



## **NOTICE AND AGENDA FOR REGULAR MEETING**

DATE/TIME: Wednesday, November 14, 2018, 1:30 PM

PLACE: Board of Supervisors Chambers  
651 Pine Street, Martinez, CA 94553

**NOTICE IS HEREBY GIVEN** that the Commission will hear and consider oral or written testimony presented by any affected agency or any interested person who wishes to appear. Proponents and opponents, or their representatives, are expected to attend the hearings. From time to time, the Chair may announce time limits and direct the focus of public comment for any given proposal.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by LAFCO to a majority of the members of the Commission less than 72 hours prior to that meeting will be available for public inspection in the office at 651 Pine Street, Six Floor, Martinez, CA, during normal business hours as well as at the LAFCO meeting.

All matters listed under CONSENT ITEMS are considered by the Commission to be routine and will be enacted by one motion. There will be no separate discussion of these items unless requested by a member of the Commission or a member of the public prior to the time the Commission votes on the motion to adopt.

For agenda items not requiring a formal public hearing, the Chair will ask for public comments. For formal public hearings the Chair will announce the opening and closing of the public hearing.

If you wish to speak, please complete a speaker's card and approach the podium; speak clearly into the microphone, start by stating your name and address for the record.

### **Campaign Contribution Disclosure**

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

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

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

### **American Disabilities Act Compliance**

LAFCO will provide reasonable accommodations for persons with disabilities planning to attend meetings who contact the LAFCO office at least 24 hours before the meeting, at 925-335-1094. An assistive listening device is available upon advance request.

**As a courtesy, please silence your cell phones during the meeting.**

## November 14, 2018 CONTRA COSTA LAFCO AGENDA

1. Call to Order and Pledge of Allegiance
2. Roll Call
3. Adoption of Agenda
4. Public Comment Period (please observe a three-minute time limit):  
Members of the public are invited to address the Commission regarding any item that is not scheduled for discussion as part of this Agenda. No action will be taken by the Commission at this meeting as a result of items presented at this time.
5. Approval of Minutes for the September 12, 2018 regular LAFCO meeting

### CHANGES OF ORGANIZATION/REORGANIZATIONS

6. **Consider Request for Reconsideration – LAFCO 17-13 - Dissolution of Los Medanos Community Healthcare District (LMCHD)** - on September 12, 2018, the Commission approved dissolution of the LMCHD. The District comprises 90.5± square miles and serves a population of over 97,000 primarily in the Bay Point/Pittsburg area. Pursuant to Government Code §56895, a request for reconsideration may be filed within 30 days of adoption of the Commission's resolution. The Commission will be asked to consider and take action on a request for reconsideration submitted by the Hensley Law Group on behalf of the LMCHD **Public Hearing**
7. **LAFCO 17-13 – Dissolution of Los Medanos Community Healthcare District (LMCHD)** – on September 12, 2018, the Commission approved dissolution of the LMCHD subject to amendments to the LAFCO resolution and a protest hearing. The District comprises 90.5± square miles and serves a population of over 97,000 primarily in the Bay Point/Pittsburg area. The Commission will be presented with the final LAFCO resolution and will receive an update on the protest proceedings, request for reconsideration and Public Records Act request **Informational Item**

### BUSINESS ITEMS

8. **Policies & Procedures Update** – the Commission will consider proposed updates to LAFCO Policies & Procedures relating to *Rules and Procedures, CALAFCO, Roster of Cities and Special Districts, Document Retention and Destruction City Annexations and Detachments, and District Annexations and Detachments*. The Commission will also receive an update on the LAFCO *Agricultural & Open Space Preservation Policy* adopted in 2016 and provide direction as desired.
9. **FY 2018-19 First Quarter Budget**– receive the first quarter budget report for FY 2018-19
10. **2019 LAFCO Meeting Schedule** – consider approving the 2019 LAFCO meeting schedule

### CORRESPONDENCE

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

### INFORMATIONAL ITEMS

12. Commissioner Comments and Announcements
13. Staff Announcements
  - CALAFCO Updates – 2018 Annual Conference Highlights and 2019 CALAFCO Calendar
  - Pending Projects
  - Newspaper Articles

### CLOSED SESSION

#### PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: Executive Officer

#### CONFERENCE WITH LABOR NEGOTIATOR

Agency negotiators: Michael R. McGill, Chair and Don Tatzin, Vice Chair

Unrepresented employee: Executive Officer

### ADJOURNMENT

Next regular LAFCO meeting December 12, 2018 at 1:30 pm

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

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MINUTES OF MEETING

September 12, 2018

Board of Supervisors Chambers  
Martinez, CA

November 14, 2018  
Agenda Item 5

1. Chair Mike McGill called the meeting to order at 1:30 p.m. and the Pledge of Allegiance was recited.

2. Roll was called. A quorum was present of the following Commissioners:

County Members Candace Andersen and Federal Glover and Alternate Diane Burgis.  
Special District Members Mike McGill and Igor Skaredoff and Alternate Stan Caldwell.  
City Member Don Tatzin.  
Public Members Don Blubaugh and Alternate Charles Lewis.

Present were Executive Officer Lou Ann Texeira, Legal Counsel Sharon Anderson, and Clerk Kate Sibley.

3. Approval of the Agenda

Upon motion of Andersen, second by Tatzin, Commissioners approved the agenda by a vote of 6-0.

AYES: Andersen, Blubaugh, Glover, McGill, Skaredoff, Tatzin  
NOES: none  
ABSENT: Schroder (M)  
ABSTAIN: none

4. Public Comments

There were no public comments.

5. Approval of August 8, 2018 Meeting Minutes

Upon motion of Blubaugh, second by Tatzin, the August 8, 2018 meeting minutes were approved by a vote of 6-0.

AYES: Andersen, Blubaugh, Glover, McGill, Skaredoff, Tatzin  
NOES: none  
ABSENT: Schroder (M)  
ABSTAIN: none

6. LAFCO 18-06 - Chang Property Reorganization - Annexations to City of San Ramon, Central Contra Costa Sanitary District (CCCSD) and East Bay Municipal Utility District (EBMUD), and Detachment from County Service Area (CSA) P-6

The Executive Officer provided an update on the Commission-approved annexation of 63.5± acres to the City of San Ramon, CCCSD and EBMUD to facilitate development of 43 single-family large lot homes, 18 accessory dwelling units, a tot lot, and related facilities. Because the proposal did not have 100% written landowner consent; a protest hearing was required, which was held on Monday, September 10. No protests were filed; thus the reorganization is ordered.

In addition to reporting on the results of the protest hearing, staff presented the final LAFCO resolution, as approved by LAFCO in August, that includes conditions to address habitat conservation and fire presentation as discussed in August. As noted in the staff report, the City and the San Ramon Valley FPD have taken measures to address these issues.

David Bowlby, representing Ms. Chang, the applicant, confirmed that his client agrees with the changes made to the LAFCO resolution and conditions.

Upon motion of Blubaugh, second by Andersen, Commissioners, by a 6-0 vote, received the results of the protest hearing and directed staff to execute the determination.

**DRAFT**

AYES: Andersen, Blubaugh, Glover, McGill, Skaredoff, Tatzin  
NOES: none  
ABSENT: Schroder (M)  
ABSTAIN: none

7. LAFCO 18-08 – Dissolution of Rollingwood Wilart Park Recreation & Park District (RWPRPD)

The Executive Officer provided an update on the Commission-approved dissolution of the RWPRPD, which names the County as successor agency. The protest hearing was noticed in the newspaper and mailed notices were sent to all landowners and voters within the District’s boundary. On September 11<sup>th</sup>, LAFCO staff conducted the protest hearing at the Rollingwood Lutheran Church located next door to the Rollingwood Recreation Center in unincorporated San Pablo. No protests were filed; thus the dissolution is ordered. There were 12 public speakers, most of whom urged that the Rollingwood Recreation Center continue to be used for recreational activities and events, and that, should the City of San Pablo take over the facility, the Rollingwood residents receive the same facility use benefits as City of San Pablo residents.

Upon motion of Skaredoff, second by Andersen, Commissioners, by a 6-0 vote, received the results of the protest hearing and directed staff to execute the determination ordering the dissolution, and further directed staff to send a letter to the County and to the City of San Pablo urging the continued use of the Rollingwood Community Center for recreational programs that could benefit the Rollingwood community, and to extend to the Rollingwood residents the “resident” rates, should the City of San Pablo take over the center.

AYES: Andersen, Blubaugh, Glover, McGill, Skaredoff, Tatzin  
NOES: none  
ABSENT: Schroder (M)  
ABSTAIN: none

8. LAFCO 17-13 – Dissolution of Los Medanos Community Healthcare District (LMCHD)

The Executive Officer presented background on the proposal submitted by Contra Costa County to dissolve LMCHD, formed in 1948 to build and operate a hospital, which it did until 1994 when the hospital closed and the District declared bankruptcy. Since 1998, the District has leased its building to the County which houses the *Pittsburg Health Center (PHC)* – the County’s largest health clinic. The County has requested that if LAFCO takes action to dissolve the District, the County be named the successor agency.

The District provides community based healthcare services to a largely disadvantaged population in the City of Pittsburg, small portions of the cities of Antioch, Clayton and Concord, unincorporated Bay Point and surrounding unincorporated communities. Since the mid-1990s, LMCHD has been the subject of four Grand Jury reports, three LAFCO Municipal Service Reviews (MSRs), and reports by the Little Hoover Commission and Legislative Analyst Office. The challenges and inefficiencies faced by the District led to a petition to dissolve the LMCHD in 1999, which was denied by LAFCO in 2000.

The County’s justification for its November 2017 application to dissolve LMCHD notes that the District was formed to operate a hospital, but instead provides financial support to third parties that provide programs and activities related to health, wellness and prevention; that the County is the primary provider of healthcare services to low income people in the County, and operates a robust indigent healthcare delivery system; and that the County leases the PHC from the District and has invested over \$24 million in improvements to the building during the term of the lease.

The County’s application includes a Plan for Services, which provides that the County will: 1) set up a separate fund in the County treasury to segregate the LMCHD property tax funds, 2) use these funds to support healthcare services within the LMCHD community, 3) utilize a special advisory committee to develop and implement a Los Medanos Area health plan, and make grant funding recommendations, and 4) settle the debt payment with the State.

LAFCO staff commented on the 16 factors the Commission must consider in its review of a proposal, emphasizing two of the factors. Subsequently, the County and the District proceeded with their respective presentations.

**County Presentation - Timothy Ewell, Chief Assistant County Administrator**, assisted by Dr. Ori Tzvieli, presented the County's proposal, stressing the County's role in assisting the District in its bankruptcy in the mid-1990s and in continuing vital healthcare services to the region. Mr. Ewell noted that the County is prepared to continue the District's grant program, and could do so with less overhead and thus more funds for community health services grants. He confirmed that the County would continue to direct the property tax revenue towards healthcare programs and track revenues expenditures and special revenues; cut administrative costs from the District's historical average of 50%-60% down to 10%; create the Los Medanos Health Advisory Committee; spend the District-specific funds according to recommendations by community members and doctors; and, separately, ensure long-term County control and operation of the PHC for the benefit of the local community.

In anticipation of LAFCO's approval of this proposal, Mr. Ewell reported that the County Board of Supervisors (BOS) has already created the Los Medanos Health Advisory Committee (LMHAC), which would consist of three community members and two healthcare professionals; settled the District's bankruptcy debt with the California Office of Statewide Health Planning and Development (OSHPD) for cost savings; and created the Los Medanos Community Healthcare Special Revenue Fund in the County Treasury to track ad valorem property tax revenue and expenditures.

Commissioner Blubaugh questioned Mr. Ewell on the County's commitment to 1) setting aside District-specific tax revenues into special fund and spending up to 85% of those funds on grant programs, 2) number of community members (three) on the proposed LMHAC, whether that can be increased, and whether doctors need to have a vote on the committee, and 3) whether this was simply a negotiating tactic on the part of the County to secure a better lease on the building.

In response, Mr. Ewell noted that the County's admin costs will be marginal (10-15%); commented that the composition of the LMHAC and the importance of having a doctor on the committee; and indicated that discussion regarding dissolving the District started about the same time as the lease negotiations.

Commissioner Andersen noted that the lease negotiations and dissolution proposal were on parallel tracks; and that there were historical concerns with all three healthcare districts. She also stated that if she had been on LAFCO 18 years ago when a dissolution proposal had come to the commission, she would have voted even then for dissolution. She questions why a district should be allowed to continue if it no longer fulfills its original purpose.

Commissioner McGill commented about a LAFCO condition ensuring that LMCHD tax revenues would be set aside in the special fund; staff noted that there is a related condition in the draft resolution.

Commissioner Tatzin asked Dr. Tzvieli about other programs that the County has in place in the region, and particularly in East County, to which Dr. Tzvieli responded and listed a number of programs (both 3<sup>rd</sup> party and direct), noting they are funded through Requests for Proposals (RFPs) based on pre-identified needs and issues. Mr. Ewell added that it would be important that the LMHAC do the necessary research to ensure funds would go to the programs best serving the needs of the community.

When asked about a "maintenance of effort" provision, Mr. Ewell responded that the County has no intention of replacing its funded programs with LMCHD funds, but that binding the County to such a provision would be difficult in these times.

Further discussion included comments by Commissioner Lewis regarding the nexus between healthcare needs and the grant program, and the County's plan for the continuation of services in the area; comments and questions by Commissioner Tatzin on the number of County clinics and the configuration of the PHC and LMCHD property; comments by Commissioner Skaredoff regarding the need for continued programs and services to the community and the need for the County, as successor, be to responsive and accountable.

Commissioner Andersen asked that if LMCHD tax revenues increased, program funds would increase. Commissioner Tatzin stated that he wants to ensure that LMCHD funds will not replace current County expenditures for similar programs. Commissioner Lewis agreed that the LMHAC should assess the efficacy of the programs, but LAFCO should not “handcuff” the County on use of the funds and maintenance of effort. In response to a question from Commissioner Skaredoff, Mr. Ewell confirmed that the negotiations with OSHPD on the debt retirement are contingent on the County taking over the District. He also confirmed again that the LMCHD tax revenues would be spent strictly on programs for the community within the District boundary.

Commissioners discussed the makeup of the LMHAC; the County’s proposal is that the Bay Point Municipal Advisory Committee would appoint one member from that community, the City of Pittsburg Council would appoint one member from that city, and there would be one at large community member appointed by the County BOS, as well as two healthcare professionals.

**District Presentation - Dr. J. Vern Cromartie, LMCHD Board President**, provided a history of the lease negotiations with Contra Costa County, and stated that the LMCHD Board did not know about the County’s negotiation with OSHPD.

**Gary Bell, LMCHD attorney with Colantuono Highsmith & Whatley**, presented a history of LMCHD and that District’s opposition to the County’s dissolution proposal. He challenged the County’s rationale for the proposal, indicating that its primary reason is that it wants the building owned by LMCHD and leased by the County for the PHC. Mr. Bell pointed out that LMCHD made immediate improvements in response to the LAFCO Healthcare Services MSR; he pointed out that the District’s current costs reflect a 25% administrative overhead, and that the County’s cost breakdown for the District was out of date. Additionally, he stated that the County’s FY 2018-19 projected administrative costs are 45% as compared to the District’s 19% salaries and related costs for the same fiscal year. He agrees with Dr. Cromartie that this proposal came forward as a result of the County’s dissatisfaction over the lease negotiations, and that dissolution is not the way to resolve this matter.

**Craig Collins, CPA, accountant for LMCHD**, pointed out that the County’s argument relies on dated information, and that the District has made improvements and is committed to further progress.

In response to Commissioners’ questions, Dr. Cromartie stated that the County’s promises are empty and that once the current electeds are no longer in office the promises may not stand. Dr. Cromartie added that the LMCHD is needed in its area and that many underserved people depend on the District. The District is relevant because it’s close to the people it serves, and it’s in a position to communicate directly with them. As for the debt to OSHPD, LMCHD made a \$500,000 payment in August of this year, and there is one more \$500,000 to be paid in August 2019.

**Rhonda Rhoades, representing Upper Room Church of Antioch and Los Medanos College**, spoke of the LMCHD grants provided to the church and registered her opposition to the dissolution.

**Barbara Hunt, St. Vincent de Paul, Rotacare Pittsburg Free Medical Clinic**, stated that the free clinic, which receives funding from LMCHD, fills gaps in providing health care to uninsured patients; she is concerned that the County will not understand the local needs there in the same way LMCHD does. She opposes dissolution.

