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January 13, 2016
Agenda Item 11

January 13, 2016

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

Broadband Services and LAFCO

Dear Members of the Commission:

BACKGROUND - In November, the Policies & Procedures Committee presented a report to the Commission identifying possible ways in which LAFCO can support the deployment and adoption of broadband and information technology in Contra Costa County.

There are numerous advantages to equalizing and improving broadband services, including improving access to public education, health, and safety; increasing economic competitiveness, attracting new businesses, and creating new jobs; and helping build sustainable communities.

We are fortunate to have organizations like the *East Bay Broadband Consortium* and the *California Emerging Technology Fund* which are working to address critical broadband issues.

While LAFCO has no specific authority over broadband, there are efforts LAFCO can take to promote broadband and support needed infrastructure and accessibility. The Commission specifically expressed interest in the following:

1. Adopt a resolution and/or policy supporting the efforts of organizations such as the *East Bay Broadband Consortium* and the *California Emerging Technology Fund*
2. Adopt a resolution and/or policy encouraging the County and cities to adopt General Plan policies and standards that encourage broadband services
3. Include broadband services among those services to be reviewed in LAFCO Municipal Service Reviews (i.e., cities, community service districts, and water and sewer districts that have infrastructure that serve residents and businesses)
4. Participate in a countywide staff level broadband working group that collaborates on these issues

5. Support efforts to reach out to existing service providers and encourage service and improvements to unserved and underserved areas

The Policies & Procedures Committee is pleased to present for the Commission's consideration the following:

- ❖ A draft resolution that speaks to items 1, 2 and 5 above (Attachment 1); and
- ❖ Proposed revisions/updates to the Commission's Municipal Service Review (MSR) policy (Attachment 2) to address both broadband and recent changes in the Cortese Knox Hertzberg Act (i.e., disadvantaged unincorporated communities).

Also, on January 8th, the City/County Planning Directors will hold their quarterly meeting and will discuss broadband. Commissioner Skaredoff and the Executive Officer plan to attend the meeting. We will provide an update to the Commission on January 13th.

RECOMMENDATION - The Policies & Procedures Committee recommends that the Commission adopt the attached resolution and proposed changes to LAFCO's MSR policies, with any changes as desired.

Respectfully submitted,

Sharon Burke and Don Tatzin

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Attachments

1. Draft LAFCO Resolution Supporting Broadband Deployment and Adoption
2. Proposed revisions/updates to the Commission's MSR policy to address both broadband issue and recent changes in the Cortese Knox Hertzberg Act

RESOLUTION NO. 2016-01

A RESOLUTION OF THE
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
DECLARING SUPPORT FOR BROADBAND DEPLOYMENT AND ADOPTION
AND A CALL FOR ACTION

WHEREAS, closing the Digital Divide is vital to the economic prosperity and quality of life for those who live and work in Contra Costa County and throughout California; and

WHEREAS, the Contra Costa Local Agency Formation Commission (LAFCO) finds and declares that high-speed Internet access – referred to as “broadband” and including both wireline and wireless technologies – has significant economic and environmental benefits and is essential 21st Century infrastructure in a digital world and global economy; and

WHEREAS, Contra Costa LAFCO recognizes that California is home to a wellspring of innovation that has given rise to the evolution of broadband and other information technologies; however, Californians’ adoption and use of broadband technology is only approximately equivalent to the national average; and

WHEREAS, Contra Costa LAFCO acknowledges that in 2010 that 30% of all Californians, 51% of low-income households, 50% of Latino families, 45% of people with disabilities, and 17.4 % of Contra Costa County residents are not connected to the Internet with broadband, leaving more than 10 million Californians without high-speed Internet access at home; and

WHEREAS, Contra Costa LAFCO supports efforts to help families and children be healthy, productive and self-sufficient, and realizes that the use of broadband can save both time and money for residents while helping them bridge the economic divide; and

WHEREAS, Contra Costa LAFCO supports efforts to help students obtain the highest-quality education possible incorporating digital literacy and understands that high-speed Internet connectivity and the availability of computing devices both at school and at home are critical teaching and learning tools for academic achievement; and

WHEREAS, Contra Costa LAFCO is committed to reducing the carbon footprint and recognizes that broadband is a strategic “green” technology that decreases greenhouse gas emissions and dependence on foreign oil by enabling e-government and the provision of more services online; and

WHEREAS, Contra Costa LAFCO is committed to Digital Inclusion and increasing citizen participation in the public process through expanded engagement using broadband; and

WHEREAS, Contra Costa LAFCO recognizes that it has the opportunity to impact broadband deployment and adoption in its regional role and as a policy leader to ensure efficient and orderly growth and development through timely and logical changes in government boundaries and the extension of efficient municipal services, and as a policy purchaser-consumer of communications equipment and information technology; and

WHEREAS, Contra Costa LAFCO welcomes the opportunity to partner with the East Bay Broadband Consortium and the California Emerging Technology Fund, along with the Governor, legislature and other local governments, civic leaders, community organization, employers, labor representatives, educators and policymakers to encourage adoption of broadband technology.

