, efficient process?"

His plan to fix that issue is dedicating staff to disaster response and the CZU rebuild, he said.

He also hopes to use more than 20 years of experience with environmental sciences to help the board of supervisors tackle local climate change issues. Currently, Cummings works as the cofounder of the UCSC Citrus Initiative for Drone Education and Research.

The program has been teaching students about the application of drones. One way they have used them is to monitor UC nature reserves throughout the state, several of which burned during last year's fires.

Cummings is also an advocate for both rail and trail to create a greener and more equitable Santa Cruz County. He plans to attend the electric streetcar test drive in Santa Cruz.

He believes his past experience will help him work toward all these goals, but he also believes he brings a unique perspective to the table. Cummings is both a renter and a part of the middle class, a voice not yet represented on the board. As a member of the Black community, he can also bring first-hand experience to talks about equality to board meetings.

He hopes to use his life experience to bring those voices to the

table straight from the horse's mouth, rather than one that is passed along from constituents to representatives.

"As were making decisions related to renters, we need to have someone there that has that recently lived experience," Cummings said. "As we try to tackle these difficult conversations, I would be able to lean on my experience having run a nonprofit for multiple years successfully. As an African American, I'll be able to bring that life experience and perspective."

Voters will choose who will fill the open county supervisor seat in November of 2022.

"I think we've been fortunate to have Ryan as a strong leader in the board of supervisors and to have him during 2020 when we were going through such a difficult time," Cummings said. "My hope is I can continue to be a strong leader for the third district if elected to the county board of supervisors."

### County Board of Supervisors responds to CZU Complex grand jury report

Hannah Hagemann

3-4 minutes

SANTA CRUZ — In its formal response, released Wednesday, to the grand jury's June report on government response to the CZU Lightning Complex fire, the Santa Cruz County Board of Supervisors largely disagreed with the jury's findings.

"The CZU Lightning Complex Fire – Learn...or Burn?" report, issued June 24, examined if government leaders had made changes or taken action in the wake of the CZU Complex fire, to improve wildfire response and decrease fire risk in the region.

Jurors urged the county to board to streamline and improve emergency response, bolster vegetation management work and request that Cal Fire to further analyze and act on their performance in the historic fire.

The Board of Supervisors <u>pointed to the development of the Santa</u>

<u>Cruz County Office of Response, Recovery & Resilience</u>, or OR3

and efforts to obtain grant and other sources of funding to decrease wildfire risk. Specifics on such grants weren't provided.

The county is also conducting "internal" after-action reviews to analyze its performance responding to the historic fire, which burned more than 63,700 acres in Santa Cruz County alone and also destroyed 911 homes in the region. It's not clear if these reports will be made public.

Jurors argued the county has not held Cal Fire accountable in its response to the fire. In its response, the County Board of Supervisors wrote, "Cal Fire is a State agency independent of county oversight."

The county board pointed residents to the agency's "2020 Fire Siege Report," in which some findings on the CZU Complex are

### covered.

Jurors also criticized the board's response in taking action on a 2020 grand jury report, which urged government officials to take more serious preparations for wildfire.

The board argued it was working with the Resource Conservation District and Fire Safe Council to bolster those efforts, and is seeking new grant funding for such work.

In response to findings that firefighting resources weren't adequate to suppress the CZU Complex, the board contended that strain was seen statewide, as hundreds of lightning-triggered wildfires had broken out during the same weeks that the the CZU Complex was roaring.

The jury also requested supervisors Bruce McPherson and Ryan Coonerty respond, but both declined to do so.

"In this case, that authority rests with the entire Board of Supervisors not individual members of the Board," wrote Gine Johnson, a staffer with McPherson's office.

Of the six recommendations set forth for the board by the juror's investigation, the board declined to implement four. It will further analyze one suggestion that Cal Fire produce timely after-action reports specific to Santa Cruz County incidents, according to the response.

To real the full report, visit co.santa-cruz.ca.us.