**Itika Greene, resident and retired CCHS public health nurse manager**, noted that LMCHD should be recognized as an example of how members of a community, through partnerships, have come together to improve health outcomes, and close health disparities; she opposes dissolution and urges Commissioners to adopt a bigger vision.

**Deacon Mark, Upper Room Church of Antioch**, spoke of LMCHD’s support for families and programs to get people engaged in healthy practices; he opposes dissolution.

**Benjamin Brisjar, Pittsburg Fifty Plus Club**, praised LMCHD’s support for the club’s work with seniors (35 members over 90, two over 100) helping them thrive instead of just survive; he opposes dissolution.

**Dr. Marcus Lorenzo Penn, service provider for Senior Falls Prevention**, testified that he has partnered with LMCHD for a mindfulness program about senior fall prevention. With this program, positive results have been: participants feeling stronger and safer, blood pressure down, and fewer falls have occurred. He opposes dissolution.

**Gregory Osoria (?)**, pointed out that in the beginning the County stated strongly that the LMCHD grant programs would continue, but by now they seem to have scaled that statement back, and he has no confidence in their promise. He also asked how, as a tenant, the County could install a cell phone tower on top of the PHC and keep the lease money from that. He is opposed to dissolution.

Commissioner Andersen asked Mr. Ewell if this cell phone tower is permitted under the lease; he states that it is.

**Carolyn Jones, Greater Faith Food Pantry**, had to leave but left a note that she shared the concerns sent by Sammie Lewis from her organization, opposing dissolution.

**Aaronique Gordon, LMCHD employee and community member**, noted that she was born at the hospital that LMCHD once operated (now PHC), and questioned what will happen with all of the programs that LMCHD currently funds; she opposes dissolution.

**Janette Kennedy, Loaves and Fishes**, reported that her organization serves 650-800 meals a day (translating to 252 tons of food annually), and they are concerned about the County's RFP process, which they have never been able to use. She opposes dissolution.

**Charles D. Smith** urged Commissioners to not dissolve the District.

**Johann Vethavanam (?)** pointed out that the LMCHD is an integral part of the community that it serves, and that the programs it funds teach the value of leading a healthy life. He urged Commissioners to consider the factor of local control, and he opposes dissolution.

**Debra Mason, Bay Point resident**, stated that it is still not clear to her why LMCHD is being dissolved when it provides such valuable programs, and Ambrose Recreation & Park District, on the other hand, is doing such a poor job of serving its residents. She stressed that local control is important, and opposes dissolution.

**Torry Hines, APT Sports**, pointed out that the City of Pittsburg doesn't provide programs like the ones that LMCHD funds. Students in APT Sports, which has been funded by LMCHD for at least 10 years, have a 100% graduation rate. He opposes dissolution.

**Arthur Fountain, LMCHD Board Director**, reminded Commissioners that the citizens of the area voted to establish this district that the County is now trying to take away from them simply because they want the property and can't settle the lease negotiation. He opposes dissolution.

**Gary Bell** spoke again, responding to Mr. Osoria's question about the legality of the County's leasing space for a cell phone tower on top of the PHC; he stated that the lease agreement says that any sublet should have a health-related purpose.

LAFCO staff read into the record an email from **Jack Weir, Contra Costa Taxpayers Association President**, stating that the time has come to reduce inefficient use of taxpayer dollars at LMCHD by transferring governance and operations to a successor agency. He favors dissolution.

Chair McGill closed the public hearing.

Commissioner Andersen stated that, as a strong advocate for local control, she still has to ask what is the basic purpose of LMCHD at this point. It was established to run a hospital, which it no longer does. Its grant program can be continued by the County, which can actually expand the funds provided to the programs supported by LMCHD. The County BOS acted in good faith by setting up the LMHAC. She suggested guaranteeing a percent of revenues (e.g., 85%) rather than a set dollar amount for funding programs, as that would accommodate the growth or shrinkage of tax revenues for the district area.

Commissioner Skaredoff acknowledged that this is a difficult decision. The preventive health support programs that LMCHD funds from its tax revenues are valuable, but in looking at the numbers it seems as if an increase in funds available through the County would only increase the value of the programs. He suggested adjusting the composition of the LMHAC so that it more strongly represents the community and reflects local control over the grant programs.

Commissioner Burgis also stated her support for local control; as a former East Bay Regional Parks District board member, she admires the LMCHD board members for the work they have done. But she believes that the County is trying to remedy a situation in which it can provide stronger local programs for residents of that district. The County will be able to contribute more to such programs than the LMCHD.

Commissioner Caldwell stated his agreement with all that has been said so far, and supports dissolution.

Commissioner Lewis indicated his support for dissolution, and stressed the importance of community representation on the LMHAC to ensure maintenance of local control.

Commissioner Blubaugh felt he could argue for either side, but with dissolution prevailing, he wanted to point out that special districts are created to serve special purposes. LMCHD has played a vital role for community-based service organizations. While it seems that the County's proposal indicates more money for these organizations' programs, he suggested that the LMHAC be reconfigured by removing the proposed health care experts and replacing them with more community members. Or, alternatively, make the committee a seven-member group with five of the members coming from the community. His concern is ensuring that LMCHD-related funds be maintained at minimally the current level while at the same time not be used to supplant current County Health Services programs.

LAFCO staff read into the record a memo from Commissioner Schroder who was unable to attend the LAFCO meeting on September 12, 2018, he was representing the City of Martinez at the League of California Cities conference in Long Beach. In preparing for the LMCHD agenda item, Commissioner Schroder wanted to see first-hand what LMCHD was all about and what programs and services they were providing. Last week he met with Interim Executive Director, Tomi Riley, and a member of the LMCHD board of directors, in the LMCHD offices in Pittsburg. He had an opportunity to tour their offices and board room and to sit down and discuss the services they provide and the programs they support. He met with Eileen Linder, O.D. and Marcus Penn, M.D., and discussed their programs that are supported by LMCHD. He also had an opportunity to meet with Barbara Hunt and Claudia Ramirez of the Society of St. Vincent de Paul and tour their facility in Pittsburg. LMCHD supports their Pittsburg Free Medical Clinic which is a safety net for those that slip through the County's safety net. He is very impressed with the community support of the district and the programs they support. Commissioner Schroder notes that over the last nine months, the LMCHD has made tremendous strides in making improvements that have been recommended in the LAFCO MSR and the Grand Jury reports. The District was in the midst of lease negotiations with the County which seem to have stalled since the County's request for dissolution of the district. It is Commissioner Schroder's opinion that any action of dissolution of the LMCHD be continued to a future date to untangle the lease situation from the dissolution and to give the Commission more time to thoughtfully come to a solution.

Commissioner Tatzin thanks all parties involved. He noted that the LMCHD has two primary roles, first as landlord of its building, the former hospital and now PHC, and second as a grantmaker for community programs that support good health. LAFCO must decide if dissolution is appropriate and whether it can take a role in determining the District's "last will and testament." While both the County and LMCHD spend a certain amount of money in the District, Mr. Tatzin wants to ensure that the County will allocate the same amount of money in grants to community programs that LMCHD has provided. Additionally, he is concerned that once the County has control of the property (building and 14 acres of land), it might take the opportunity to repurpose the land and the resulting profits would flow to the County without any benefit to the District. He suggested a condition that all future real estate proceeds (e.g., resale, reuse, etc.) be used to benefit the health of the community. Finally, he pointed out



that the cost effectiveness of nonprofit organizations is higher than either that for government agencies or for-profit entities.

Commissioner Tatzin added that he also supported the proposal that the LMHAC should be seven members instead of five to accommodate more community members, or remain at five members with no health experts taking seats.

Commissioner Glover commented on his extensive history in, and commitment to, Pittsburg, and the LMCHD. He commented on the value of the work and efforts of the LMCHD, as well as the ongoing changes in healthcare and challenges faced by special districts. He noted that the County spent \$13 million on restoring the LMCHD hospital building to working order when it first leased the structure. He too is a strong supporter of local control, and believes that grant programs should remain in the District, and added that some of the organizations receiving grants from LMCHD also receive funds from the Keller Canyon program. He agrees with the idea of a seven-member LMHAC, and that an 85% guarantee of grant funds is appropriate. He added that times have changed, and the County can do a more adequate job for the people in the LMCHD area.

Chair McGill asked staff if, like Mt. Diablo Health Care District, LMCHD could be made a subsidiary district to the County. The Executive Officer responded that a district can only be subsidiary to a city; however, it could become a County Service Area, which is subsidiary to the County.

Chair McGill noted that he has been very involved with County business efforts, and at the same time he is a big proponent of local control. He reminded Commissioners that there is increasing pressure upon LAFCOs from Sacramento to streamline government operations. LMCHD has made great strides in responding to LAFCO's findings in the most recent healthcare MSR. However, he will support dissolution provided all the right conditions are included in the LAFCO resolution.

Upon motion of Glover, second by Andersen, the Commissioners, by a 6-0 vote, approved Option 1 in the staff report to dissolve the Los Medanos Community Healthcare District; determined that the project is exempt pursuant to CEQA Guidelines Section 15061(b)(3); adopted a zero sphere of influence for the LMCHD and waived the LAFCO policy to allow concurrent action on the SOI and change of organization; approved dissolution of LMCHD with terms and conditions as presented in the draft resolution with the following added conditions: a) 85% of the funds from the LMCHD property tax increment must be used for district grant programs, with the remaining 15% to be broken down as 10% for administrative overhead and 5% for reserve; b) the County's LMHAC be increased to seven members (2 members appointed by City of Pittsburg, 2 members appointed by Bay Point MAC, 2 members appointed by County/health care reps, and 1 at large member); and c) if any changes in the facility or property generate new revenues (e.g., sale, transfer, reuse, etc.), that those profits must be directed toward healthcare related grant programs in the district area; designated Contra Costa County as successor agency to LMCHD; found that the subject territory is inhabited and the proposal is subject to a protest hearing; authorized LAFCO staff to conduct the protest proceedings and present the final resolution to the Commission when reporting on the result of the protest hearing.

AYES: Andersen, Blubaugh, Glover, McGill, Skaredoff, Tatzin  
NOES: none  
ABSENT: Schroder (M)  
ABSTAIN: none

#### 9. Legislative Report - Update and Position Letters

The Executive Officer updated Commissioners on the status of CALAFCO sponsored and supported bills. Since the agenda packet was released on Sept 5<sup>th</sup>, the Governor signed AB 1889 (Caballero) which includes provisions relating to the Santa Clara Water District and special customer tax exemptions, and AB 2019 (Aguiar-Curry) which requires healthcare districts to provide specified information on their websites. Several bills are now enrolled including AB 2238 (Aguiar-Curry) which makes a change in CKH related to LAFCO's consideration of assessed valuation, SB 1215 (Hertzberg) relating to sewer service to disadvantaged communities, and AB 2501 (Chu) relating to the State Water Resources Control Board and

provisions for consolidations. Additionally, Contra Costa LAFCO, at the request of CALAFCO, sent a letter to the Governor urging him to sign AB 2258, which establishes a funding program to provide grants to LAFCOs for conducting in-depth studies and analyses of local government agencies and services for the purpose of creating efficiencies and dissolving inactive districts.

10. Correspondence from CCCERA

There were no comments on this item.

11. Commissioner Comments and Announcements

Commissioner McGill reminded Commissioners of the upcoming CALAFCO Annual Conference, and reiterated that he is running to renew his seat on the CALAFCO Board; he does not yet know if he will have any challengers. Commissioner McGill also commented on the CALAFCO Ad Hoc committee on finances.

Commissioner Caldwell distributed information on the Contra Costa Special District Association's 2018 Student Video Contest as part of the *Districts Make the Difference* public outreach campaign.

12. Staff Announcements

The Executive Officer reported that there are no actionable items scheduled for October, so unless there are objections, the October LAFCO meeting will be cancelled.

The meeting adjourned at 4:49 p.m.

Final Minutes Approved by the Commission November 14, 2018.

AYES:

NOES:

ABSTAIN:

ABSENT:

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



Lou Ann Texeira  
 Executive Officer

**MEMBERS**

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

**ALTERNATE MEMBERS**

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

November 14, 2018  
 Agenda Item 6

November 14, 2018 (Agenda)

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

**Request for Reconsideration – Dissolution of Los Medanos Community Healthcare District**

Dear Commissioners:

**SYNOPSIS:** On September 12, 2018, the Commission approved dissolution of the Los Medanos Community Healthcare District (LMCHD) and related actions, including adopting a zero sphere of influence for the LMCHD, adopting a resolution approving the dissolution with terms and conditions, naming Contra Costa County as successor agency, and adopting findings and determinations pursuant to the California Environmental Quality Act (CEQA). The Commission’s approval is subject to protest proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH Act,” Gov. Code Section 56000 et seq.). The protest hearing is currently scheduled for November 30, 2018.

Government Code (GC) section 56895 (Attachment 1) provides that when LAFCO adopts a resolution making determinations, any person or affected agency may file a written request with LAFCO requesting amendments to, or reconsideration of, the resolution. GC section 56895 further provides that the request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously are claimed to warrant the reconsideration. Requests for reconsideration must be received within 30 days of the adoption of the LAFCO resolution. Pursuant to GC section 56895(b), this is a mandatory deadline. The deadline for submitting a request for reconsideration of the Commission’s resolution approving the dissolution of LMCHD was October 12, 2018.

On October 12, 2018, LAFCO received a request for reconsideration from Elizabeth M. Calciano, Attorney, Hensley Law Group (Attachment 2). Ms. Calciano serves as special legal counsel to LMCHD. Ms. Calciano’s letter requests that the Commission take any one of a number of different actions, each of which would either reverse the Commission’s decision to dissolve the District or postpone the Commission’s decision: (1) reconsider and ultimately rescind Commission Resolutions No. 17-13A and 17-13B providing for a zero sphere of influence (SOI) and approving the LMCHD dissolution, respectively; (2) postpone the Commission’s consideration of the District’s reconsideration request for at least 30 days so the District can engage in additional fact-

finding; (3) take the position that Resolution No. 17-13B has not yet been adopted by the Commission and postpone the final adoption of Resolution No. 17-13B until certain factual inquiries can be made regarding a potential conflict of interest; and (4) to not dissolve the District. The District also encourages the Commission to conduct its own investigation into certain facts to preserve the integrity of the process. The District does not ask for a specific modification to either Resolution No. 17-13A or 17-13B.

**DISCUSSION:** As stated in the attached letter, the District makes this request on procedural grounds and because the District has concerns regarding a potential conflict of interest on the part of Commissioner Glover. These issues, along with LAFCO staff analysis and recommendations, are presented below.

### **1. Procedural Objections**

- a. **District's Comment/Concern Regarding LAFCO's Action to Adopt Resolution Approving Dissolution of LMCHD** - As noted in the attached letter, the Commission approved dissolution of LMCHD on September 12, 2018, and approved three amendments to the staff-provided resolution, amendments which were consistent with the Commission's discussion. At the meeting, the LAFCO Chair noted that LAFCO staff would bring back the final language to the Commission at a subsequent meeting. The District contends that the Chair's comment to have the final language brought back to the Commission means that the Commission did not actually adopt the Resolution.

**Response** - On September 12<sup>th</sup>, as part of the Commission's deliberations and approval, the Commission made one amendment to the LAFCO resolution approving the dissolution, adding two members to the County's 5-member Los Medanos Advisory Committee. The Commission also added two new conditions to that LAFCO resolution - one relating to the County's future expenditures on administrative/overhead costs and grant funding, and another restricting the use of future proceeds of any sale, transfer, redevelopment or reuse of the Pittsburg Health Center (PHC) facility and property to healthcare related purposes within the LMCHD community. Pursuant to the Cortese-Knox-Hertzberg Local Government Act (GC section 56000 et seq.), LAFCO has the authority to *approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization.*

The Commission's motion and approval on September 12<sup>th</sup>, was to approve Option 1 in the LAFCO staff report. Option 1 included the following actions:

- Making the CEQA findings and determinations
- Adopting LAFCO Resolution 17-13A approving a zero sphere of influence (SOI) for LMCHD and setting forth determinations
- Adopting LAFCO Resolution 17-13B approving dissolution of LMCHD and setting forth the Commission's terms, conditions, findings and determinations
- Assigning a distinctive short-term designation to the proposal and description of the affected territory
- Designating Contra Costa County as successor agency
- Finding that the territory is inhabited and subject to protest proceedings

The record reflects that the Commission adopted LAFCO Resolution 17-13B approving

dissolution of LMCHD on September 12, 2018, and providing for a protest proceeding. The record further reflects that no further action would be taken by the Commission other than the Commission being provided a copy of the amended resolution at its next meeting and completion of the protest proceedings.