NOW, THEREFORE, BE IT RESOLVED that Contra Costa LAFCO supports efforts to remove barriers to and promote the deployment and adoption of broadband among residents, customers and recipients of public services.

BE IT FURTHER RESOLVED that Contra Costa LAFCO supports efforts to reach out to existing service providers and encourage service and improvements to unserved and underserved areas.

BE IT FURTHER RESOLVED that Contra Costa LAFCO recognizes that local government agencies can have substantial impact on the deployment and adoption of broadband, and LAFCO encourages these agencies to include in their service plans and land use and economic development policies, programs and plans provisions that promote and support the deployment and adoption of broadband.

BE IT FURTHER RESOLVED that Contra Costa LAFCO authorizes the use of its name as a champion of the EBBC and CERT efforts to promote broadband.

PASSED AND ADOPTED THIS 13TH day of January 2016, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

CHAIR, CONTRA COSTA LAFCO

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

Dated: January 13, 2016

Lou Ann Texeira, Executive Officer

2.1. POLICIES AND STANDARDS

I. Municipal Service Review Guidelines

- 1) Purpose - To provide guidance to the Contra Costa Local Agency Formation Commission in preparing and conducting municipal service reviews.
- 2) Background - Effective January 1, 2001, the CKH Act requires LAFCO to review municipal services. The requirement for Municipal Service Reviews (MSRs) is in response to the identified need of a more coordinated and efficient public service structure to support California's growth. The MSR provides LAFCO with a tool to comprehensively study existing and projected public service conditions and to evaluate organizational options for accommodating growth, preventing urban sprawl, and ensuring that critical services are efficiently and cost-effectively provided.
- 3) Goals and Objectives - LAFCOs are required to conduct MSRs and prepare written statements of determinations with respect to each of the following [§56430], as revised 1/1/198. ~~The consolidated list of determinations will apply to MSRs initiated after 1/1/08.~~
 - a) Growth and population projections for the affected area.
 - b) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence (SOI).
 - a) c) Present and planned capacity of public facilities, ~~and~~ adequacy of public services, ~~including and~~ infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities (DUCs) within or contiguous to the SOI.
 - d) Financial ability of agencies to provide services.
 - e) Status of, and opportunities for, shared facilities.
 - b) f) Accountability for community service needs, including governmental structure and operational efficiencies.
 - g) Any other matter related to effective or efficient service delivery, as required by Commission policy.

As part of the MSR, the Commission may assess various alternatives for improving efficiency and affordability of infrastructure and service delivery within and contiguous to the SOI, including, but not limited to, the consolidation of governmental agencies.

In conducting an MSR, the Commission may include a review of whether the agencies under review, including any public water system as defined in 56430, are in compliance with the California Safe Drinking Water Act. Further, the Commission may request information, as part of an MSR, from identified public or private entities that provide wholesale or retail supply of drinking water, including mutual water companies as defined in 56430.

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The MSR process does not require LAFCO to initiate changes of organization based on service review findings; it only requires that LAFCO make determinations regarding the provision of public services per §56430. However, LAFCO, other local agencies and the public may subsequently use the information contained in the MSRs as a basis to pursue changes of organization or reorganization or sphere of influence amendments.

- 4) When Prepared - LAFCO will determine when MSRs are necessary. Generally, reviews will be prepared in conjunction with SOI studies or updates; however, MSRs may also be conducted independent of SOI updates based on a number of factors to be determined by the Commission. Such factors may include public health or safety issues, service provision issues associated with areas of potential growth or development, etc.

Minor amendments to a sphere of influence, as determined by LAFCO, will not require an MSR.

- 5) Services Addressed - MSRs will address identified services within the service review boundary of those agencies under LAFCO's jurisdiction and are associated with growth and development. Target services include, but are not limited to, water, sewer, drainage, libraries, roads, parks, [health care, broadband \(high-speed internet access and use\)](#), police, and fire protection. General government services such as courts, social services, human resources, treasury, tax collection and administrative services will not be included.

- 6) Agencies Included - Local agencies whose boundary changes are subject to LAFCO review, or are required to have an SOI, are subject to MSRs, and LAFCO shall encourage those local agencies to fully participate in the service review process. Services provided by other agencies (i.e., federal, state, private) may be included in the service review in order to provide a comprehensive overview of service and provide context.

- 7) Boundaries - LAFCO will determine the geographic boundaries and agencies that will be the subject of an MSR. Factors that may be considered in determining a service review boundary include, but are not limited to, existing city and special district jurisdictional and sphere boundaries; topography; geography; community boundaries; tax/assessment zones; infrastructure locations; transportation systems and roads; areas with shared facilities; areas with shared social and economic communities of interest; plus other factors as determined by LAFCO.

~~Generally, service reviews may will be conducted for sub-regional areas within the County; however, a service review may be prepared~~ for a single agency, multiple agencies, on a sub-regional or ~~on a~~ countywide basis. An MSR may review services outside Contra Costa County, in conjunction with multi-county service providers (e.g., [Byron-Bethany Irrigation District](#), [Dublin San Ramon Services District](#), [East Bay Municipal Utility District](#), [East Bay Regional Park District](#)). Generally, Mmulti-county MSRs will be prepared by the LAFCO of the principal county (§56066). Inter-agency coordination is encouraged.