### Interim Zayante Fire Chief Hopes to Improve Station - Press Banner

By: Christina Wise

5-6 minutes

Interim Zayante Fire Chief Dan Walters is a likable guy. Sitting across from him on a picnic table outside of the Zayante Fire Station, Walters is easy-going and full of pride: not for himself, but for the men and women who voluntarily serve the fire district that has been under his watch since July 24.

Walters succeeded outgoing Fire Chief John Stipes, who at the time of his retirement was the longest-serving fire chief in the county.

Walters was one of several candidates who applied for the role, and he's hoping to remain at the helm of the department that serves a 15-square-mile area of Santa Cruz County.

"I'm in this position until December when the board will make their decision to either keep me on, or start a recruitment program to find a new chief," he said. "They're public elected officials, and they're going to do what they think is best for the district."

For now, Walters says things are going great.

"I have a good relationship with the board, and they seem to be happy with the way things are going," he said.

After 30-plus years in the fire service, Walters has done nearly every job except for chief. He's no stranger to the stresses that come with the position, and he's already making headway in improving practices within the district for his crew of 23 volunteers. With an average of 40 calls for service per month—winter months are more demanding for the department—Walters is ready to talk improvements.

 The appropriation of a Quick Response Vehicle (QRV) was one of his first moves; he gestures to a white pickup truck parked on the lot. "That was an unused vehicle, and it's being reconfigured as an EMS vehicle at Lompico Station 2." With no engineer to drive a fire engine in Lompico, the engine was moved to Zayante, and the QRV will be stationed in Lompico to allow for a more rapid response to medical emergencies. "There's an old Lompico Water District building next to the station; if things go well, I'm hoping that we can acquire that building and house an engine there as well." If it's a success, says Walters, that would be the first time that both medical and fire apparatus will be housed in Lompico for rapid response.

- Zayante used to only have staffing during the week, but Walters has created a new normal, shifting schedules to ensure there is coverage every weekend.
- "We're getting ready to purchase a new engine, so we're taking a hard look at the district's needs." A new engine costs anywhere between \$450,000-600,000, and that's a lot of money for a little department. Walters is looking for a Type 3 rig that will allow for increased wildland access in the rural communities of Zayante and Lompico. The district needs to replace a 29-year old engine, and Walters says it makes sense to invest in a vehicle that can meet the demands of the terrain.
- Technology is finding its way into the Zayante department. "We're
  doing a lot of tech updates, and rolling out new AVL (Automatic
  Vehicle Location) systems in the vehicles." That improvement is
  done using tablets; all the incidents are listed in software on the
  platform, and specific information for each fire call populates for first
  responders.
- Speaking of technology, cell service is awful at the station, which
  can create challenges for firefighters. Walters says there are
  County requirements around installing a new cell tower to improve
  communications, but the bigger issue is the resistance from locals
  who don't want a cell tower planted near their homes. The
  department has installed a repeater in the station, but it doesn't
  always work optimally outside of the metal housing.
- The department's civil defense air raid warning system is also in dire need of an upgrade. (The siren is used to provide an emergency warning to the area of approaching danger.) Zayante's siren hasn't worked in upwards of 10 years, and Walters wants that changed for the safety of his residents. "When we lose power in the

area, we're knocked back to third-world status; without phones, television or internet, we have no idea that something significant is happening." Walters cites the CZU Lightning Complex as an example of that communications isolation. "I found out about the fires when an Alameda County sheriff knocked on my door; I had no idea that anything was happening, and that's a problem."

Ultimately, Walters is hoping that the Zayante Fire Protection District will determine that he's the right man for the job, and remove the word "interim" from his title.

"For me, this is home," he said.

## Report: Fixes, kudos for 13 Santa Cruz fire agencies

Jessica A. York

4-5 minutes

SANTA CRUZ — A new comprehensive study of the 13 agencies providing fire protection services throughout Santa Cruz County is urging some changes to local firefighting practices.