- b. **District's Comment/Concern Regarding Availability of the Amended LAFCO Resolution** - As noted in the attached letter, early in the week of October 8<sup>th</sup>, LAFCO received requests relating to the LAFCO resolution approving the dissolution. The first inquiry and request was made to LAFCO staff on October 8<sup>th</sup> by Gary Bell, the District's special legal counsel who inquired about the status of LAFCO Resolution 17-13B and next steps in the process; the second request was made to LAFCO's special legal counsel on October 9<sup>th</sup> by Elizabeth Calciano, the District's additional special legal counsel who also inquired about the status of the resolution and requested a copy of the amended resolution.

**Response** - LAFCO staff indicated on October 8, 2018 to Mr. Bell that the amended resolution was not yet available as staff had not yet inserted the final language into the resolution. Subsequently, LAFCO made the amendments to the resolution, as adopted by the Commission, and, as noted in the District's letter, provided a copy to Ms. Calciano on the morning of October 12<sup>th</sup>. Commissioners were also provided a copy of the amended resolution. While the final resolution was not provided until October 12, 2018, District representatives and counsel attended the September 12, 2018 Commission meeting and were present when the Commission adopted the resolution with the amended and modified conditions.

- c. **District's Comment/Concern Regarding Commission Staff Acting Outside the Scope of its Authority** – The letter indicates that it appears Commission staff acted outside the scope of the authority and direction given to them by the Commission in finalizing the resolutions with the three amendments.

**Response** – LAFCO staff did not act outside the scope of the authority and direction provided by the Commission in amending the LAFCO resolution with the three amendments requested by the Commission. As directed by the Commission on September 12<sup>th</sup>, and as reflected in the record, LAFCO staff made amendments to LAFCO Resolution 17-13B and have provided it to the Commission as Item #7 on November 14<sup>th</sup> Commission meeting agenda as an informational item.

The record reflects that the Commission adopted LAFCO Resolution 17-13B approving dissolution of LMCHD on September 12, 2018, and that LAFCO did not contemplate any further action being taken on the dissolution other than the Commission being provided a copy of the final resolution at a subsequent Commission meeting and completion of the protest proceedings on November 30<sup>th</sup>. This practice is consistent with other resolutions approving changes of organization the Commission has approved in the very recent past, and staff treated this resolution no differently from the others.

The record also reflects that the Commission indicated that the protest hearing for the dissolution would be scheduled by staff. The protest hearing may only be scheduled once the Commission has approved the dissolution and may not be scheduled during the time for reconsideration. Accordingly, staff provided notice of the protest hearing on October 2, 2018, and scheduled the protest hearing for November 30, 2018.

- d. **District's Comment/Concern Asserting the District was Deprived of a Fair Hearing Having Received a Copy of the Amended LAFCO Resolution 17-13B on the Same Day the Request for Reconsideration was Due** – The letter indicates that the District did not have sufficient opportunity to review, comment, and provide testimony and other documentation regarding the additional and modified conditions because the language was not finalized at the September 12, 2018 meeting and was only made available on the morning of October 12<sup>th</sup>. The letter also notes that a fair hearing requires, at a minimum, notice and an opportunity to be heard, and that neither was provided here. Further, the District claims that it reasonably expected, based on the September 12, 2018 motion and vote, that it would have an opportunity at a future meeting to comment on the three additional conditions. Consequently, the District believes that the 30-day reconsideration period has not yet begun to run pursuant to GC section 56895.

**Response** – The District had notice of the September 12, 2018 Commission public hearing on the dissolution application and had an opportunity to be heard. Several LMCHD representatives attended the September 12<sup>th</sup> LAFCO hearing, including Board members, District staff and legal counsel who heard the discussion and Commission's deliberations. District representatives had the opportunity to comment, and did comment, on the dissolution application and were present for the entire discussion regarding both the modified and additional conditions. Further, the full audio recording of the September 12<sup>th</sup> LAFCO meeting was available on the LAFCO website as of September 14<sup>th</sup>. If the District had questions or concerns about the Commission's action or amended or additional conditions, one of its representatives could have, and should have, raised those concerns during the public hearing on September 12<sup>th</sup>, or subsequently contacted the LAFCO office.

Additionally, the District determined on its own that it had until October 12<sup>th</sup> to submit a request for reconsideration, and arguably did not reasonably believe that it would have a further opportunity to review and comment on the amended and additional conditions, as the District claims in its request for reconsideration. Moreover, despite the statement in the District's letter to the contrary, LAFCO staff did not inform the District that its deadline to file a request was October 12<sup>th</sup>. LAFCO staff did provide Resolution 17-13A and 17-13B to the District's special legal counsel on October 12<sup>th</sup> and did note the need to pay a filing fee (in conjunction with the request for reconsideration), but had not previously independently informed the District of this deadline.

It should also be noted that the amended and new conditions made by the Commission were favorable to the LMCHD community and ensuring the continuation of future resources being directed to the betterment of the health and well-being of the LMCHD community. The amended condition to change the composition of the advisory committee is intended to have more community, and fewer County, members on it. The added condition to restrict the proceeds from a sale of District assets is intended to be in furtherance of the District's health care needs by requiring that the proceeds be spent within the District. The other additional condition similarly is intended to require the County to spend most of the property taxes received from the District on health care related services within the District's boundaries and to limit the amount spent on administrative expenses.

Further, while LAFCO conducted a fair and open hearing on September 12, 2018, with appropriate public notice and an opportunity to be heard, LAFCO will also be conducting

another public hearing for the Request for Reconsideration. During the public hearing on the District's request for reconsideration, District, the public, and others will have an opportunity to address the Commission on its approval of the LMCHD dissolution, including providing any comments or suggested modifications to the amended or additional conditions. It is staff's opinion that all due process and other hearing requirements have been satisfied.

## **2. Facts That the District Claim Warrant Reconsideration**

- a. **District's Comments/Concerns Regarding Future Sale and/or Development of LMCHD Owned Property and Related Issues** - The District's letter references an October 24, 2017 meeting of the LMCHD's Outreach Committee, during which a local developer, Dr. Justin Tin, expressed interest in purchasing a portion of LMCHD owned property for residential development. The District indicates that Janis Glover, spouse of Commissioner Glover, whom the District indicates is a real estate agent, accompanied Dr. Tin to the meeting. As noted in the letter, the District did not appear interested in selling District-owned land.

The District also notes that on November 7, 2017, approximately two weeks following the District's October 24<sup>th</sup> committee meeting, the County adopted a resolution of application to LAFCO to dissolve LMCHD. The District raises a question concerning the role of Janis Glover as a real estate agent, and possible economic interest in the transaction proposed by Dr. Tin. However, the District notes that it reviewed Commissioner Glover's Form 700 and found no income from Dr. Tin.

**Response:** Regarding the October 2017 LMCHD Outreach Committee meeting, LAFCO staff currently has no information regarding the real estate matter other than what is presented in the District's letter. Presently, this does not appear to be a LAFCO issue, and LAFCO staff does not believe that the meeting has any direct bearing on the LAFCO decision to approve dissolution of LMCHD.

- b. **District's Comments/Concerns Relating to Commissioner Glover's Role in LAFCO's Action to Add a Condition Relating to Future Sale of the PHC** - The District states in its letter that it is not alleging fraud or a conflict of interest at this time. Rather, the District states that it believes certain facts warrant an investigation. The letter implies that Commissioner Glover may be anticipating income from the sale of District-owned property and that, therefore, he may have had a financial interest in the dissolution application. The District also appears to imply that the County Board of Supervisors and/or Commissioner Glover had financial motives because the County acted soon after the District's Outreach Committee meeting in October 2017 to submit the dissolution application to LAFCO. As noted above, one of the new conditions added by the Commission relates to the restriction of the proceeds by the County if the County sells the PHC. The District claims that District representatives who attended the LAFCO meeting on September 12, 2018, recall that Commissioner Glover seconded the motion that considered the possibility that the building that houses the PHC or the land around it (that is currently owned by the District) might be sold in the future. Because the motion itself contemplates that the land might be sold, and because Commissioner Glover's wife appeared at a District Committee meeting two weeks before the dissolution proceedings were initiated by the County, the District is questioning Commissioner Glover's motives for seconding this motion.

**Response** - On September 12, 2018, the Commission approved the dissolution of LMCHD. During the LAFCO public hearing and Commission deliberations, the Commission added a condition to the resolution specifying that future proceeds derived from any sale, transfer, development or reuse of the PHC would be directed to healthcare related services and programs within the LMCHD community. The LAFCO record shows that Commissioner Tatzin suggested adding this condition, which was supported by the full Commission. There was no specific motion or second to a motion relating to this added condition. Instead, the Commission approved one final action (with a motion and second following the conclusion of Commissioner deliberations) to approve Option 1 to dissolve the LMCHD with specific terms and conditions.

Further, the future sale of the PHC is entirely speculative given its current use and value to the community. Since 1998, the District has leased the hospital building to the County. During the term of the lease, the County has made significant capital improvements in excess of \$24 million to the PHC during the term of the lease. Today, the PHC houses the County's largest health clinic, with over 100,000 patient visits per year. Neither the County nor the District have provided LAFCO with any information that the County is interested in selling the facility should it become the successor agency to the LMCHD.

- c. **District's Comments/Concerns Relating to the District's Ongoing Investigation and Indication There Are New or Different Facts** – As indicated in the District's letter, on September 21, 2018, the District made a Public Records Act (PRA) request to the County and is seeking copies of all correspondence between the County and Dr. Tin. The County indicates that its response will involve examining a voluminous amount of records, and that the County will respond to the request by October 15, 2018. The District indicates in its letter of October 12<sup>th</sup> that because it has not yet received the documents, and in order to allow the District reasonable time to pursue its inquiry, it asks that the Commission schedule reconsideration at a meeting not less than 30 days from today.

The District indicates that it is not alleging the existence of fraud or a conflict of interest at this time; it simply contends that circumstances warrant an investigation. The District further states that the appearance of a potential conflict should be of equal concern to LAFCO. Finally, the District believes that this information represents new or different facts that could not have been presented previously within the meaning of GC section 56895.

**Response** - Regarding the PRA request, we understand that on September 21, 2018, the District submitted a PRA request to the County. On October 2, 2018, County staff sent a letter to the District requesting clarification regarding Dr. Tin's interactions with the County. Subsequently, on October 15<sup>th</sup>, County staff transmitted to the District a partial response to the PRA request, and reiterated the County's prior request for clarification regarding Dr. Tin. On October 17<sup>th</sup>, the County received a letter from the District's special counsel clarifying the District's request regarding Dr. Tin. Now that the County has received clarification, LAFCO staff understands that the County is preparing a supplemental response to the District.

Based on all of the information submitted in the District's letter requesting reconsideration, it does not appear to LAFCO staff that the District provided new or different facts that could not have been presented previously and are claimed to warrant reconsideration



pursuant to GC section 56895. The District's Outreach Committee meeting occurred on October 24, 2017. The District's letter states that "since then," the District has been concerned about the potential conflict of interest. If the District believed that Commissioner Glover might have had a conflict, the District had between October 25, 2017 and the Commission's public hearing on September 12, 2018 to raise the issue, ask additional questions of Commissioner Glover or the County, and conduct an investigation into the facts. Any of the facts about that meeting, or the District's concerns about a potential conflict of interest, could have been raised to the Commission prior to or during the September 12 public hearing. The same concerns could also have been raised to the County as the applicant or could have been raised (but were not raised) by the District in its written comments to the Commission.

The District has not provided any evidence that Commissioner Glover's spouse (and by extension Commissioner Glover) would receive any income from approving the County's dissolution application. Nor has the District provided any information that Commissioner Glover's spouse is working for a party that may be interested in purchasing the property. Additionally, there is no evidence in the record that the PHC would be sold by either the District or the County. Neither has the District explained why it could not have done any of the additional investigation into these facts prior to the September 12, 2018 meeting and seems to instead suggest that Commissioner Glover's seconding of a non-existent motion regarding the sale of the District's property constitutes a new fact warranting reconsideration.

Thus, LAFCO staff does not believe that the information relating to the October 24, 2017 LMCHD Outreach Committee meeting constitutes "new or different facts that could not have been presented previously are claimed to warrant the reconsideration" per GC section 56895.

Finally, GC section 56895 states that a request for reconsideration should provide for the specific modification to the resolution. Here, the District instead appears to be asking the Commission to take one of four possible actions, which would have the effect of either denying the dissolution application or postponing the proceedings: (1) rescind Commission Resolutions No. 17-13A and 17-13B; (2) postpone the Commission's consideration of the District's reconsideration request for at least 30 days so the District can engage in additional fact-finding; (3) take the position that Resolution No. 17-13B has not yet been adopted by the Commission and postpone the final adoption of Resolution No. 17-13B until certain factual inquiries can be made into a potential conflict of interest; and (4) to not dissolve the District. The District's rationale for the Commission to take any one of these actions is based on the purported need of the District and perhaps the Commission to conduct an additional investigation into the facts surrounding an October 2017 District Outreach Committee meeting.

3. **Objection to Premature Protest Proceedings and Availability of Amended LAFCO Resolution** – As previously noted, the District believes that LAFCO did not adopt its resolution on September 12, 2018 approving dissolution of LMCHD; therefore, LAFCO is precluded from taking certain actions including setting a protest hearing.

**Response** – Regarding the protest proceedings, and as noted above, the Commission's

September 12, 2018 approval of Option 1 included a number of actions, including adopting LAFCO Resolution 17-13B approving dissolution of LMCHD and setting forth the Commission's terms, conditions, findings and determinations. The record also indicates that the Commission Chair noted that the protest hearing would proceed. Thus, LAFCO staff was fully within their authority to proceed with setting the protest hearing.

The District also notes that the LAFCO notice of the protest hearing, published on October 2, 2018, indicates that the LAFCO resolution approving dissolution of the LMCHD is available on the LAFCO website, but that the final, signed resolution was not available online.

It should be noted that the LAFCO public hearing notice also indicates that additional information is available through the LAFCO office. The draft resolution provided to the Commission on September 12, 2018 is, and has been, available on the LAFCO website. The amended resolution is currently available through the LAFCO office and will be included, and posted on the LAFCO website, in conjunction with the November 14, 2018 LAFCO meeting agenda packet.

## **OPTIONS FOR COMMISSION ACTION**

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

**Option 1**     **DISAPPROVE** the request for reconsideration and proceed with the protest hearing as currently scheduled for November 30, 2018.

If the Commission believes that the request for reconsideration does not meet the statutory requirements under GC section 56895, the Commission should disapprove the request for reconsideration. If the Commission disapproves the request, it shall not adopt a new resolution making determinations. The September 12, 2018 resolution, as adopted by the Commission with the amended condition and two additional conditions, will remain in effect, and the reconsideration process will be complete. No further reconsideration of the September 12, 2018 decision would be authorized under GC section 56895. The protest hearing would proceed as scheduled on November 30, 2018, and Commission staff would provide information to the Commission about the protest hearing at the Commission's December 2018 meeting. A resolution disapproving the request for reconsideration is provided as Attachment 3.

**Option 2**     **DISAPPROVE** the request for reconsideration, similar to Option 1, but direct LAFCO staff to continue the November 30, 2018 protest hearing to a date no later than January 29, 2019. The law allows the protest hearing to be continued for up to 60 days, and January 29, 2019, would allow for the maximum amount of time LAFCO can continue the protest proceedings. A resolution disapproving the request for reconsideration but directing staff to continue the protest hearing is provided as Attachment 4.

**Option 3**     **APPROVE** the request for reconsideration

- A. This option has two parts. The Commission may approve the request for dissolution if the Commission believes that the request for reconsideration meets the statutory requirements, and presents new or different facts that could not have been presented

previously to the Commission. Upon approving the request for reconsideration, the Commission would then consider the merits of the reconsideration request. It could do that during the November 14, 2018 public hearing, or it could hear the request at a different time.