- 8) Environmental Determination - The California Environmental Quality Act (CEQA) encourages the consideration of multiple related actions where appropriate. Whenever possible, LAFCO will work to streamline the MSR process by a) integrating SOI proposal processing and related CEQA processes with the MSR process; b) placing high priority on reviews of services affected by pending or anticipated proposals; c) working with city and county planners to identify areas where the short-term conduct of service reviews is needed to support orderly growth and development; and d) requesting that technical information needed for service reviews be included in the General, Specific and Master Service Plans of land use agencies and special districts.

Most MSRs will qualify for Categorical or Statutory Exemption under CEQA, as they are studies and are not typically accompanied by specific development proposals. Subsequent SOI actions may require additional environmental review.

- 9) Types of Service Reviews - Municipal Service Reviews will fall into two general categories:
- a) Routine reviews are anticipated to be uncomplicated and straightforward with few concerns about the adequacy of public services. Routine service reviews may be conducted for single agencies or for multiple agencies that provide similar services. The boundary of a routine service review may cover a sub-region, region or the County.
 - b) Intensive reviews are anticipated to require detailed analysis of complex and controversial issues. An intensive MSR may result from a pending LAFCO proposal, or of service provision concerns otherwise identified by LAFCO.
- 10) Preparation
- a) The Commission will determine the priority, schedule, procedure and content for service reviews.
 - b) LAFCO staff will provide a survey/questionnaire to the affected agency(ies) identified in the service review work plan.
 - c) If needed, LAFCO may hold scoping meetings. All affected agencies, interested agencies and persons or entities requesting notice will receive a mailed notice.
 - d) LAFCO staff will review submitted MSR information, coordinate and follow-up with the affected agencies.
 - e) LAFCO will prepare or cause to be prepared a Draft MSR for circulation to affected agencies and other interested parties for review and comment.
 - f) The Draft MSR will be considered at a public hearing, at which time the Commission may accept the report with or without modifications, adopt the required determinations, direct staff to prepare the Final MSR, and take other actions as appropriate.
 - g) The cost associated with conducting the baseline MSRs will be incorporated in the annual LAFCO budget, and will be shared by the funding agencies. Agencies requiring a separate or expedited review will be required to fund the MSR.

11) Timing

On or before January 1, 2008, and every five years thereafter, the Commission shall, as necessary, review and update every sphere of influence [§56425(g)]. MSRs will be completed, as necessary, concurrent with SOI formations, updates or substantial amendments, but not less than every five years.

12) Factors for Analysis - As part of its review of municipal services, LAFCO must prepare a written statement of its determination with respect to the following factors. [§56430]

Determination 1: Growth and population projections for the affected area

The efficient provision of public services is linked to an agency's ability to plan for future needs. Such factors as projected growth in and around the agency's service areas and impact of land use plans and growth patterns on service demands may be reviewed. In making a determination on growth and population projections, LAFCO may consider an agency's ability to plan for future needs.

Determination 2: [The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence \(SOI\)](#)

[Determination 3: Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities \(DUCs\) within or contiguous to the SOI.](#)
~~Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies~~

The present and planned capacity of public facilities and services is linked to an agency's ability to plan for future needs, including infrastructure e.g., water, sewer, fire, broadband). The term "infrastructure needs and deficiencies" refers to the status of existing and planned infrastructure and its relationship to the quality of levels of service that can or need to be provided. In making a determination on infrastructure needs or deficiencies, LAFCO may consider ways in which the agency has the ability and capacity to provide service. LAFCO shall consider service and infrastructure needs related to sewer, water and fire protection within a DUC as defined by LAFCO.

Determination 43: Financial ability of agencies to provide services

LAFCOs must weigh a community's public service needs against the resources available to fund the services. In making a determination on the financial ability of an agency to provide services, LAFCO may review such factors as an agency's potential for shared financing and/or joint funding applications, cost avoidance opportunities, rate structures, and other fiscal constraints and opportunities.

Determination 54: Status of, and opportunities for, shared facilities

If service providers develop strategies for sharing resources, public service costs may be reduced and service efficiencies increased. In making a determination on

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opportunities for shared facilities, LAFCO may consider if an agency's facilities are currently being utilized to capacity and whether efficiencies can be achieved by accommodating the facility needs of adjacent agencies.

Determination 65: Accountability for community service needs, including governmental structure and operational efficiencies

The service review may include options to provide more logical service boundaries to the benefit of customers and regional planning goals and objectives. In making a determination on government structure, LAFCO may consider possible consolidations, mergers and/or reorganizations. The service review may also consider the agency's management efficiencies in terms of operations and practices in relation to the agency's ability to meet current and future service demands.

Determination 67: Any other matter related to effective or efficient service delivery, as required by Commission policy

~~In reviewing cities and community service districts, LAFCO shall consider the agency(ies) efforts to promote and facilitate the deployment and adoption of broadband (high speed internet access and use).~~