The Santa Cruz Local Agency Formation Commission voted unanimously Wednesday to adopt the "Countywide Service and Sphere Review for Fire Protection Services" report and its numerous recommendations. Among the report's findings, the commission approved affirming operations of four of the agencies — Santa Cruz and Watsonville city fire departments, Central Fire District of Santa Cruz County and Aromas Tri-County Fire Protection District — and to direct seven additional fire districts to coordinate by August with LAFCO related to their future service areas and potential consolidation. One small Santa Cruz Countyrun district also is recommended to be merged with its sister district.

Countywide, protection is provided out of 36 separate fire stations. LAFCO Executive Officer Joe Serrano told the commission Wednesday that part of the report's impetus was to stir discussion around potential collaborative fire agency reorganization and consolidation.

"While the majority of the agencies are doing well, staff has determined and identified areas of improvement for each one," Serrano said. "It would benefit the agencies and more importantly, their constituents, if the boards and staff strongly consider staff's

suggestions."

The commission voted to follow the report's recommendation to have district leaders from several agencies meet with the agency regarding updates to jurisdictional boundaries by August and for follow-through on suggested changes by October 2022.

### Report findings

Among those agencies, Branciforte Fire Protection District, formed in 1950, serves about 1,700 people within 9 square miles out of one fire station. According to the report, Branciforte Fire has the lowest accreditation rating of fire agencies in the county. The agency has an "ISO" score of 5 — with 1 being the highest and 10 the lowest — a ranking provided to fire departments and insurance companies by the Insurance Services Office to determine the community's fire readiness. Branciforte Fire recently ended a six-year contract outsourcing agency operations to Scotts Valley Fire Protection District.

Ben Lomond, Boulder Creek and Zayante fire protection districts do not meet state or national standards when it comes to firefighters on duty, Serrano said.

Watsonville Fire Department, serving about 54,000 people within 6 square miles, has the fastest average response time in the county, at four minutes.

Central Fire Protection District, formed in 2021 as a consolidation between the former Central Fire and Aptos/La Selva fire protection districts, serves about 90,000 people within 55 square miles from seven fire stations. The agency, Serrano said, shares the highest ISO rating in the county, as a Class 2, with Santa Cruz and Watsonville city fire departments and Scotts Valley Fire Protection District.

Operated by the County of Santa Cruz, County Service Area 4 in the Pajaro Dunes was formed in 1966 and serves about 250 people in less than half a square mile from one fire station. The district's

96 of 101

staffing levels meet state but not national standards. The study recommends dissolving the district and merging it with County Service Area 48.

County-run County Service Area 48 was formed in 1966 and serves about 24,000 people in 216 square miles from 10 fire stations. The district's staffing levels also meet state but not national standards. The district has the most number of fire vehicles in the county, at 29, but the slowest average response time, at 14 minutes.

Operations for both CSA agencies are contracted through Cal Fire.

Despite its ISO rating, Santa Cruz Fire is not considered financially stable, according to Serrano. The department, serving around 68,000 people within 12 square miles, has ended the past six fiscal years with a deficit. Average annual expenses come to \$20 million, while its revenue is only \$4 million, Serrano said. The city's general fund covers the difference.



### **Update on Public Law**

### New, Short Time to Challenge Water and Sewer Rates

By Michael G. Colantuono

The Governor recently signed into law SB 323 (Caballero, D- Salinas) sponsored by the Association of California Water Agencies to require challenges to water and sewer rates "adopted, modified or amended after January 1, 2022" to be filed as validation suits within 120 days. It is very good news for local utilities.