- B. If the Commission decides to approve the request for reconsideration and not order the LMCHD dissolution, the Commission would adopt a resolution making determinations that supersede the September 12, 2018 resolution but upholding the decision to dissolve the LMCHD. If the Commission decides to approve the request for reconsideration and rescind its September 12, 2018 decision, the Commission would adopt a new resolution rescinding LAFCO Resolutions 17-13A and 17-13B, which approved the zero SOI for the District and approved the dissolution of the District and made certain findings and determinations. This new resolution would be final pursuant to GC section 56895, and the dissolution proceedings would terminate. A resolution approving the request for reconsideration and rescinding the two previously approved resolution is provided as Attachment 5.

**Option 4**      **CONTINUE** this matter to December 12, 2018, if the Commission needs more information. If the Commission continues this matter to its December 2018 meeting, staff requests that the Commission direct staff to continue the protest hearing until a date no later than January 29, 2019.

**Option 5**      **RATIFY or READOPT the Resolutions.** Due to the concerns the District raised in its letter requesting reconsideration, the Commission could treat Resolution No. 17-13B as an item to be ratified or readopted during its November 14, 2018 Commission meeting. If the Commission does so, then the reconsideration period would begin anew as of November 14, 2018 rather than September 12, 2018. The District would then have an additional 30 days to submit another request for reconsideration. That request for reconsideration would similarly be required under GC section 56895 to state the new or different facts that could not have been presented to the Commission prior to the Commission's public hearing on the County's dissolution application. Additionally, however, the time to hold the protest hearing would also change. The Commission is not permitted under the law to hold the protest hearing within the 30-day time period for reconsideration. Commission staff would be required to renote the protest hearing for a different date, which would vacate the November 30, 2018 protest hearing. This would mean that the Commission could not consider any protests signed so far for the dissolution (GC section 57051). In other words, any person who has already signed a protest would be required to sign it again and submit it prior to the conclusion of the yet to be scheduled new protest hearing date. Further, pursuant to GC section 57002, the date of the protest hearing shall not be less than 21 days or more than 60 days after the protest hearing notice is given. Consequently, the time to gather signatures from voters and landowners may be as short as 21 days or as long as 60 days. (As noted above, the currently scheduled November 30, 2018 protest hearing provides the maximum amount of time allowed under CKH.) Thus, even though it appears that the District may be requesting this option, Commission staff believes this option is potentially detrimental to the District and to any registered voter or

landowner within the District who may have already signed a protest; thus, staff does not recommend it.

**RECOMMENDED ACTION:**

**Approve Option 2.** It is staff's opinion that Option 2 (a) determines that the District did not present new or different facts that could not have been presented to the Commission prior to the September 12, 2018 public hearing but (b) extends the protest hearing date in recognition of the District's concerns regarding the availability of the final resolution and the uncertainty the District appears to express about the applicable dates and deadlines for this application. Option 2 would provide the District with the maximum time permitted under the law to allow registered voters and landowners to submit protests to the Commission. It is staff's opinion that this option provides the most amount of time to the District and would provide the least amount of potential harm to the District. However, staff does not believe this option is required. If the Commission does not wish to extend the protest hearing, then staff recommends that the Commission adopt Option 1 denying the District's request for reconsideration and proceeding with the protest hearing on November 30, 2018.

Please contact the LAFCO office if you have any questions.

Sincerely,

Lou Ann Texeira  
Executive Officer

**Attachments:**

- Attachment 1 – Government Code Section 56895
- Attachment 2 – Letter Requesting Reconsideration dated October 12, 2018 from Elizabeth M. Calcine, Attorney, Hensley Law Group Representing the LMCHD
- Attachment 3 – Resolution Disapproving the Request for Reconsideration
- Attachment 4 - Resolution Disapproving the Request for Reconsideration and Directing the Executive Officer to Continue the Protest Hearing to January 29, 2019
- Attachment 5 - Resolution Approving the Request for Reconsideration and Rescinding the Approvals of the Los Medanos Community Healthcare District Dissolution

## Government Code Section 56895

**56895.** (a) When a commission has adopted a resolution making determinations, any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of the resolution. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously are claimed to warrant the reconsideration. If the request is filed by a school district that received notification pursuant to Section 56658, the commission shall consider that request at a public hearing.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, the time to file any action, including, but not limited to, an action pursuant to Section 21167 of the Public Resources Code and any provisions of Part 4 (commencing with Section 57000) governing the time within which the commission is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal. The executive officer may give notice in any other manner as he or she deems necessary or desirable.

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 35 days from the date specified in the notice. The person or agency that filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(g) At the conclusion of its consideration, the commission may approve with or without amendment, wholly, partially, or conditionally, or disapprove the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations. If the commission approves the request, with or without amendment, wholly, partially, or conditionally, the commission shall adopt a resolution making determinations that shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56883.

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October 12, 2018

Contra Costa Local Agency Formation Commission  
c/o Lou Ann Texeira, Executive Officer  
651 Pine Street, 6th Floor  
Martinez, CA 94553

Re: Los Medanos Community Healthcare District's Request for Reconsideration - Resolution No. 17-13A and Resolution No. 17-13B

Dear Ms. Texeira:

Our firm serves as special legal counsel for the Los Medanos Community Healthcare District ("District"). We are submitting this request on the District's behalf to the Contra Costa Local Agency Formation Commission. The District hereby requests reconsideration of Resolution No. 17-13A ("Resolution of the Contra Costa County Agency Formation Commission Making Determinations and Adopting a Zero Sphere of Influence for Los Medanos Community Healthcare District") and Resolution No. 17-13B ("Resolution of the Contra Costa County Agency Formation Commission Making Determinations and Approving Dissolution of the Los Medanos Community Healthcare District") as considered by the Commission at its September 12, 2018 meeting. Specifically, the District requests that the Commission reconsider and ultimately rescind both resolutions. The District makes this request on procedural grounds and because the District has serious concerns regarding the potential for a conflict of interest on the part of County Supervisor/LAFCO Commissioner Federal Glover.

## **Procedural Objection**

The District makes this request as of October 12, 2018 out of an abundance of caution. Government Code section 56895 requires a request for reconsideration to be filed "within 30 days of the adoption of the initial or superseding resolution by the commission making determinations." At its September 12, 2018 meeting, the Commission considered the various options presented by staff and ultimately agreed to dissolve the District with a number of additions and modifications consistent with the Commission's discussion. In announcing the final motion, the Commission chairperson stated that staff would "bring back final language" at a subsequent meeting.<sup>1</sup>

Following that meeting, neither of the final Resolutions No. 17-13A nor No. 17-13B could be found on the Commission website. Further, in spite of our prior requests earlier this week to Commission staff and legal counsel for the final Resolution No. 17-13B, the final resolution was not provided. In fact, the final resolutions were not provided to the District until this morning, October 12, 2018, the date that Commission staff claims that the District's Request for Reconsideration is due.

Therefore, it appears that Commission staff acted outside the scope of the authority and direction given to them by the Commission in finalizing the resolutions this morning with three additional conditions rather than bringing "back the final language." Staff are bound by the Commission's motion and vote unless changed at a future meeting.

It also deprives the District of a fair hearing to be provided the final resolution revised by Commission staff on the same day that the Request for Reconsideration is due. The District has not had sufficient opportunity to review, comment, and provide testimony and other documentation regarding the three additional conditions because the language was not finalized at the September 12, 2018 meeting and was only made available this morning. A fair hearing requires, at a minimum, notice and an opportunity to be heard. Neither was provided here. The District reasonably expected, based on the September 12, 2018 motion and vote, that it would have an opportunity at a future meeting to comment on the three additional conditions. Consequently, we

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<sup>1</sup> This is common practice--and appropriate--unless the precise modifications to a proposed resolution are read into the record verbatim, in which case the body has the final wording before it and can take a final action. No final wording was read into the record in this case.

do not believe the 30-day period has yet begun to run under any reasonable reading of Government Code section 56895.

### **Facts that Warrant Reconsideration**

Government Code section 56895 requires that the request for reconsideration shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously are claimed to warrant the reconsideration. The District requests that the Commission postpone the final adoption of the Resolution until the concerns discussed below can be adequately investigated. Further, the District requests that the Commission not dissolve the District.

At the October 24, 2017 meeting of the District's Outreach Committee, a local developer named Dr. Justin Tin addressed the Committee regarding his desire to purchase 2.4 acres of District-owned property on East Leland Avenue. He declared his desire to develop the property with housing and urged the District to sell or lease the property on a long-term basis.

Dr. Tin was accompanied at the Committee meeting by Janis Glover, the wife of Supervisor/LAFCO Commissioner Federal Glover, and by Pete Longmire, a Pittsburgh City Council member and past Executive Director of the District. We understand that Janis Glover is somehow affiliated with the City of Pittsburgh, but we also understand that she is a licensed real estate salesperson with an active practice which includes the Pittsburgh area.

District records reflect that District Board Member J. Vern Cromartie indicated at that meeting:

“There is lots of land near Los Medanos College – so rather than taking public land – I’m not a big fan of selling public land – because once you sell it you can’t claim more land – once it’s gone its gone & the public has no usage.”

The District did not sell or lease the property. Dr. Tin and Mrs. Glover never returned to the Board to follow up on the purchase. Instead, on November 7, 2017, just two weeks after the Committee meeting at which Dr. Tin, accompanied by Mrs.



Glover, urged the District to sell him the property, the County adopted a resolution of application initiating proceedings for the dissolution of the District. Since then, concerns have been raised that the District believes warrant further investigation into the possible connection between Dr. Tin and Supervisor Glover and/or his spouse.

The reason for Mrs. Glover accompanying Dr. Tin at the meeting are presently unknown to the District, but the District is investigating whether she was acting in her capacity as a real estate salesperson and had a potential economic interest in the transaction proposed by Dr. Tin--an economic interest that would be imputed to Supervisor/Commissioner Glover. We reviewed Supervisor/Commissioner Glover's Form 700 on file with the Fair Political Practices Commission to determine if he had any income from Dr. Tin, but his Form 700 showed no income even though we understand his wife is a real estate agent.

Further, at the Commission meeting on September 12, 2018, there was a motion that a new condition be added to the Resolution. The Condition as set forth in the revised resolution received this morning provides:

“Should there be any sale, transfer, redevelopment or reuse of the Pittsburg Health Center facility/property for use other than medical, health-related purposes, any profits, proceeds or new revenues generated from such sale, transfer, redevelopment or reuse shall be directed to healthcare related services/programs within the LMCHD community.”

District representatives who attended the meeting recall that it was Commissioner Glover who seconded this motion that considered the possibility that the building that houses the Pittsburg Health Center or the land around it (that is currently owned by the District) might be sold in the future. Because the motion itself contemplates that the land might be sold, and because Commissioner/Supervisor Glover's wife appeared at a District Committee meeting two weeks before the dissolution proceedings were initiated by the County, the District is questioning Commissioner Glover's motives for seconding this motion.

The District is currently in the process of attempting to obtain additional information. On September 21, 2018, a District representative made a Public Records Act (“PRA”) request to the County seeking copies of all correspondence between the

County and Justin Tin since January 1, 2016. By letter dated September 24, 2018, Timothy M. Ewell, Chief Assistant County Administrator, replied to the PRA request and indicated that a response could be anticipated on or before October 1, 2018. Subsequently, on October 1, 2018, Mr. Ewell emailed the District's representative and informed him that, because the request "involves examining a voluminous amount of separate and distinct records," the County must extend the time to respond to October 15, 2018. Because the District has not yet begun to receive the documents, and in order to allow the District a reasonable time to pursue its inquiry, we ask that the Commission schedule reconsideration of the resolutions at a meeting not less than 30 days from today. These are new or different facts that could not have been presented previously within the meaning of Government Code section 56895.

To be clear, the District is not alleging the existence of fraud or a conflict of interest at this time; it simply contends that the circumstances warrant an investigation. We trust that the appearance of a potential conflict is of equal concern to the Commission. Accordingly, the District requests reconsideration of the resolution and a reasonable time to conduct an independent investigation. We further urge the Commission to make inquiries of its own to preserve the integrity of this process.

### **Objection to Premature Protest Proceedings**

We respectfully request that the protest proceedings which have been noticed for November 30, 2018 be postponed until after the Commission holds its hearing on the request for reconsideration as required by the Government Code. Government Code 57000 provides "*After adoption* of a resolution making determinations by the Commission pursuant to Part 3 (56650 et seq.), protest proceedings for a change of organization or reorganization ... shall be taken pursuant to this part. [Emphasis added.]" Further, Government Code Section 57002 states that the Commission is to set the proposal for hearing and give notice within 35 days following the adoption of the Commission's resolution making determinations and specifies that the hearing cannot be held prior to expiration of the reconsideration period in Government Code Section 56895(b). That section states that the request for reconsideration must be filed "within 30 days of the adoption of the original or superseding resolution making determinations."

Letter to Ms. Teixeira  
October 12, 2018  
Page 6

Further, we were informed that the Notice of Protest hearing was published on October 2, 2018. And in particular, that notice stated that:

“The dissolution was approved by LAFCO on September 12, 2018 subject to various terms and conditions as specified in the LAFCO resolution which is available online at <http://contracostalafco.org/>.”

However, this resolution could not be found on the Contra Costa LAFCO website. The resolution with the three additional conditions discussed on September 12, 2018 could not be found there or anywhere until it was provided today to the District. An interested party cannot be expected to lodge a written protest of a resolution that has not yet been made publicly available. Therefore, the Notice of Protest was legally deficient at least insofar as it gave notice of a decision that had not yet been finalized or made public for inspection and consideration.

For the reasons listed above, we respectfully request that these protest proceedings be postponed until after the resolution, if any, is adopted following the reconsideration.

If you have any questions regarding the above, please do not hesitate to contact me at 626-437-3865.

Very truly yours,



Elizabeth M. Calciano

cc: President J. Vern Cromartie and District Board Members  
Iteka Greene, Interim Executive Director

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
DISAPPROVING THE REQUEST FOR RECONSIDERATION RELATING TO THE  
DISSOLUTION OF THE LOS MEDANOS COMMUNITY HEALTHCARE DISTRICT**

WHEREAS, on September 12, 2018, the Contra Costa Local Agency Formation Commission (LAFCO), after conducting a duly noticed public hearing, adopted Resolution No. 17-13A Approving a Zero Sphere of Influence for the Los Medanos Community Healthcare District (LMCHD), and adopted Resolution No. 17-13B Approving the Dissolution of the LMCHD subject to various terms and conditions; and

WHEREAS, Government Code section 56895 allows any party to request reconsideration of the Commission’s resolution making determinations under specified conditions; and

WHEREAS, at the time and in the manner required by law the Executive Officer gave notice of the Commission’s consideration of the proposal; and

WHEREAS, a request for reconsideration was filed on October 12, 2018 by the Hensley Law Group on behalf of the LMCHD; and

WHEREAS, the request is that the Commission take one of a number of different actions, each of which would either reverse the Commission’s decision to dissolve the LMCHD or postpone the Commission’s time to make a decision; and

WHEREAS, a public hearing on the matter of reconsideration was held on November 14, 2018, at which time, the Executive Officer presented the report for this reconsideration, and the Commission heard and received all oral and written comments; and

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED by the Contra Costa LAFCO that the Commission finds and determines that the request for reconsideration set forth no new or different facts that could not have been presented previously to the Commission at the time LAFCO made its decision to dissolve the LMCHD, as is required by Government Code section 56895, and the request also did not ask for any specific modifications to a LAFCO-approved resolution.

The request for reconsideration is hereby disapproved, the previously approved LAFCO resolutions 17-13A and 17-13B hereby remain in effect, and LAFCO will proceed with the LMCHD dissolution protest hearing as currently scheduled for November 30, 2018.

\*\*\*\*\*

PASSED AND ADOPTED THIS 14<sup>th</sup> day of November 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

\_\_\_\_\_  
MICHAEL R. MCGILL, CHAIR, CONTRA COSTA LAFCO

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

Dated: November 14, 2018

\_\_\_\_\_  
Lou Ann Texeira, Executive Officer

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
DISAPPROVING THE REQUEST FOR RECONSIDERATION RELATING TO THE  
DISSOLUTION OF THE LOS MEDANOS COMMUNITY HEALTHCARE DISTRICT AND  
DIRECTING THE EXECUTIVE OFFICER TO CONTINUE THE PROTEST HEARING TO  
JANAURY 29, 2019**

WHEREAS, on September 12, 2018, the Contra Costa Local Agency Formation Commission (LAFCO), after conducting a duly noticed public hearing, adopted Resolution No. 17-13A approving a Zero Sphere of Influence for the Los Medanos Community Healthcare District (LMCHD), and adopted Resolution No. 17-13B Approving the Dissolution of the LMCHD subject to various terms and conditions; and

WHEREAS, Government Code section 56895 allows any party to request reconsideration of the Commission’s resolution making determinations under specified conditions; and

WHEREAS, at the time and in the manner required by law the Executive Officer gave notice of the Commission’s consideration of the proposal; and

WHEREAS, a request for reconsideration was filed on October 12, 2018 by the Hensley Law Group on behalf of the LMCHD; and

WHEREAS, the request is that the Commission take one of a number of different actions, each of which would either reverse the Commission’s decision to dissolve the LMCHD or postpone the Commission’s time to make a decision; and

WHEREAS, a public hearing on the matter of reconsideration was held on November 14, 2018; and

WHEREAS, the Executive Officer presented the report for this reconsideration and public testimony was considered.

