



September 13, 2016

BOARD OF DIRECTORS

Charles Lewis IV  
Chair

Dawn Block  
Vice Chair

Eliot Hudson  
Secretary

Bill Wadsworth  
Treasurer

Arthur Bart-Williams

Peggy S. Cabaniss

Katie Hill

Steve Hutchcraft

Steven Kirby

Joseph A. Ovick

Ted C. Radosevich

STAFF

Linus Eukel  
Executive Director

Karen Booth  
Individual Giving Manager

Jay Dean  
Marketing Director

Carla Din  
Program Director

Krista Jordan  
Development Manager

Glen Lewis  
Open Space Ranger

Gaye Markham  
Administrative Manager

Carolina do Val Callao  
Database Manager

**To:** Mary N. Piepho, Chair  
Don Tatzin, Member, LAFCO Policy Committee  
Sharon Burke, Member, LAFCO Policy Committee

**From:** Linus Eukel, Executive Director  
John Muir Land Trust

**SUBJ:** Revised Contra Costa LAFCO Agricultural & Open Space Preservation Policy Draft ("Draft")

John Muir Land Trust (JMLT) very much appreciates the efforts made by LAFCO's Policy Committee and staff to develop an effective Agricultural & Open Space Policy. In particular, we are very pleased with proposed Version 2. With incorporation of the following important revisions, JMLT strongly supports adopting LAFCO's Agricultural & Open Space Policy, Version 2:

1. **Under Guideline 3.b.1(c):**

**Mitigation ratios** for open space land should be deferred to the appropriate California State and federal agencies utilizing science-based impact analysis re: biological resources;

2. **Under Guideline 3.b.1:**

Qualify what "**comparable land**" means per language in **red**:

"For every acre of prime agricultural, agricultural, and open space land that will be converted to another use as a result of an application before LAFCO, **comparable land** within Contra Costa County should be protected in the following ratios."

*Comparable land for open space shall mean land of reasonably equivalent quality and character supporting conservation values delineated under 65560 (b)(1-6), "Open-space land";*

*If lands cannot be found in proximity to the impacted area, greater acreage that is solely within Contra Costa County should be considered further from the impacted area.*

**3. Under Guideline 3, b.4:**

Credit shall only be given for mitigation measures meeting certain qualifications per language in red below:

“Applications may receive partial or full credit against these requirements for other *qualified mitigation measures leading to permanent protection* included in the application that result in a similar or greater benefit *per “comparable land” definition under Guideline 3, b.1 above*. These credits may, for example, arise from meeting the requirements of local agricultural and open space mitigation policies, complying with the provisions of the ECCCHCP/NCCP or a similar plan enacted by the County, cities or another regional, state or federal permitting agency, or other comparable actions approved by LAFCO.”

**4. Under Guideline 3 in Version 2, b.5:**

As above, credit shall only be given for mitigation measures meeting certain qualifications per language in red below:

“Applications may receive partial or full credit against the requirements listed above for other *qualified mitigation measures leading to permanent protection* proposed by the applicant *per “comparable land” definition under Guideline 3, b.1 above*...”

**5. Under Guideline 3, b.1. (d)**

JMLT does not believe that *bringing qualified land into an open space plan* provides the assurance needed for permanent protection and therefore requests that this be deleted as an acceptable mitigation measure.

Thank you very much for your consideration, and please feel free to contact me at [linus@jmlt.org](mailto:linus@jmlt.org); (925) 228-1130 (office); or (925) 788-7525 (cell).





## City of Pittsburg

65 Civic Avenue • Pittsburg, California 94565

September 13, 2016

Transmitted via email

Lou Ann Texeira  
Contra Costa Local Agency Formation Commission  
651 Pine Street, 6th Floor  
Martinez, CA 94553

Subject: 2nd Comment Letter on the Draft LAFCO Agricultural & Open Space  
Preservation Policy

Dear Ms. Texeira,

Thank you for providing the City of Pittsburg with the opportunity to review and comment on the Draft LAFCO Agricultural & Open Space Preservation Policy. The City has reviewed the staff report dated September 14, 2016. Subject to the modifications set forth herein, the City supports the Commission to vote in favor of Version 1 of the policy, which includes 'applicant proposed mitigation', rather than the required mitigation as laid out in Version 2. As a responsible agency (not a lead agency), LAFCO does not have the legal authority to require additional mitigation measures above and beyond that already adopted by a lead agency for the purpose of mitigating impacts associated with the loss of agricultural and/or open space land. Any additional mitigation outlined in the policy can only be optional, not mandatory.