In 1996, California voters approved Proposition 218 to impose procedural and substantive restrictions on a newly defined class of "property related fees and charges." The California Supreme Court made clear in 2006 that these include ordinary water and sewer charges and litigation of water rates, in particular, became common. 2011 and 2015 appellate decisions striking down tiered water rates in Palmdale and San Clemente lead to dozens of copycat suits, some of which are still in the courts. One suit now pending against 81 water agencies around the state challenges use of water rate proceeds to fund fire flows — water at the pressures and in the volumes necessary to serve hydrants and sprinklers. Some of these rates are more than 4 years old — there had been no meaningful statute of limitations (deadline for suit) because the Supreme Court had ruled in a utility users tax case that a new claim arises with each utility bill.

SB 323 changes this. Water and sewer rates adopted or amended after January 1, 2022 can be challenged only within 120 days of the later of their effective date or adoption and suit must be brought in validation a particular kind of suit commonly used to resolve all issues regarding public revenues and debts in a single case. This is the existing rule for public electric rates and for water and sewer connection and capacity charges.

Notice of a Proposition 218 majority protest hearing on new or increased rates must mention the 120-day deadline. The new deadline (continued on page 2)

### Welcome, Merete Rietveld and Abby Mendez!

CHW added two litigators this Fall. Merete is Senior Counsel in our Pasadena office with 14 years' experience—including eight as a staff attorney at the LA Court of Appeal. She will be a very good fit for our public law litigation practice in both trial and appellate courts.

Abby joins us in Pasadena as a first-year attorney. A Southern California native, she has her undergraduate degree magna cum laude from Tufts and her law degree from Boston University.

Abby and Merete will support a range of our public law clients in state and federal courts.

Welcome, Merete and Abby!

## Continuing Challenge of Managing Homeless in Public Spaces

By Conor W. Harkins

A recent decision of the Supreme Court of Washington holds the federal Eighth Amendment's excessive fines clause requires courts to analyze a person's ability to pay a municipal fine. (*City of Seattle v. Long.*) Although not binding in California, *Long* illustrates courts' willingness to stop cities from punishing the status of homelessness, much like the 9th Circuit's 2019 *Martin v. City of Boise* decision prohibiting that City to enforce its ban on camping on public land when other shelter is unavailable.

Seattle imposed \$946.41 in fines and fees on Steven Long for parking on city property for more than 72 hours. A magistrate waived the \$44 parking ticket, reduced the impound charges to \$547.12, and added a \$10 administrative fee. Represented by a legal aid organization, Long sued, arguing the impound fees violated the Eighth Amendment's excessive fines clause. The case attracted no fewer than 19 amicus briefs from criminal defense, homeless advocacy, and municipal interests from around the country.

The Eighth Amendment to the U.S. Constitution prohibits "excessive fines" and penalties as well as "cruel punishments." To trigger Eight Amendment scrutiny, a fine must be excessive and at least partially punitive. The Washington Court held Seattle's impound fees were partially punitive because the City's Municipal Code described impoundment as a penalty. It need not have done so; impoundment can be understood as management of public rights of way, not punishment.

A fine is excessive "if it is grossly disproportional to the gravity of a defendant's offense." The Washington Court also considered Long's ability to pay, stating, the "homeless crises and widespread use of fines to fund the criminal justice system ... fully support an ability to pay inquiry." California

courts also consider ability to pay, and the use of fines to fund the justice system is of concern to California courts and legislators, too.

The Washington Court found "Long's circumstances were such that he had little ability to pay \$547.12." Long earned \$400 to \$700 a month, lived in his truck, and had saved only \$50. The truck held Long's "clothes, food, bedding, and various work tools essential to his job as a general tradesman." After his truck was towed, Long could not obtain work without his tools, and was forced to sleep outside. The Court concluded the impound fees were grossly disproportionate to a "not particularly egregious" parking infraction.

(continued on page 3)

### Rate Challenge (Cont.)

does not apply to disputes about application of established rates — like billing errors. Nor does it apply if another statue provides a specific procedure to challenge a particular fee.

The statute was surprisingly uncontroversial. Only the Howard Jarvis Taxpayers Association opposed it and the final Assembly vote was unanimous (68-0) and the Senate vote was 33-2, with just two southern California Republican Senators voting "no."