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED by the Contra Costa LAFCO at a public hearing on November 14, 2018 that:

The request does not provide new or different information that could not have been presented previously to the Commission at the time LAFCO made its decision to dissolve the LMCHD, as is required by Government Code section 56895, and the request also did not ask for any specific modifications to a LAFCO-approved resolution.

The request for reconsideration is hereby disapproved, and the previously approved LAFCO resolutions 17-13A and 17-13B shall remain in effect. Further, the Commission hereby directs the Executive Officer to continue the protest hearing from November 30, 2018 to January 29, 2019, the maximum amount of time allowed under the law for a continuance of the protest hearing.

\*\*\*\*\*

PASSED AND ADOPTED THIS 14<sup>th</sup> day of November 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

\_\_\_\_\_  
MICHAEL R. MCGILL, CHAIR, CONTRA COSTA LAFCO

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

Dated: November 14, 2018

\_\_\_\_\_  
Lou Ann Texeira, Executive Officer

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
APPROVING THE REQUEST FOR RECONSIDERATION RELATING TO THE  
DISSOLUTION OF THE LOS MEDANOS COMMUNITY HEALTHCARE DISTRICT AND  
RESCINDING COMMISSION RESOLUTIONS 17-13A AND 17-13B**

WHEREAS, on September 12, 2018, the Contra Costa Local Agency Formation Commission (LAFCO), after conducting a duly noticed public hearing, adopted Resolution No. 17-13A approving a Zero Sphere of Influence for the Los Medanos Community Healthcare District (LMCHD), and adopted Resolution No. 17-13B Approving the Dissolution of the LMCHD subject to various terms and conditions; and

WHEREAS, Government Code section 56895 allows any party to request reconsideration of the Commission’s resolution making determinations under specified conditions; and

WHEREAS, at the time and in the manner required by law the Executive Officer gave notice of the Commission’s consideration of the proposal; and

WHEREAS, a request for reconsideration was filed on October 12, 2018 by the Hensley Law Group on behalf of the LMCHD; and

WHEREAS, the request is that the Commission take one of a number of different actions, each of which would either reverse the Commission’s decision to dissolve the LMCHD or postpone the Commission’s time to make a decision; and

WHEREAS, a public hearing on the matter of reconsideration was held on November 14, 2018; and

WHEREAS, the Executive Officer presented the report for this reconsideration and public testimony was considered.

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED by the Contra Costa LAFCO at a public hearing on November 14, 2018 that:

The request for reconsideration is based on new or different information that could not have been presented previously to the Commission, pursuant to Government Code section 56895.

The Commission has considered the new or different information and the request for reconsideration and finds that the dissolution of the LMCHD should not proceed.

The previously approved LAFCO resolutions 17-13A and 17-13B are hereby rescinded and superseded in their entirety by this resolution, and the dissolution proceedings are hereby terminated.

\*\*\*\*\*

PASSED AND ADOPTED THIS 14<sup>th</sup> day of November 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

\_\_\_\_\_  
MICHAEL R. MCGILL, CHAIR, CONTRA COSTA LAFCO

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

Dated: November 14, 2018

\_\_\_\_\_  
Lou Ann Texeira, Executive Officer



Lou Ann Texeira  
Executive Officer

**MEMBERS**

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

**ALTERNATE MEMBERS**

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

November 14, 2018  
Agenda Item 7

November 14, 2018 (Agenda)

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

**Informational Report – Dissolution of Los Medanos Community Healthcare District**

Dear Commissioners:

This is an informational report (1) transmitting a copy of LAFCO Resolution 17-13B, approved and amended by the Commission on September 12, 2018, which approved the dissolution of the Los Medanos Community Healthcare District (LMCHD), (2) providing information regarding the upcoming protest hearing on the LMCHD dissolution, (3) providing information on LMCHD’s request for reconsideration, and (4) submitting information regarding the Public Records Act (PRA) request submitted to LAFCO by the LMCHD.

**AMENDMENTS TO LAFCO RESOLUTION 17-13B**

At a public hearing on September 12, 2018, the Commission approved dissolution of LMCHD subject to certain terms and conditions. During the hearing, the Commission amended section 7(c) of LAFCO Resolution 17-13B and added two conditions [(g) and (h)] as shown below and on the attached (Attachment 1). The revised portions of Resolution 17-13B read as follows:

- c. In accordance with County Resolution 2018/436, the County shall establish the *Los Medanos Health Advisory Committee* to develop and implement the Los Medanos Area Health Plan Grant Program, which will identify disparities within the boundary of the LMCHD and make recommendations for funding health-related services through the grant program. The County shall ensure that the advisory committee operates in a manner consistent with County Resolution 2018/436 in terms of the committee’s purpose and duties, membership, terms of office, operation and procedural rules. The Committee shall, ~~consistent with the County’s resolution,~~ include five seven members appointed by the BOS, including one two members nominated by the City of Pittsburg, one two members nominated, ~~respectively~~ by, the Bay Point Municipal Advisory Council, two members appointed by the County Public Health Division, and the County Behavioral Health Division, and one at-large member appointed by the County’s Internal Operations Committee.

- g. The County shall expend at least 85% of the property tax revenue received from the property tax transfer to fund LMCHD programs and grants, with not more than 15% expended for administrative costs (i.e., not more than 10% for administrative overhead and at least 5% for reserves).
- h. Should there be any sale, transfer, redevelopment or reuse of the Pittsburg Health Center facility/property for use other than medical, health-related purposes, any profits, proceeds or new revenues generated from such sale, transfer, redevelopment or reuse shall be directed to healthcare related services/programs within the LMCHD community.

## **PROTEST HEARING**

A protest hearing on the dissolution of LMCHD is scheduled for November 30, 2018 at 11:00 am. The hearing will be held at 651 Pine Street, 1<sup>st</sup> Floor (Board of Supervisors Chambers). A notice was published in the newspaper on October 2, 2018 announcing the protest hearing and including information regarding how, when, and where to file a written protest.

The LMCHD is an inhabited area (12 or more registered voters). The proposal to dissolve the District has less than 100% registered voter/landowner consent and is subject to a protest hearing. Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, LAFCO conducts the protest hearing, the purpose of which is to receive written protests from affected registered voters and landowners regarding the proposal and determine whether a valid protest exists. Written protests must be validated by County Elections if filed by a registered voter, and by the County Assessor's Office if filed by a landowner.

LAFCO staff has allowed the maximum amount of time for the protest proceedings, due to the size of the District (approximately 42,000 registered voters and a similar number of landowners), and due to the timing of the protest proceedings and the 2018 General Election. The County Elections office informed LAFCO staff that it would be challenging for their office to validate registered voter signatures during the month of November given the 2018 election.

With regard to this change of organization (i.e., dissolution), following the protest proceedings, the Commission shall ultimately take one of the following actions:

- **Order the dissolution** if written protests have been filed by less than 25% of landowners who own less than 25% of the assessed value of land within the affected territory, or by less than 25% of the registered voters residing within the affected territory, **or**
- **Order the dissolution subject to confirmation by the voters** if written protests have been filed by at least 25%, but less than 50%, of the registered voters residing in the affected territory, or by at least 25% of the number of owners of land who also own at least 25% of the assessed value of land within the affected territory, **or**
- **Terminate the proceedings** if a majority protest exists. A majority protest constitutes 50% or more of the voters residing in the territory.

Unless the Commission directs staff to continue the protest hearing will be held on Friday, November 30, 2018, at 11:00 a.m. The protest hearing has been duly noticed by LAFCO staff. The protest hearing will be conducted by the LAFCO Executive Officer, as the Commission has



delegated the authority to conduct this hearing on behalf of the Commission to the Executive Officer. Following the protest hearing, the written protests will be counted and, if needed, verified by County officials (i.e., Elections, Assessor). LAFCO staff will report the results of the protest hearing at the December 12, 2018 LAFCO meeting.

**REQUEST FOR RECONSIDERATION**

On October 12, 2018, LAFCO received a request for reconsideration from the Hensley Law Group sent on behalf of their client, the LMCHD. This item is further discussed under LAFCO agenda item #6.

**PUBLIC RECORDS ACT REQUEST**

On October 24, 2018, LAFCO received a PRA request from the Hensley Law Group sent on behalf of their client, the LMCHD (Attachment 2). On November 1, 2018, LAFCO staff responded to the PRA request informing the requestor of the availability of some of the records requested but also extending LAFCO's time to respond for an additional 14 days due to the need to potentially review off-site records and the potentially large amount of records to review.

Sincerely,

Lou Ann Texeira  
Executive Officer

c: Distribution List

**Attachments**

- 1 – LAFCO Resolution 17-13B
- 2 – Public Records Act Request from LMCHD

**RESOLUTION NO. 17-13B****RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING DISSOLUTION OF THE  
LOS MEDANOS COMMUNITY HEALTHCARE DISTRICT**

WHEREAS, on November 7, 2017, the Contra Costa County ("County) Board of Supervisors (BOS) adopted Resolution 2017/384 initiating dissolution of Los Medanos Community Healthcare District (LMCHD) pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code), and requesting that Contra Costa LAFCO name the County as successor agency; and

WHEREAS, on September 4, 2018, the Executive Officer issued a certificate of filing deeming the County's application complete; and

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

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

WHEREAS, on September 12, 2018, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendations, the environmental document or determination, SOI and related factors and information; and

WHEREAS, on September 12, 2018, the Commission waived its policy which indicates that Spheres of Influence (SOIs) generally will not be amended concurrently with an action on the related change of organization or reorganization, and adopted Resolution 17-13A adopting a zero SOI for LMCHD signaling a future change of organization for the LMCHD; and

WHEREAS, LMCHD was formed in 1948 to build and operate a community hospital, and operated the Los Medanos Community Hospital until 1994, when the hospital closed due to financial difficulties and the District was forced to declare bankruptcy; and

WHEREAS, since 1998, the District has leased the hospital building to the County which houses the County's largest health clinic – the *Pittsburg Health Center (PHC)*, with over 100,000 patient visits per year; and

WHEREAS, currently, LMCHD provides community-based healthcare services to its residents through sponsoring and funding programs and activities related to health, wellness and prevention; and

WHEREAS, there are various Grand Jury reports and LAFCO Municipal Service Reviews (MSRs) covering LMCHD that noted that the District is not a direct provider of service, and identified challenges including high administrative costs and ongoing debt, outdated strategic plans and website information, and needed improvements in grant allocations and outcome measurement; and

WHEREAS, the LAFCO MSRs included governance options for LMCHD including dissolution; and

WHEREAS, in its application to dissolve LMCHD, the County has set forth a plan for providing services which includes continuation of grant funding for community programs; and

WHEREAS, LAFCO determines that dissolution of LMCHD and naming Contra Costa County as successor agency is in the best interest of the affected area and the total organization of local governmental agencies within Contra Costa County.

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

1. As determined by Contra Costa County, as Lead Agency, LAFCO finds that the project is Categorical Exempt pursuant to the California Environmental Quality Act (CEQA) Section 15061(b)(3) based on the determination that there is no possibility that dissolution of LMCHD may have a significant effect on the environment, consistent with the determination of Contra Costa County; and

2. The subject proposal is assigned the distinctive short-form designation and description:

**DISSOLUTION OF THE LOS MEDANOS COMMUNITY HEALTHCARE DISTRICT**

LMCHD encompasses the City of Pittsburg, small portions of the cities of Antioch, Clayton and Concord, unincorporated Bay Point and surrounding unincorporated areas and serves a community of over 97,000 residents within 90.5± square miles within Contra Costa County. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.

3. Notice of the Commission's hearing regarding this proposal was advertised in the *Contra Costa Times* (all editions).
4. Contra Costa County shall be the successor agency of LMCHD and all assets and liabilities of LMCHD shall be transferred to the County pursuant to Government Code sections 57450-57463.
5. In reviewing this proposal, the Commission has considered each of the factors required by Government Code section 56668.
6. The effective date of the dissolution shall be the date of filing the certificate of completion of the proposal.
7. Approval of the dissolution of LMCHD is subject to the following terms and conditions pursuant to Government Code section 57450-57463 and sections 56885 – 56890:
  - a. Contra Costa County, as applicant, has delivered an executed indemnification agreement between the County and Contra Costa LAFCO providing for the County as applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the Dissolution of the Los Medanos Community Healthcare District.
  - b. The subject territory is inhabited, objections to the dissolution were received by affected landowners and registered voters with the LMCHD boundaries, and the proposal is subject to protest proceedings to be conducted no less than 30 days following the Commission's approval of the proposal.
  - c. In accordance with County Resolution 2018/436, the County shall establish the *Los Medanos Health Advisory Committee* to develop and implement the Los Medanos Area Health Plan Grant Program, which will identify disparities within the boundary of the LMCHD and make recommendations for funding health-related services through the grant program. The County shall ensure that the advisory committee operates in a manner consistent with County Resolution 2018/436 in terms of the committee's purpose and duties, membership, terms of office, operation and procedural rules. The Committee shall include seven members appointed by the BOS, including two members nominated by the City of Pittsburg, two members nominated by the Bay Point Municipal Advisory Council, two members appointed by the County Public Health Division and the County Behavioral Health Division, and one at-large member appointed by the County's Internal Operations Committee.
  - d. In accordance with County Resolution 2018/228, the County approved the property tax exchange in accordance with dissolution of LMCHD pursuant to the Revenue & Taxation Code. The property tax exchange shall also include transfer of the Redevelopment Property Tax Trust Fund (RPTTF) monies currently going to LMCHD to Contra Costa County. These funds will be used exclusively for health-related purposes within the LMCHD community.
  - e. In accordance with the BOS actions on July 10, 2018, the County Auditor-Controller shall establish the Los Medanos Community Healthcare revenue fund, a special revenue fund with the County Treasury, to

segregate the property tax revenue received by the County, and to use the property tax revenue exclusively for health-related purposes within the LMCHD community.

- f. In accordance with the County "Plan for Providing Services," the County will provide for the continuation of healthcare services in the LMCHD community, including operating and maintaining the Pittsburg Health Center. Also, the County will implement a grant program to replace the LMCHD's existing grant program and increase grant funding. The County will honor existing contracts the District has with community-based organizations during the transition period.

The County created the *Los Medanos Health Advisory Committee*, which will develop an area health plan to identify major health disparities that impact residents within the LMCHD community. This will enable the Committee to establish priorities for addressing community health and wellness needs. The plan will serve as a basis for seeking community partners, awarding grants and evaluating outcomes. The plan will be updated not less than every five years.

- g. The County shall expend at least 85% of the property tax revenue received from the property tax transfer to fund LMCHD programs and grants, with not more than 15% expended for administrative costs (i.e., not more than 10% for administrative overhead and at least 5% for reserves).
- h. Should there be any sale, transfer, redevelopment or reuse of the Pittsburg Health Center facility/property for use other than medical, health-related purposes, any profits, proceeds or new revenues generated from such sale, transfer, redevelopment or reuse shall be directed to healthcare related services/programs within the LMCHD community.
- i. In accordance with the County's Plan for Services and the BOS actions on July 10, 2018, the County Administrator will remit a settlement payment from the County to California's Office of Statewide Health Planning and Development (OSHPD) to resolve the outstanding balance of the District's bankruptcy debt.
- j. The two current LMCHD employees holding the positions of Executive Assistant and Administrative Assistant will have the option to retain their positions through December 31, 2018 to assist the County with the transition of records, contracts, bank accounts, etc. Subsequently, the County will explore opportunities for these two former District employees to fill appropriate County vacancies if interested and if they meet the education, experience and background requirements.
- k. The County will provide LAFCO with annual progress reports through 2025, with the first annual report to be submitted by January 31, 2020. The annual reports shall address the continuation of healthcare services in the LMCHD community, status of the grant program, the status of area health plan, and any other relevant information.