Fundamentally, it should be recognized that the Cortese-Knox-Hertzburg Act requires LAFCO to balance various proposed uses, and not favor one use over another. Proposed Goals 1, 2 and 3 reflect that balance; in contrast, Goals 4, 5 and 6 appear to support agriculture-related uses to the detriment of other land uses. A LAFCO has no authority as to land use matters, as pointed out below.

In addition, while the proposed revisions to Policy 5 (LAFCO staff report attachment 1b) are helpful for ensuring that the Commission retains flexibility in dealing with special annexation requests for public uses (such as the construction of a regionally significant roadway), the City would like to reiterate and expand upon its previous comments submitted on April 28, 2016, by offering the following additional comments related to the preferred Version 1 policy:

- 1) Conversions of prime agricultural, agricultural and/or open space lands for necessary public uses (such as regionally significant roadways), should be characterized differently than private development projects converting agricultural lands



to other land uses. The current draft policy does not provide any exemptions or special considerations for these 'public use' situations. As stated in the April 28th comment letter, the policy should not apply to proposals solely involving the conversion of land for public roadways or other infrastructure deemed necessary for the safe and efficient movement of people, goods and services within Contra Costa County and/or already contemplated by prior approved development within the County.

2) Consideration of, and deference to, a local agency's underlying General Plan and pre-zoning designations should be provided. As stated in the April 28th comment letter, Government Code section 56375 (7), states that "the decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and pre-zoning of the city." Should an agency propose annexation of agricultural or open spaces lands that are consistent with the underlying General Plan and pre-zoning designations, there should be no further analysis of agricultural and/or open space impacts required (beyond the necessary environmental analysis conducted by the lead agency).

3) Annexation of lands intended to remain as agricultural and/or open space lands, especially those with active Williamson Act contracts in place which would remain after annexation, or as otherwise consistent with the Williamson Act, should not be subject to the policy.

Thank you again for the opportunity to comment on this draft policy. If you have any questions on the comments provided, please feel free to contact Kristin Pollot, Planning Manager, (925) 252-6941 or [kpollot@ci.pittsburg.ca.us](mailto:kpollot@ci.pittsburg.ca.us). The City looks forward to continuing to work with LAFCO on the development of the Agricultural and Open Space Preservation Policy.

Sincerely,



Joe Sbranti  
City Manager

cc: Fritz McKinley, Community Development Director  
Ruthann Zeigler, City Attorney  
Kristin Pollot, Planning Manager

Attachments: 1st Comment Letter, dated April 28, 2016





# City of Pittsburg

Community Development Department – Planning Division

65 Civic Avenue, Pittsburg, CA 94565 | Tel: (925) 252-4920 | Fax: (925) 252-4814

April 28, 2016

Lou Ann Texeira  
Contra Costa Local Agency Formation Commission  
651 Pine Street, 6<sup>th</sup> Floor  
Martinez, CA 94553

Subject: **LAFCO Agricultural & Open Space Preservation Policy Comments**

Ms. Texeira,

Thank you for providing the City of Pittsburg with the opportunity to review and comment on the Draft LAFCO Agricultural & Open Space Preservation Policy. Our comments on the policy are as follows:

- 1) It is important to note that California law gives solely to cities and to counties the authority to make land use decisions, so it is important to ensure that this policy does not overreach in LAFCO's authority as it relates to land use decisions.
- 2) Goal 1, Policy 1 and Policy 4 make reference to the conversion of agricultural land to "other land uses" and/or to "non-agricultural purposes," without providing a definition as to what these uses or purposes would encompass. To ensure this is clear, the document should provide a definition or examples of what these "other land uses" or "non-agricultural purposes" would be likely include. In lieu of a definition, the document should at minimum ensure an exception is provided for public roadways or other infrastructure deemed necessary for the safe and efficient movement of people, goods and services within Contra Costa County.
- 3) The document should incorporate the definition for 'prime farmland' to ensure the distinction between 'prime farmland', 'prime agricultural land', and 'agricultural lands' is clear. This is a very important distinction to keep in mind, as it would impact what lands this policy would apply to. Further, existing text in Policy 6 specifically relates to the farmland definition, not the agricultural definition.
- 4) Several of the goals/policies seem to be repetitive and should be consolidated to more efficiently make the same point and streamline the document. Our suggested consolidations would include:
  - o Goals 1, 3 & 4
  - o Policies 1, 3 & 4
- 5) Policy 2 should be removed since it does not directly relate to agricultural or open space lands.

- 6) Policy 9 would more appropriately fit in as a guideline, rather than a policy.
- 7) Guideline 1 should more clearly apply to proposals that include 'agricultural lands' (including 'prime agricultural land') and 'open space', as defined in the policy.
- 8) Guideline 1, sections d and e, should be removed. Annexation proposals involving development of agricultural lands and open space lands consistent with a City's General Plan and pre-zoning would be consistent with Government Code section 56375 (7), which states "the decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning of the city." Asking an applicant to provide this additional analysis for a proposal that complies with the underlying General Plan and pre-zoning designations could be considered overly burdensome and likely ineffective. Further, such annexation proposals that include a development of the subject site would inherently not "guide development away from agricultural and/or open space land," nor would they "facilitate development of existing vacant or non-agricultural and/or open space lands within existing city boundaries."
- 9) Guideline 4b should be deleted, or at least, re-worded to suggest the review of the measures listed as possible CEQA mitigation for the potential loss of agricultural lands. Requiring a subsequent evaluation of the effectiveness of mitigation measures for a project that has not yet been implemented is not only inconsistent with CEQA as applicable law, but would also be excessive, overly burdensome and likely unachievable. Further, if a CEQA document with mitigation included for agricultural resources is adopted/certified by the Lead Agency, then that lead agency has made a determination that the measures included are the appropriate measures to mitigate the impact. CEQA, as implemented by the Lead Agency, is determinative of any mitigation measures. A Responsible Agency, which does not agree with the Lead Agency's determination, does have steps available under CEQA if it believes it should assume Lead Agency status.

Thank you again for the opportunity to comment on this draft policy. If you have any questions on the comments provided, please feel free to contact me using the information provided above. The City looks forward to continuing to work with LAFCO on the development of the Agricultural and Open Space Preservation Policy.

Sincerely,



Kristin Pollot, AICP  
Planning Manager

Cc: Joe Sbranti, City Manager  
Fritz McKinley, Community Development Director  
Ruthann Zeigler, City Attorney

Walnut Creek Office  
1601 N. Main St., Suite 105  
Walnut Creek, CA 94596  
(925) 932-7776

September 14, 2016

Contra Costa County LAFCo Commission  
Attn: Lou Ann Texeira  
651 Pine Street, 6th Floor  
Martinez, CA 94553

Dear Contra Costa County LAFCo Commissioners:

**RE: Greenbelt Alliance support for LAFCo AOSPP Version 2 with amendments**

Thank you for the opportunity to comment on the current draft Agriculture and Open Space Preservation Policy (AOSPP). The AOSPP Version 2 policy is the right direction for Contra Costa County and provides the clarity and purpose to ensure consistency for applicants and balances the complex needs for managing growth in our county and region. However, given the limited amount of time to consider the significance and nuances of Version 2, Greenbelt Alliance hopes there is a substantive discussion about appropriate required mitigation ratios and that the finalized versions will return for final consideration at the appropriate future LAFCo hearing.