Water and sewer providers may wish to defer adopting new rates until the new year — or to readopt existing rates then — to benefit from this new law. But, ratemaking is still risky and it is wise to use a qualified consultant unless an agency has in-house ratemaking staff, to make a good record that "shows the math" supporting rates and to have a lawyer review the ratemaking analysis.

For more information, contact Michael at MColantuono@chwlaw.us or (530) 432-7359.

## Form 700 a "Political Work," Complaint Subject to Anti-SLAPP Law

By Gary B. Bell

The Orange County Court of Appeal recently held in *Exline v. Gillmor* that a mayor's Form 700 was a "political work" and therefore a lawsuit challenging it as insufficient under the Political Reform Act could be challenged as a SLAPP suit — a "strategic lawsuit against public participation," or a suit intended to silence free expression. The case protects public officials in lawsuits alleging incorrect or incomplete disclosures on Form 700s and makes private litigation of such forms less likely.

Representing student Brian Exline, a prominent San Jose plaintiffs' firm sued Santa Clara Mayor Lisa Gillmor, alleging she had failed to disclose a business position and income on her Form 700. Exline sought money damages, to compel Mayor Gillmor to disclose the position and income, and interest, court costs, and attorney fees. Although the case arose in San Jose, the appeal was heard in Orange County to assist the San Jose Court of Appeals while two of its seven seats were vacant.

The Mayor filed an anti-SLAPP motion—a special motion to dismiss the case at the outset. Such a motion is a powerful tool to weed out meritless claims at an early stage and allows a prevailing defendant to recover attorney's fees and costs from the plaintiff. The motion requires the defendant to show the challenged claim arises from expressive activity. If she does, the burden shifts to the plaintiff to demonstrate the suit has a probability of success.

There are exceptions to the anti-SLAPP law and exceptions to the exceptions, too. The anti-SLAPP law is construed broadly to achieve its purpose to protect free speech and its exceptions are construed narrowly for the same reason. Exline argued an exemption to the anti-SLAPP law for suits which seek to confer a significant benefit on the general public. But this "public interest" exemption does not apply to "any action ... based upon the creation,

dissemination, exhibition, advertisement, or other similar promotion of any dramatic, literary, musical, **political**, or artistic **work**."

The Court of Appeal explained "work" means something produced or accomplished by effort, exertion, or exercise of skill and "[t]here is no question Form 700 is political in nature." A Form 700 requires both "effort" and "exertion" to complete, including "discern[ing] what the law requires the official to disclose, as it may not always be obvious." Accordingly, a Form 700 is a "political work" subject to the exception to the exception and the Mayor had the protection of the anti-SLAPP law.

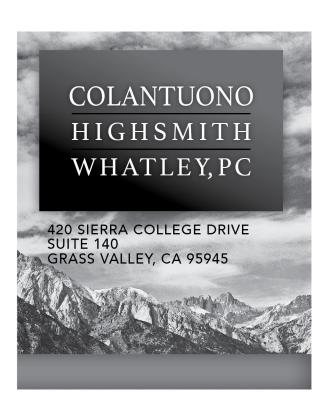
The result is a bit surprising and establishes a powerful tool for defense of suits over Form 700s. The plaintiffs' bar may have less appetite for such suits in the future, leaving enforcement of disclosure requirements to the Fair Political Practices Commission and the court of public opinion. For more information, contact Gary at GBell@chwlaw.us or (916) 898-0049.

### Homeless (Cont.)

But the case raises an obvious question — how do local governments manage public spaces to serve all of society and not just the homeless? Courts have vigorously protected the homeless, but have not been as articulate about how to achieve other public policy goals also worthy of judicial respect. Persistence, creativity — and good legal advice — will be needed to make progress on these vexing social problems.

For more information, contact Conor at CHarkins@chwlaw.us or (530) 798-2416.

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