\*\*\*\*\*

PASSED AND ADOPTED THIS 12<sup>th</sup> day of September 2018, by the following vote:

AYES: Andersen, Blubaugh, Glover, McGill, Skaredoff, Tatzin

NOES:

ABSTENTIONS:

ABSENT: Schroder (M)

\_\_\_\_\_  
MICHAEL R. MCGILL, CHAIR, CONTRA COSTA LAFCO

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

Dated: September 12, 2018

  
\_\_\_\_\_  
Lou Ann Teixeira, Executive Officer

BURBANK OFFICE  
2600 W. OLIVE AVENUE  
SUITE 500  
BURBANK, CA 91505



TORRANCE OFFICE  
3655 TORRANCE BOULEVARD  
SUITE 300  
TORRANCE, CA 90503

SAN DIEGO OFFICE  
3850 LA JOLLA VILLAGE DRIVE  
LA JOLLA, CA 92037

Writer's Direct Contact:  
Burbank Office  
ecalciano@hensleylawgroup.com  
626.437.3865

WWW.HENSLEYLAWGROUP.COM

October 24, 2018

VIA ELECTRONIC MAIL  
AND U.S. MAIL

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

Re: Public Records Act Request

Dear Ms. Texeira:

Our office has been retained as special counsel by the Los Medanos Community Healthcare District (the "District"). Pursuant to the California Public Records Act, on behalf of the District, I request that the Contra Costa Local Agency Formation Commission provide copies of the "public records" (as that term is defined in Gov't Code § 6252(e)) described below, including, without limitation, letters, memoranda, reports, emails, notes, messages, **text messages**, voicemails, and other written or electronic communications or documents within the possession, custody, or control of the County ("Records").

For purposes of this request, "LAFCO" means and includes the Contra Costa County Local Agency Formation Commission, and all LAFCO departments, and each individual officer, official (elected or appointed), employee, contractor, consultant, or agent thereof.

Descriptions of public records requested:

1. All correspondence between or among LAFCO personnel (including officials, employees, and consultants acting in a staff capacity) and all correspondence between or among County personnel any organization, individual, group of

individuals, or any combination thereof, regarding or referring to the Los Medanos Community Healthcare District from January 1, 2017 to the present.

2. All correspondence between or among LAFCO personnel (including officials, employees, and consultants acting in a staff capacity) and any organization, individual, group of individuals, or any combination thereof regarding or referring to the property owned by Los Medanos Community Healthcare District located at 2311 Loveridge Road, Pittsburg, California (also with addresses of 105 East Leland Avenue and 2240 Gladstone Drive including the buildings and the vacant property) "LMCHD Property," or any portion of the LMCHD Property, for the period January 1, 2017 to the present.
3. All records relating to Justin Tin, and/or any person or entity affiliated or associated with Justin Tin including Amerasia Global Fund, for the period January 1, 2014 to present; and
4. All records relating to the proposed dissolution of the District, or the application for dissolution of the District by the Board of Supervisors of Contra Costa County, for the period January 1, 2014 to present.
5. All records related to any recusals by Commissioner Federal Glover from decisions made by LAFCO for the period January 1, 2014 to present.
6. All correspondence between or among LAFCO personnel (including officials, employees, and consultants acting in a staff capacity) and any organization, individual, group of individuals, or any combination thereof regarding or referring to the sale of or development or construction proposals related to the LMCHD Property or any portion of the LMCHD Property for the period January 1, 2014 to the present.
7. All Form 700 Statements of Economic Interest for the period January 1, 2014 to present of Commissioner Federal Glover.
8. All records of Commissioner Federal Glover's attendance at AB1234 trainings for the period January 1, 2014 to present.
9. All correspondence between or among LAFCO personnel (including officials, employees, and consultants acting in a staff capacity) with Colin Coffey for the period January 1, 2107 to present.

This request is intended to include all public records actually possessed or maintained by the LAFCO, as well as those public records that the County constructively possesses through an

October 24, 2018  
Page 3

employee, officer, official, contractor, consultant, sub-consultant, or service provider, including public records that are stored on the private devices of any person or of any entity other than the County.

If any of the Records described above are deemed exempt from disclosure for any reason, please inform me of the specific exemption being relied upon for each individual record that is withheld, and the person(s) responsible for making that determination. Also, if any portion of a Record is deemed exempt, please provide a copy of the Record with the confidential information redacted and inform me of the specific exemption relied upon for the redaction.

To the extent any responsive records are maintained or stored in electronic format, the undersigned requests that such Records be provided in that format. The District agrees to provide advance payment for any duplication costs.

If you have any questions, please contact me at 626-437-3865.

Very truly yours,



Elizabeth M. Calciano  
Special Counsel  
Los Medanos Community Healthcare District

cc: Itika Greene, Executive Director



Lou Ann Texeira  
Executive Officer

**MEMBERS**

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

**ALTERNATE MEMBERS**

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

November 14, 2018  
Agenda Item 8

November 14, 2018 (Agenda)

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

**Policies and Procedures Update**

Dear Members of the Commission:

This is a report from the LAFCO Policies & Procedures Subcommittee presenting proposed revisions to LAFCO Policies and Procedures (aka “Commissioner Handbook”) relating to *Rules and Procedures, CALAFCO, Roster of Cities and Special Districts, City Annexations and Detachments, and District Annexations and Detachments* as shown below and in the attachments. Also, the subcommittee is providing a status report on the *LAFCO Agricultural & Open Space Preservation Policy (AOSPP)* (Attachment 5). See discussion below for details.

**DISCUSSION**

**Section 1.4 – RULES AND PROCEDURES**

This section covers a variety of rules and procedures relating to selection of officers, meetings, voting, public comment, public hearing procedures, conducting authority proceedings, commission representation, commission representation, ethics training and legislative policy. The proposed amendment relates to public comment and reflects current practice, as shown in the excerpt below:

**12) Public Comment**

- At each regular and special meeting, the Commission must allow any member of the public to address the Commission on a matter within its jurisdiction.
- The Chair may establish reasonable regulations including, but not limited to, limiting the amount of time allocated for public testimony on particular issues and for each speaker (i.e., three minutes). An allocated time limit of three minutes per speaker may be **changed at the discretion of the Chair** ~~overridden on a majority vote of Commissioners.~~

**Section 1.8 - CALIFORNIA ASSOCIATION OF LAFCOs (CALAFCO)**

The LAFCO Policies & Procedures includes a section on CALFCAO which provides information about the association – its purpose, membership, composition and other services.



In 2010, CALAFCO created four regions within the association (central, coastal, northern and southern). Contra Costa LAFCO is part of the coastal region. The primary goals of forming the regions were to facilitate communication among the LAFCOs, provide opportunities to share resources and knowledge, and encourage greater participation and input into CALAFCO activities. Today, all 58 LAFCOs are members of CALAFCO.

Contra Costa LAFCO's current section on CALAFCO is outdated and does not include reference to the regions and 100% membership in the association. The proposed amendments, as shown in Attachment 1, are intended to update the CALAFCO information current.

### **Section 1.9 – ROSTER OF CITIES AND SPECIAL DISTRICTS**

This section includes a listing of all cities and special districts (dependent and independent). The changes include an updated list of special district and various district names changes as shown on Attachment 2.

### **SECTION 3.4 – CITY ANNEXATIONS AND DETACHMENTS**

This section provides information on initiation of proceedings, basic requirements, commission proceedings, protest proceedings, election requirements and special provisions relating to city annexations and detachments. A new section relating to "boundaries" is proposed to clarify LAFCO's preferences regarding logical and orderly boundaries and inclusion of roads and right-of-ways as shown on Attachment 3.

### **SECTION 3.5 – DISTRICT ANNEXATIONS AND DETACHMENTS**

This section provides information on initiation of proceedings, basic requirements, commission proceedings, protest proceedings, election requirements and special provisions relating to district annexations and detachments. A new section relating to boundaries is proposed to clarify LAFCO's preferences regarding logical and orderly boundaries and inclusion of roads and right-of-ways as shown on Attachment 4.

**SECTION 2.1 – POLICIES AND STANDARDS – SUBSECTION O. AGRICULTURAL AND OPEN SPACE PRESERVATION POLICY** – Following an 18-month process, and various revisions, the Commission adopted an Agricultural and Open Space Preservation Policy (AOSPP) in December 2016 (Attachment 5). There was significant outreach and public engagement throughout the process.

The LAFCO AOSPP includes information relating to LAFCO's authority, definitions, goals, policies, guidelines, and observations relating to LAFCO applications that involve agricultural and open space lands. In conjunction with the AOSPP, LAFCO amended its sphere of influence and change of organization/reorganization applications to include an Agricultural and Open Space Impact Assessment. The assessment requires the applicant to identify and address the effects of the proposal on agricultural and open space lands.

Since adoption of LAFCO's AOSPP, LAFCO has processed two applications where the Agricultural and Open Space Assessment and AOSPP were beneficial (Montreux and Chang boundary reorganizations). With both proposals, at LAFCO's request, the landowners agreed to mitigations to permanently preserve additional open space lands and to special provisions relating to fire prevention and habitat preservation.

**RECOMMENDATIONS:**

1. Review and approve revisions to the LAFCO policies and procedures relating to sections 1.4 - *Rules and Procedures*, 1.8 - *CALAFCO*, 1.9 - *Roster of Cities and Special Districts*, 3.4 - *City Annexations and Detachments*, and 3.5 - *District Annexations and Detachments* with any amendments as desired; and
2. Receive a status report on the LAFCO *Agricultural & Open Space Preservation Policy* (AOSPP) and provide comments and direction as desired.

Respectfully submitted,

*Don Tatzin and Don Blubaugh*

c: Distribution

Attachments:

- 1 - Proposed Amendments to Section 1.8 – CALAFCO
- 2 – Proposed Amendments to Section 1.9 - Roster of Cities and Special Districts
- 3 - Proposed Amendments to Section 3.4 – City Annexations and Detachments
- 4 - Proposed Amendments to Section 3.5 – District Annexations and Detachments
- 5 – Agricultural & Open Space Preservation Policy

## 1.8 CALIFORNIA ASSOCIATION OF LAFCOS (CALAFCO)

### A. General Provisions

The California Association of LAFCOs, or CALAFCO, was formed in 1971 as a voluntary association. It provides a means of sharing information, coordinating LAFCO activities throughout the State, and representing LAFCO interests before the Legislature.

The membership of CALAFCO consists of ~~all 57 of the~~ 58 LAFCOs in California, along with an associate membership of firms and agencies, which support the educational mission of the organization.

Commissioners are encouraged to participate in CALAFCO activities depending upon their interests to ensure closer coordination and information exchange with the statewide association.

### B. CALAFCO Board of Directors

The Association is governed by a ~~total of 19 members, including Board composed of 15-6 voting members elected from among~~ LAFCO Commissioners ~~as follows:-~~ four City members, four County members, ~~three~~four Public members and four Special District members. ~~Each of the four regions (Central, Coastal, Northern and Southern) elects one city, one county, one public and one special district member.~~

~~In addition to the 16 Board members,~~ ~~A~~ an Executive Officer, ~~the~~ Executive Director and ~~a~~ Legal Adviser serve as non-voting members of the Board.

Annual membership dues are specified in the Association Bylaws.

### C. CALAFCO Newsletter

The Association's newsletter details matters of interest to LAFCOs including significant litigation and legislation. Copies are sent to all members of the Commission.

### D. Conferences and Workshops

The CALAFCO Annual Conference is held in the Fall at locations alternating ~~among the regions between northern and southern California~~. It features discussions, workshops, presentations and informal activities of interest to LAFCOs and local governments.

CALAFCO also sponsors a staff workshop in the Spring and various other seminars and workshops.

### E. Annual Business Meeting

A business meeting is held in conjunction with the Annual Conference. Each LAFCO in good standing has one vote when members of the Board are selected and other items of Association business decided. Prior to the annual CALAFCO business meeting, the Commission shall appoint its voting delegate ~~and an alternate voting delegate~~.

For more information regarding CALAFCO please visit their website at [www.calafco.org](http://www.calafco.org).

## 1.9 ROSTER OF CITIES AND SPECIAL DISTRICTS

### County

County of Contra Costa

### Cities

City of Antioch  
City of Brentwood  
City of Clayton  
City of Concord  
Town of Danville  
City of El Cerrito  
City of Hercules  
City of Lafayette  
City of Martinez  
Town of Moraga  
City of Oakley  
City of Orinda  
City of Pinole  
City of Pittsburg  
City of Pleasant Hill  
City of Richmond  
City of San Pablo  
City of San Ramon  
City of Walnut Creek

### Special Districts

#### INDEPENDENT DISTRICTS

##### Cemetery Districts

Alamo-Lafayette Cemetery District  
Byron-Brentwood-Knightesen Union Cemetery District

##### Community Services Districts (CSDs)

Diablo Community Services District  
Dublin San Ramon Community Services District  
Kensington Police Protection and Community Services District  
Town of Discovery Bay Community Services District  
Town of Knightesen Community Services District

##### Fire Protection Districts

Moraga-Orinda Fire Protection District  
Rodeo-Hercules Fire Protection District

San Ramon Fire Protection District

Health Care Districts

Los Medanos Community Healthcare District

West Contra Costa Healthcare District

Irrigation Districts

Byron Bethany Irrigation District

East Contra Costa Irrigation District

Municipal Improvement Districts

Bethel Island Municipal Improvement District

Recreation & Park Districts (RPDs)

Ambrose Recreation & Park District

East Bay Regional Park District

Green Valley Recreation & Park District

Pleasant Hill Recreation & Park District

~~Rollingwood Wilart Park Recreation & Park District~~

Sanitary Districts

Byron Sanitary District

Central Contra Costa Sanitary District

Crockett-Valona Sanitary District

Ironhouse Sanitary District

Mt. View Sanitary District

Rodeo Sanitary District

Stege Sanitary District

West County Wastewater Districts

Mosquito and Vector Control Districts

Contra Costa Mosquito and Vector Control District

Reclamation Districts

Reclamation District 799 (Hotchkiss Tract)

Reclamation District 800 (Byron Tract)

Reclamation District 830 (Jersey Island)

Reclamation District 2024 (Orwood and Palm Tracts)

Reclamation District 2025 (Holland Tract)

Reclamation District 2026 (Webb Tract)

Reclamation District 2059 (Bradford Island)

Reclamation District 2065 (Veal Tract)

Reclamation District 2090 (Quimby Island)

Reclamation District 2117 (Coney Island)

~~Reclamation District 2121~~

Reclamation District 2122 (Winter Island)

Reclamation District 2137

Resource Conservation Districts

Contra Costa Resource Conservation District

Water Districts

[Castle Rock County Water District](#)

Contra Costa Water District

Diablo Water District

**DEPENDENT DISTRICTS**

County Service Areas

County Service Area D-2 (Walnut Creek)

County Service Area EM-1 (Countywide)

County Service Area LIB-2 (Rancho El Sobrante)

County Service Area LIB-10 (City of Pinole)

County Service Area LIB-12 (Town of Moraga)

County Service Area LIB-13 (Cities of Concord and Walnut Creek)

County Service Area M-1 (Delta Ferry)

County Service Area M-16 (Community of Clyde)

County Service Area M-17 (Tara Hills, Montalvin Manor, West Contra Costa)

County Service Area M-20 (View Park Subdivision)

County Service Area M-23 (Blackhawk Area, San Ramon, Danville)

County Service Area M-28 (Bethel Island)

County Service Area M-29 (San Ramon, Dougherty Valley)

County Service Area M-30 (Alamo)

County Service Area M-31 (Pleasant Hill BART RDA)

County Service Area P-2 (Zone A: Blackhawk; Zone B: Alamo)

County Service Area P-5 (Roundhill)

County Service Area P-6 (Unincorporated Area)

County Service Area R-4 (Moraga)

County Service Area R-7A (Alamo)

County Service Area R-9A (El Sobrante)

County Service Area R-10 (Rodeo)

County Service Area RD-4 (Vicinity of Bethel Island)

County Service Area T-1 (Public Transit, Alamo)

Fire Protection Districts

Contra Costa County Fire Protection District

Crockett-Carquinez Fire Protection District

East Contra Costa Fire Protection District

Healthcare Districts

[Concord Pleasant Hill Mt. Diablo](#) Healthcare District

Sanitary Districts

County Sanitation District No. 6

Delta Diablo

## CONTRA COSTA LAFCO

### 3.4 City Annexations and Detachments

#### Initiation of Proceedings

Proceedings for annexation to or detachment from a city may be initiated by petition or by resolution of the governing body of any affected county, city, district or school district (56650). In addition, a LAFCO application is required.