As discussed at several AOSPP hearings, there are numerous threats to the viability of maintaining agricultural and open space lands in Contra Costa County. There are also significant challenges to ensure that farming is viable economically. As mentioned in the AOSPP, many of these solutions will require actions by other agencies, organizations, and the County, such as hiring a “farmbudsmen” to help farmers navigate the regulatory process and create appropriate opportunities to expand the revenue potential of the farm economy, especially in East County.

LAFCo has a very concrete mission to “encourage the orderly formation of local government agencies, discourage urban sprawl, and preserve agricultural and open space resources.” The appropriate standard for ensuring this balance is to provide required mitigations for the loss of agricultural and open space lands. This provides applicants with a **significant degree of certainty** about the requirements for annexation. Mitigation also slows down the loss of farms, ranches, and open space. And not to be forgotten, mitigation funds can be used to purchase permanent easements from interested farmers who can infuse capital into infrastructure improvements and/or **invest in retirement and estate planning**.

With this in mind, Greenbelt Alliance recommends the adoption of required mitigation ratios that demonstrate Contra Costa County’s commitment to the indispensable benefits of agricultural and open space lands, as well as farmers themselves. For each increment of additional mitigation, more land is protected and more investment is made into the continued success of farming and ranching. Yolo County requires three acres of farmland to be permanently protected for every one acre lost. Contra Costa County’s farmland is no less important—producing a remarkable crop diversity with an annual economic impact of \$225 million. **It is time to protect and invest in the irreplaceable farms and farmers in Contra Costa County.**



Greenbelt Alliance recommends the following mitigation ratios for the proposed AOSPP Version 2 Guideline 3:

- a. **Where prime agricultural lands are impacted, the Commission shall require the applicant to mitigate to permanently protect at least three acre of comparable agricultural land for every acre of land converted (a ratio of 3:1). The mitigation lands must be located within Contra Costa County, must be of equal or better soil quality, and have a dependable and sustainable supply of irrigation water. The mitigation lands may not be already effectively encumbered by a conservation easement of any nature.**
- b. **Where non-prime agricultural and open space lands are unavoidably impacted, the Commission shall require the applicant to mitigate to permanently protect at least two acres of comparable agricultural and/or open space land for every acre of land converted (a ratio of 2:1). The mitigation lands must be located within Contra Costa County and must not be already effectively encumbered by a conservation easement of any nature.**

Greenbelt Alliance also recommends making a modification to Guideline 3 to provide more clarity about the acquisition of permanently protected agricultural and open space land. **We recommend that Guideline 3(b)(1)(d) remove language suggesting that mitigations can be used for “bringing qualified land into an open space plan.”** This is not a strategy for permanent preservation since open space plans are only policy protected and can lose their protected status by general plan amendments or other land use changes made by local agencies.

Greenbelt Alliance acknowledges that the discussion of required mitigations requires careful consideration. Due to limited time for consideration of Version 2, we recommend substantive discussion of required mitigation ratios at the September 14 hearing and an opportunity for the two finalized versions to be given final consideration by the commission at the appropriate future LAFCo hearing.

Contra Costa County needs the leadership of LAFCo to ensure smart and orderly growth, meaningful protections and mitigations for important agricultural and open space lands, and critical investments in farmers and the stability of the agricultural economy.

Sincerely,



Joel Devalcourt  
East Bay Regional Representative  
Greenbelt Alliance  
925.932.7776



***Email received September 14, 2016***

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

RE: LAFCO Agricultural & Open Space Preservation Policy

Dear Commissioners and Staff:

I wish to convey my comments and recommendation as it relates to the Business Item Agenda #8 for the September 14, 2016 meeting, ***“Agricultural & Open Space Preservation Policy - receive a report from the Policies & Procedures Committee and consider adopting an Agricultural & Open Space Preservation Policy.”*** After reviewing the policy, and Versions 1 and 2, first and foremost I would like to convey that I would appreciate more time to review the policy details, and would like to recommend that the Policy vote be deferred until after the election, which is only 56 days away. In general, I do want to let the Commission know that I currently support the required mitigation proposal, Version 2; but would like to see much more stringent mitigation requirements in your adopted policy.