1. Initiation by Petition
  - A. A petition initiating proceedings shall do all of the following (56700):
    - (1) State that the proposal is made pursuant to this part;
    - (2) State the nature of the proposal and list all proposed annexations and/or detachments;
    - (3) Set forth a description of the boundaries of the affected territory accompanied by a map showing the boundaries;
    - (4) Set forth any proposed terms and conditions;
    - (5) State the reason or reasons for the proposal;
    - (6) State whether the petition is signed by registered voters or owners of land;
    - (7) Designate no more than three persons as chief petitioners, setting forth their names and mailing addresses;
    - (8) Request that LAFCO consider this proposal pursuant to the Cortese-Knox-Hertzberg Act; and
    - (9) State whether the proposal is consistent with the spheres of influence of any affected city or district.
  - B. Signature Requirements
    - (1) A petition for annexation to a city shall be signed by either of the following (56767):
      - (a) not less than 5% of the number of registered voters residing within the territory proposed to be annexed; or
      - (b) not less than 5% of the number of owners of land within the territory proposed to be annexed who also own 5% of the assessed value of land within the territory as shown on the last equalized assessment roll.
    - (2) A petition for detachment of territory from a city shall be signed by either of the following (56768):

- (a) not less than 25% of the number of registered voters residing within the territory proposed to be detached; or
- (b) not less than 25% of the number of owners of land within the territory proposed to be detached who also own 25% of the assessed value of land within the territory, as shown on the last equalized assessment roll.

## 2. Initiation by Resolution

An adopted resolution of application by the legislative body of any affected county, city, special district or school district shall contain all the matters required in the petition except for signers and signatures (56653, 56654).

## 3. Pre-zoning

Cities are required to pre-zone territory prior to LAFCO consideration of a city annexation. The zoning designation assigned must remain in effect for two years following the completion of the annexation, unless the city council makes a finding that a substantial change has occurred in circumstances that require a change from the pre-zoning set forth in the application to LAFCO (56375). An application will not be considered complete unless the city has pre-zoned the area proposed for annexation, or LAFCO can make findings in accordance with 56375(a)(7).

## 4. Noncontiguous Territory

In general, cities may not annex territory unless the territory is located in the same county and is contiguous with the annexing city (56741). However, if approved by the Commission, cities may annex noncontiguous territory not exceeding 300 acres in area, which is located in the same county, owned by the city, and is being used for municipal purposes at the time Commission proceedings are initiated (56742). Cities may also annex noncontiguous territory that constitutes a state correctional facility or a state correctional training facility (56742.5).

## 5. Boundaries

Boundary descriptions of territory included in any proposal shall be definite and certain. If the Commission requires modifications (additions/deletions) to the subject territory, it may direct the County Surveyor to prepare a new boundary description. Boundaries that split lines of assessment or legal parcel lines, or create islands, strips, or corridors are discouraged. Boundaries which follow existing political boundaries and natural or manmade features such as rivers, lakes, railroad tracks, roads and freeways are preferred. Boundary lines of areas proposed for annexation, which include, where possible, land abutting both sides of a given street or right of way within the same entity are favored. When a boundary must follow a street or highway, the boundary will include the complete right of way for the entire street or highway.

## **Commission Proceedings**

1. Contra Costa LAFCO may approve, modify, or deny the proposal. If approved, the Commission may also adopt terms and conditions for the annexation or detachment. Unless protest proceedings are waived, the proposal is scheduled for a conducting authority protest hearing



where no further modifications may be made. The Commission serves as the conducting authority for city annexations and detachments (56029).

2. If a proposal is submitted that includes a city detachment, it shall be placed on the next Commission agenda for information purposes and a copy of the proposal shall be forwarded to the detaching city from which the detachment is proposed. Within 60 days after the proposal is included in the Commission agenda, the affected city may adopt and transmit to the Commission a resolution requesting termination of proceedings. If such a resolution is adopted and transmitted within the prescribed timeframe, proceedings shall be terminated (56751).

### **Conducting Authority (Protest) Proceedings**

The Commission is the conducting authority for an annexation or detachment.

1. Within 35 days following the adoption of the Commission's resolution making determinations, and following the reconsideration period specified in 56895, the Commission sets the proposal for a protest hearing and gives notice of the hearing. The hearing shall not be less than 21 or more than 60 days after the notice is given (57002). If authorized pursuant to 56662, the proposal may be approved by resolution without notice, hearing and election (57002).
2. Unless the requirements for hearing are waived pursuant to section 56662, the Commission or, if delegated to the Executive Officer, the Executive Officer shall conduct a hearing to receive any oral or written protests and take one of the following actions (57000, 57050):
  - A. Inhabited territory
    - (1) The conducting authority must order the territory annexed without an election when protests are less than 25% of registered voters in the territory, and less than 25% of the landowners owning less than 25% of the assessed value of land in the territory (57075).
    - (2) The conducting authority must call an election on the question of an inhabited annexation when at least 25% or more (but less than 50%) of the voters in the territory, or at least 25% of the landowners owning at least 25% of the assessed value of land in the territory file a protest (57075).
    - (3) When 50% or more of the registered voters of an inhabited area proposed for annexation or detachment protest in writing, the proceedings are terminated (57078).
  - B. Uninhabited territory
    - (1) The conducting authority must approve uninhabited annexations with less than 50% assessed land value landowner protest (57075).
    - (2) When landowners owning 50% or more of the total assessed value of land within the affected territory protest in writing, proceedings are terminated (57078).

## Special Provisions

### 1. Elections Requirements

In the case of an inhabited annexation to a city, the Commission shall require that an election be held in both the annexation area and the city when (56737):

- A. The assessed value of land within the annexation area equals one-half, or more, of that within the city prior to the annexation; or
- B. The number of registered voters within the annexation area equals one-half or more of that within the city prior to the annexation.

### 2. Distinct Communities

If a proposed annexation consists of two or more distinct communities and any one community has more than 250 registered voters, any protest filed shall be accounted separately for that community (57078.5). This provision does not apply if the proposal is an island annexation initiated in accordance with 56375.3.

### 3. Island Annexations

The Commission shall approve an annexation to a city and order the annexation without an election, and waive the conducting authority proceedings if the annexation is proposed by resolution of the affected city and the Commission finds that territory contained in the annexation meets all of the following requirements (56375.3):

- A. The territory does not exceed 150 acres in area, and the area constitutes the entire island.
- B. The territory constitutes an unincorporated island as defined by statute and local LAFCO policy.
- C. The territory is surrounded in either of the following ways:
  - (1) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and the county boundary or the Pacific Ocean; or
  - (2) Surrounded by the city to which annexation is proposed and adjacent cities.
- D. The territory is substantially developed, or developing. This finding shall be based on one or more factors, including, but not limited to:
  - (1) The availability of public utility services.
  - (2) The presence of public improvements.
  - (3) The presence of physical improvements upon the parcel or parcels within the area.
  - (4) It is not prime agricultural land as defined by Government Code §56064.
  - (5) It will benefit from the annexation or is receiving benefits from the annexing city.

At the option of either the city or the county, a separate property tax transfer agreement covering an island annexation may be agreed to by the city and the county without affecting any existing master tax sharing agreement between the city and the county.

These provisions do not apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

~~These special provisions are scheduled to expire on January 1, 2014, unless eliminated or extended by a superseding statute.~~

The island provisions do not apply to certain islands created after January 1, 2014 (56375.4).

4. Special Provisions for Williamson Act Territory (51233, 51243.5, 56738, 56752).

The Williamson Act provides that a property owner may enter into a contract with a county or city whereby the assessed property taxes are reduced in return for keeping the property in an agricultural preserve for a minimum of 10 years. Except as provided in Government Code section 51243.5, on and after the effective date of an annexation by a city of any land under contract with the county, the city shall succeed to all rights, duties, and powers of the county under the contract.

A city may refuse to succeed to a Williamson Act contract if either of the following conditions exist:

- A. Prior to December 8, 1971 the land being annexed was within one mile of the city boundary when the contract was executed and the city filed a resolution protesting the contract with the board of supervisors; or
- B. Prior to January 1, 1991: (a) the land being annexed was within one mile of the city boundary; (b) the city had filed a resolution protesting the contract with LAFCO; (c) LAFCO held a hearing to consider the protest; (d) LAFCO made a finding of inconsistency with future land use; and (e) LAFCO approved the protest.

Please refer to the applicable code sections for specific procedures regarding the annexation of Williamson Act territory.

# CONTRA COSTA LAFCO

## 3.5 District Annexations and Detachments

### Initiation of Proceedings

Proceedings for annexation to or detachment from a district may be initiated by petition or by resolution of the governing body of any affected county, city, district or school district (56650). In addition, a LAFCO application is required.

1. Initiation by Petition:
  - A. A petition of application shall do all of the following (56700):
    - (1) State that the proposal is made pursuant to this part;
    - (2) State the nature of the proposal and list all proposed annexations and/or detachments;
    - (3) Set forth a description of the boundaries of the affected territory accompanied by a map showing the boundaries;
    - (4) Set forth any proposed terms and conditions;
    - (5) State the reason or reasons for the proposal;
    - (6) State whether the petition is signed by registered voters or owners of land;
    - (7) Designate no more than three persons as chief petitioners, setting forth their names and mailing addresses;
    - (8) Request that LAFCO consider this proposal pursuant to the Cortese-Knox-Hertzberg Act; and
    - (9) State whether the proposal is consistent with the spheres of influence of any affected city or district.
  - B. Signature Requirements (56864):
    - (1) **Registered-voter district** (a district whose principal act provides that registered voters residing within the district are entitled to vote) petitions for annexation or detachment shall be signed by: (a) not less than 25% of the registered voters within the territory to be annexed or detached; or not less than 25% of the number of landowners who own not less than 25% of the assessed value of land within such territory.
    - (2) **Landowner-voter district** (a district whose principal act provides that owners of land within the district are entitled to vote) petitions for annexation or detachment shall be signed by not less than 25% of the number of landowners who own not less than 25% of the assessed value of land.

2. Initiation by Resolution (56654):

An adopted resolution of application by the legislative body of any affected county, city, special district or school district shall contain all the matters required in the petition except for signers and signatures.

3. Boundaries

Boundary descriptions of territory included in any proposal shall be definite and certain. If the Commission requires modifications (additions/deletions) to the subject territory, it may direct the County Surveyor to prepare a new boundary description. Boundaries that split lines of assessment or legal parcel lines, or create islands, strips, or corridors are discouraged. Boundaries which follow existing political boundaries and natural or manmade features such as rivers, lakes, railroad tracks, roads and freeways are preferred. Boundary lines of areas proposed for annexation, which include, where possible, land abutting both sides of a given street or right of way within the same entity are favored. When a boundary must follow a street or highway, the boundary will include the complete right of way for the entire street or highway.

**Commission Proceedings**

The Commission shall consider factors pursuant to sections 56668, 56668.3 and 56668.5 in its review of a district boundary change proposal.

If a proposal is submitted for a district annexation or a reorganization that includes a district annexation and the proposal was not initiated by the affected district, the proposal will be placed on the next Commission agenda for information purposes and a copy of the proposal shall be forwarded to districts to which annexation is proposed. Within 60 days after the proposal is included on the Commission agenda, any district to which annexation is proposed may adopt and transmit to the Commission a resolution requesting termination of proceedings. If such a resolution is adopted and transmitted within the prescribed timeframe, proceedings shall be terminated (56857).

LAFCO may approve, modify, or deny a proposal. If approved, the Commission may also adopt terms and conditions for the annexation or detachment. For example, an annexation can be conditioned on including additional parcels to avoid the creation of irregular boundaries or islands. Then the proposal is scheduled for a conducting authority hearing where no further modifications may be made. The Commission is the conducting authority for a district annexation or detachment (56029).

**Special Provision for Special Districts that Furnish Gas or Electric Service (56129)**

Districts cannot furnish gas or electric service within a service area for which a public utility has been granted a certificate of public convenience until an election is held on the question of the change of organization or the question of the gas and electric service has been called after the completion of proceedings for the change of organization.

**Conducting Authority (Protest) Proceedings**

1. Within 35 days following the adoption of the Commission's resolution making determinations, and following the reconsideration period specified in 56895, the Commission shall set the proposal for a protest hearing and give notice of the hearing. The hearing shall not be less than 21 or more

than 60 days after the notice is given (57002). If authorized by LAFCO pursuant to 56662, the proposal may be approved by resolution of the conducting authority without notice, hearing, and election (57002).

2. Proceedings shall be terminated if written protests are filed and not withdrawn prior to the conclusion of the hearing by:
  - A. In the case of uninhabited territory, landowners owning 50% or more of the assessed value of land; or
  - B. In the case of inhabited territory, 50% or more of the voting power of voters residing in the territory (57078).
3. If no majority protest is filed, the Commission shall order the annexation or detachment either without or subject to an election. An election may only be waived [under any of the following circumstances](#)~~when~~:
  - A. In a registered-voter district, if inhabited and protests are filed by less than 25% of the voters, or less than 25% of the number of landowners owning less than 25% of the assessed value of land within the affected territory (57075).
  - B. In a landowner-voter district, if protests are filed by less than 25% of the number of landowners owning less than 25% of the assessed value of the land, or less than 25% of the voting power of landowner voters entitled to vote as a result of owning property within the territory (57076).
  - C. The Commission has waived election requirements pursuant to the provisions of Section 56662 (57002).
4. Pursuant to Section 56876, the Commission may order the election to be held only:
  - A. Within the territory; or
  - B. Within both the territory and all or part of the district outside of such territory.

### **Election and Completion of Proceedings**

1. After the election, the Commission shall adopt a resolution confirming the order of the change of organization if a majority of the votes cast are in favor in either of the following circumstances (57176):
  - A. At an election called in the affected territory; or
  - B. At an election called within the affected territory and within the territory of the affected agency.
2. A resolution ordering an annexation or detachment shall describe the exterior boundaries of the territory annexed or detached, and shall contain all terms and conditions imposed upon such annexation or detachment (57100).
3. For the purpose of any action to determine or contest the validity of an annexation or detachment, the annexation or detachment shall be deemed to be completed and in existence upon the date of execution of the Certificate of Completion (56102).

4. If no effective date has been fixed in any of the terms and conditions, the effective date shall be the date of recordation by the County Recorder (57202).

## 2.1. POLICIES AND STANDARDS

### O. AGRICULTURAL AND OPEN SPACE PRESERVATION POLICY

#### PREFACE

LAFCO's enabling and guiding legislation, the Cortese Knox Hertzberg (CKH) Act, begins with the following statement.

“The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services.” (§56001)

Beginning in the late 1800s, farmers and ranchers made Contra Costa County an important source of agricultural products. Much of the County has good soils, a mild climate, and adequate water. Western and central Contra Costa were used for agriculture well into the twentieth century. John Muir farmed and ranched approximately 2,600 acres in what is now Martinez, Concord, and the Alhambra Valley. While the County's population was increasing, by current standards, the County's population was small. The 1910 census recorded 31,764 residents, less than the 2015 population of Pleasant Hill.

Development, which began in earnest after World War II, transformed Contra Costa County. As urban and suburban development occurred, Contra Costa County experienced significant reduction in the amount and relevant economic importance of agricultural lands. Simultaneously, critical open space habitat for sensitive species declined. By 2010, the Census reported that Contra Costa had 1,049,025 people, representing 3,300% growth since 1910. Contra Costa County's 2040 population is forecast to be 1,338,400.

As a result of population and job growth, agricultural land was converted to houses, schools, commercial centers, job centers, and transportation corridors. In 2015, there were about 30,000 acres of active agricultural land in Contra Costa County, excluding rangeland and pastureland, most of it located in the eastern portion of the County. There are approximately 175,000 acres of rangeland and pastureland in the County.<sup>1</sup>

The total gross value of Agricultural crops in Contra Costa County was is worth approximately \$1280,441,000.5 million (farm production value) in 2015. Agriculture and is an important economic sector in Contra Costa County. The value of agricultural production has fluctuated risen in recent years.<sup>2</sup> ~~However,~~ Some worry that Contra Costa's agricultural industry may

<sup>1</sup> 2015 Crop and Livestock Report, Contra Costa County Agricultural Commissioner

<sup>2</sup> 2008-2015 Crop and Livestock Reports, Contra Costa County Agricultural Commissioner



approach a tipping point beyond which agriculture becomes less viable due to a lack of labor, suppliers, and processors located nearby.<sup>3</sup>

The pressure on agricultural land also extends to wildlife and riparian areas. In some cases, conversion of these lands through development disrupts an ecosystem that used to depend on the now developed land as a travel route, or a seasonal or permanent source of food and water.