First, I very much appreciate your work to meet LAFCO’s mission of preventing sprawl development and protecting agricultural and open space land. I hope you will take all the time you need; it’s important to get it right, and the California Legislature has given LAFCO the authority to do so. Brentwood is actively planning to develop outside the voter-approved ULL and SOI. In contrast, voters have demonstrated overwhelming support for limiting sprawl and protecting agriculture and open space land and this is demonstrated by their pressure for and continuous votes for ULL’s since the 1990’s. As you may know, I lead the opposition to Measure F in western Brentwood that sought to break that voter approved ULL. Since my move to Brentwood in 1997, I have been active in shaping Brentwood’s development beginning with the 2001 General Plan Update, and throughout the 2005 and 2006 ULL establishments and votes, and lastly helped hold the line in the 2010 election. Annexation applications outside voter approved ULL’s should continue to be rejected as a matter of policy. As many organizations and individuals have proposed to you in their documented comments, your policy must require that all jurisdictions abide by all voter approved ULLs and LAFCO must reject applications that lead to urban development outside the voter approved ULLs.

Your own policy language states that “LAFCO embraces its objectives of encouraging orderly growth and development while discouraging urban sprawl, efficiently extending government services, and preserving open space and prime agricultural lands. Through the review and approval or denial process of boundary changes and other applications, LAFCO has considerable authority to provide for the preservation of open space and agricultural land, and impose terms and conditions. (§§56885 -56890).” Furthermore Guideline #5 regarding the annexation of land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all of the criteria. Voter-

approved ULL's should take precedence in all applications to LAFCO, and in its execution of an adopted Agricultural & Open Space Preservation Policy.

Thank you for the opportunity to convey my strong support of the preservation of agricultural land and open space in East Contra Costa County. We will continue to make strides in keeping our quality of life by common-sense decision-making and by not approving applications in direct conflict to a sound Preservation Policy and voter-approved Urban Limit Lines.

Please confirm receipt of this e-mail.

**Kathy Griffin**  
**386 Pecan Place**  
**Brentwood, CA 94513**



# I love California

◦ 5<sup>th</sup> Generation Californian, Bay Area

◦ Lifelong Nature Observer

Mother

◦ Tassajara Valley Resident, Contra Costa County

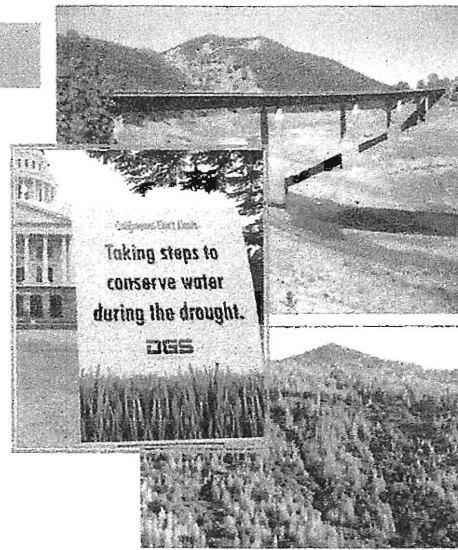


Tassajara Valley News  
Gretchen Logue

Population	Contra Costa County	Bay Area
1970	558,389	4,628,199
2010	1,094,000	7,150,739
2040	1,338,400	9,299,150
Projected Increase	244,440	2,148,411


### Drought Facts


- California's currently in its fifth year of severe drought.
- The time period of June 2015-May 2016 has been the 3rd warmest on record for California.
- On January 17, 2014 California State Governor, Jerry Brown, declared a drought state of emergency.



Tassajara Valley News  
Gretchen Logue

A few of the **Threatened or Endangered Species**  
of Contra Costa County



 Tassajara Valley News  
Gretchen Logue

When LAFCO allows urban growth on  
Prime Agricultural,  
Agricultural or Open Space Land

**Build Responsibly and Require  
Sustainable Development**

- Design Communities to combine the preservation of open space, wildlife habitat and natural resources.
- Plan our communities to enhance the environment and create a higher quality of life.
- Create "Organic" Communities – no pesticides or herbicides
- Require renewable energy - Solar

*It's Time to  
Think Differently*