The County and some cities are active in efforts to preserve agricultural and open space lands. For example, in the 1970s, the County created a County Agricultural Core to the east and south of Brentwood.

The City of Brentwood has an agricultural mitigation program that collected more than \$12 million in mitigation fees; and through conservation organizations, acquired the development rights over approximately 1,000 acres of agricultural lands. In 2006, the voters adopted Urban Limit Lines (ULLs) for the County and each municipality, and these actions helped protect undeveloped land outside the ULLs. Furthermore, the County adopted the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCCHCP/NCCP) that protects sensitive habitat for plants and animals in East Contra Costa.

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).

While LAFCO has authority to achieve the objectives of the CKH Act, there are things that LAFCO cannot do, for example, directly regulate land use.<sup>4</sup> LAFCO defers to agencies that have land use planning authority. Therefore, successful preservation of prime agricultural, agricultural and open space lands and of agriculture as a business requires that both applicants and other agencies also lead. At the end of this policy are observations about other opportunities facing residents, advocacy organizations, and governmental agencies that could also strengthen and preserve agriculture and open space lands.

Contra Costa LAFCO adopted this policy on November 9, 2016, with amendments on December 14, 2016, and agreed to review the policy in one year. [Minor amendments were approved on November 14, 2018.](#)

## **AUTHORITY OF LAFCO**

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<sup>3</sup> *Sustaining our Agricultural Bounty: An Assessment of the Current State of Farming and Ranching in the San Francisco Bay Area – A white paper by the American Farmland Trust, Greenbelt Alliance and Sustainable Agriculture Education (SAGE), January 2011*

<sup>4</sup> “A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements” [§§56375(6), 56886].

LAFCO's authority derives from the CKH Act. Among the purposes of LAFCO are to encourage planned, orderly, and efficient urban development while at the same time giving appropriate consideration to the preservation of prime agricultural, agricultural and open space lands (§56300). The CKH Act includes provisions that grant LAFCO the authority to consider and provide for the preservation of open space and agricultural lands. Among these provisions is §56377 which describes the intent of the legislation with regard to agricultural lands:

“56377. In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the commission shall consider all of the following policies and priorities:

(a) Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non-prime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the SOI of a local agency should be encouraged before any proposal is approved that would allow for or lead to the development of existing open space lands for non-open space uses that are outside of the existing jurisdiction of the local agency or outside of the existing SOI of the local agency.”

LAFCO is specifically charged in some instances with protecting open space and agricultural land. For example, an island annexation may not be approved if the island consists of prime agricultural land [§56375.3(b)(5)]. LAFCO may not approve a change to an SOI where the affected territory is subject to a Williamson Act contract or farmland security zone unless certain conditions exist (§§56426 and 56426.5).

When making a decision, LAFCO must consider whether an application and its effects conform to both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Sections 56377 and 56668(d). LAFCO must consider the effect of an application on maintaining the physical and economic integrity of agricultural lands [§56668 (e)]. LAFCO may also consider whether the public good served by a proposal outweighs the purposes of LAFCO policies.

An application for a change of organization, reorganization, the establishment of or change to a sphere of influence (SOI), the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act will be evaluated in accordance with LAFCO's adopted Agricultural and Open Space Preservation Policy.

### **PURPOSE OF THE POLICY**

The purpose of this policy is threefold: 1) to provide guidance to the applicant on how to assess the impacts on prime agricultural, agricultural and open space lands of applications submitted to LAFCO, and enable the applicant to explain how the applicant intends to mitigate those impacts; 2) to provide a framework for LAFCO to evaluate and process in a consistent manner,

applications before LAFCO that involve or impact prime agricultural, agricultural and/or open space lands; and 3) to explain to the public how LAFCO will evaluate and assess applications that affect prime agricultural, agricultural and/or open space lands.

## **DEFINITIONS**

Several terms are important in understanding LAFCO's responsibility and authority to preserve prime agricultural, agricultural and open space lands. These terms and definitions are found below and are applicable throughout these policies. The CKH Act contains the following definitions for agricultural land, prime agricultural land and open space:

**56016. "Agricultural lands"** means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

**56064. "Prime agricultural land"** means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.

(d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

**56059. "Open space"** means any parcel or area of land or water which is substantially unimproved and devoted to an open-space use, as defined in Section 65560.

**65560.** (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and

estuaries; and coastal beaches, lakeshores, banks of rivers and streams, greenways, as defined in Section 816.52 of the Civil Code, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, greenways, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code (i.e., Native American Historical, Cultural and Sacred Sites).

## **GOALS, POLICIES AND GUIDELINES**

The following Goals, Policies, and Guidelines are consistent with the legislative direction provided in the CKH Act. The Goals are intended to be the outcome LAFCO wants to achieve. The Policies provide direction with regard to how those Goals should be achieved by providing specific guidance for decision makers and proponents. Guidelines give stakeholders procedures and practical tips regarding what information LAFCO commissioners and staff need to evaluate an application that affects prime agricultural, agricultural and/or open space lands.

### **GOALS**

Agriculture and open space are vital and essential to Contra Costa County's economy and environment. Accordingly, boundary changes for urban development should be proposed, evaluated, and approved in a manner that is consistent with the continuing growth and vitality of agriculture within the county. Open space lands provide the region with invaluable public benefits for all who visit, live and work in Contra Costa County. The following goals will help guide LAFCO's decisions regarding prime agricultural, agricultural and open space lands.

**Goal 1.** Minimize the conversion of prime agricultural land and open space land to other land uses while balancing the need to ensure orderly growth and development and the efficient provision of services.<sup>5</sup>

**Goal 2.** Encourage cities, the county, special districts, property owners and other stakeholders to work together to preserve prime agricultural, agricultural and open space lands.

**Goal 3.** Incorporate agricultural and open space land preservation into long range planning consistent with principles of smart growth at the state, county, and municipal levels.

**Goal 4.** Strengthen and support the agricultural sector of the economy.

**Goal 5.** Fully consider the impacts an application will have on existing prime agricultural, agricultural and open space lands.

**Goal 6.** Preserve areas that sustain agriculture in Contra Costa County.

## **POLICIES**

It is the policy of Contra Costa LAFCO that, consistent with the CKH Act, an application for a change in organization, reorganization, for the establishment of or change to an SOI, the extension of extraterritorial services, and other LAFCO actions as contained in the CKH Act (“applications”), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration to preserving open space, agricultural and prime agricultural lands within those patterns. LAFCO’s Agricultural and Open Space Preservation Policy provides for a mitigation hierarchy which 1) encourages avoidance of impacts to prime agricultural, agricultural and open space lands, 2) minimizes impacts to these lands, and 3) mitigates impacts that cannot be avoided while pursuing orderly growth and development.

The following policies support the goals stated above and will be used by Contra Costa LAFCO when considering an application that involves prime agricultural, agricultural and/or open space lands:

**Policy 1.** The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan, Specific Plans and SOI areas, and that encourage preservation of prime agricultural, agricultural and open space lands in a manner that is consistent with LAFCO’s policy.

**Policy 2.** Vacant land within urban areas should be developed before prime agricultural, agricultural and/or open space land is annexed for non-agricultural and non-open space purposes.

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<sup>5</sup> *In minimizing the conversion of open space land, the Commission may give lower priority to rangeland as defined per Public Resources Code 4789.2(i).*

<sup>6</sup> *The Commission recognizes there may be instances in which vacant land is planned to be used in a manner that is important to the orderly and efficient long-term development of the county and land use agency and that differs from*

**Policy 3.** Land substantially surrounded by existing jurisdictional boundaries (e.g., islands) should be annexed before other lands.

**Policy 4.** Where feasible, and consistent with LAFCO policies, non-prime agricultural land should be annexed before prime agricultural land.

**Policy 5.** While annexation of prime agricultural, agricultural and open space lands is not prohibited, annexation of these areas for urban development is not encouraged if there are feasible alternatives that allow for orderly and efficient growth. Large lot rural development that places pressure on a jurisdiction to provide services, and causes agricultural areas to be infeasible for farming or agricultural business, is discouraged.

**Policy 6.** The continued productivity and sustainability of agricultural land surrounding existing communities should be promoted by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses. Buffers and/or local right to farm ordinances should be established to promote this policy. Contra Costa County has a Right to Farm ordinance which requires notification of purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residential use.

**Policy 7.** Development near agricultural land should minimize adverse impacts to agricultural operations.

**Policy 8.** Development near open space should minimize adverse impacts to open space uses.

**Policy 9.** The Commission will consider feasible mitigation (found in the following guidelines) if an application would result in the loss of prime agricultural, agricultural and/or open space lands.

**Policy 10.** Any mitigations that are conditions of LAFCO's approval of an application should occur close to the location of the impact and within Contra Costa County.

## **GUIDELINES**

These Guidelines are intended to provide further direction regarding the application of LAFCO's Goals and Policies; to advise and assist the public, agencies, property owners, farmers, ranchers and other stakeholders with regard to LAFCO's expectations in reviewing an application that involves prime agricultural, agricultural and/or open space lands; and to provide sample mitigation measures.

**Guideline 1.** Applications submitted to LAFCO involving prime agricultural, agricultural and/or open space lands shall include an Agricultural and Open Space Impact Assessment. At a minimum the following shall be addressed as part of the assessment:

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*the proposed use of the area in an application to LAFCO. LAFCO will consider such situations on a case-by-case basis.*

- a. An application must discuss how it balances the State's interest in preserving prime agricultural and/or open space lands against the need for orderly development (§56001).
- b. An application must discuss its effect on maintaining the physical and economic integrity of agricultural lands [§56668 (e)].
- c. An application must discuss whether it could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space land to uses other than open space uses (§56377).
- d. An application must describe whether, and if so, how it guides development away from prime agricultural, agricultural and/or open space lands.
- e. An application must describe whether, and if so, how it facilitates development of existing vacant or non-agricultural and/or non-open space lands for urban uses within the existing boundary or SOI of a local agency.
- f. An application must discuss what measures it contains that will preserve the physical and economic integrity of adjacent prime agricultural, agricultural and/or open space land uses.

**Guideline 2.** If an application involves a loss of prime agricultural, agricultural and/or open space lands, property owners, cities and towns, the county, special districts, and other agricultural and open space conservation agencies should work together as early in the process as possible to either modify the application to avoid impacts or to adequately mitigate the impacts.

**Guideline 3.** The following factors should be considered for an annexation of prime agricultural, agricultural and/or open space lands:

- a. The applicant should reference and include a land use inventory that indicates the amount of available land within the subject jurisdiction for the proposed land use. The land use inventory may be one that has been prepared by the applicable land use agency.
- b. The applicant should provide an evaluation of the effectiveness of measures proposed by the applicant to mitigate the loss of prime agricultural, agricultural and/or open space lands, and to preserve adjoining lands for prime agricultural, agricultural and/or open space use to prevent their premature conversion to other uses. Examples of such measures include, but are not limited to:
  - 1. Acquisition or dedication of prime agricultural and agricultural land (e.g., substitution ratio of at least 1:1 for the prime agricultural land annexed), development rights, open space and agricultural conservation easements to permanently protect adjacent or other prime agricultural, agricultural and/or open space lands within the county. Any land previously protected should not be used as the mitigation for any other project.
  - 2. Participation in other local development programs that direct development towards urban areas in the county (such as transfer or purchase of development credits).

3. Payment to local government agencies and/or recognized non-profit organizations working in Contra Costa County for the purpose of preserving prime agricultural, agricultural and/or open space lands; payment should be sufficient to fully fund the acquisition, dedication, restoration and maintenance of land which is of equal or better quality.
4. Establishment of buffers sufficient to protect adjacent prime agricultural, agricultural and/or open space lands from the effects of development. Such buffers may be permanent, temporary, or rolling, and may take many forms (e.g., easements, dedications, appropriate zoning, streets, parks, etc.).
5. Where applicable, compliance with the provisions of the ECCCHCP/NCCP or a similar plan enacted by the County, cities or another regional, state or federal permitting agency.
6. Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural and agricultural lands at a minimum 1:1 ratio.
7. Participation in an advanced mitigation plan for prime agricultural, agricultural and/or open space lands.
8. Participation in measures to promote and/or enhance the viability of prime agricultural and agricultural lands and the agricultural industry in Contra Costa County.
9. Protect open space lands utilizing science-based impact analysis.
10. Adopt a "Right to Farm" agreement that shall be included in the title of the land and in any subdivision thereof when an application proposes to convert prime agricultural and agricultural lands to other uses and is adjacent to prime agricultural and agricultural lands. Contra Costa County has a Right to Farm ordinance which requires notification of purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residential use.

**Guideline 4.** Detachment of prime agricultural, agricultural and/or open space lands should be encouraged if consistent with the SOI for that agency.

**Guideline 5.** Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:

- a. The area is within the annexing agency's SOI.
- b. The Commission makes findings required by Gov. Code Section 56856.5.
- c. The parcel is included in an approved city specific plan.



- d. The soil is not categorized as prime agricultural land.
- e. Mitigation for the loss of agricultural land has been secured in the form of agricultural easements to the satisfaction of the annexing agency and the county.
- f. There is a pending, or approved, cancelation for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
- g. The Williamson Act contract on the property has been non-renewed and final approval of the non-renewal has been granted.

**Guideline 6.** Property owners of prime agricultural and agricultural lands adjacent to land that is the subject of a LAFCO application shall be notified when an application is submitted to LAFCO.

**Guideline 7.** Regarding the timing and fulfillment of mitigation, if the mitigation measure is not in place prior to LAFCO's approval, the responsible entity (e.g., government agency, recognized non-profit organization) should provide LAFCO with information as to how the entity will ensure that the mitigation is provided at the appropriate time. Following LAFCO's approval, the responsible entity should provide LAFCO with an annual update on the status of agricultural mitigation fulfillment until the mitigation commitment is fulfilled.

### **OBSERVATIONS**

LAFCO identified other actions that are not within its purview but that if followed could reduce the impacts of new development on prime agricultural, agricultural, and open space lands. These are provided here so that applicants, other governmental agencies, advocacy organizations, and the public might consider them.

**Observation 1.** LAFCO will evaluate all applications that are submitted and complete. However, LAFCO notes that over a period the impact of new applications is likely to be reduced if applicants adopt a hierarchy that gives preference to those projects that have no impacts on prime agricultural, agricultural and/or open space lands, followed by those that minimize impacts, and lastly those that require mitigation of their impacts.

**Observation 2.** Undeveloped prime agricultural, agricultural and open space lands exist primarily in east Contra Costa County, as does much of the remaining open space; however, most of the historical conversion of this land occurred elsewhere in the county. In order to preserve the remaining land, a countywide effort involving funding may be appropriate.

**Observation 3.** Any jurisdiction that contains prime agricultural, agricultural and/or open space land can periodically review whether its land use and other regulations strike the proper balance between discouraging development and conversion of prime agricultural, agricultural and open space lands with encouraging economically viable agriculture-based businesses that will keep agriculture production high.



Lou Ann Texeira  
*Executive Officer*

**MEMBERS**

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

**ALTERNATE MEMBERS**

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

November 14, 2018  
 Agenda Item 9

November 14, 2018

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

**First Quarter Budget Report - Fiscal Year 2018-19**

Dear Members of the Commission:

This is the first quarter budget report for FY 2018-19, which compares adopted and actual expenses and revenues for the period July 1, 2018 through September 30, 2018.

The LAFCO operating budget includes three components: salaries/benefits, services/supplies, a contingency/reserve fund, Other Post-Employment Benefits (OPEB) Trust and retirement pre-funding account. The budget is based on the “bottom line,” which allows for variation within line item accounts as long as the overall balance remains positive. Funds may not be drawn from the contingency/reserve without Commission approval.

LAFCO’s budget is funded primarily by the County, cities and independent special districts, with each group paying one-third of the LAFCO budget. The city and district shares are prorated based on general revenues reported to the State Controller’s Office. LAFCO also receives revenue through application fees and interest earnings.

DISCUSSION

On May 9, 2018, LAFCO adopted its final FY 2018-19 budget with total appropriations of \$996,415, which includes an \$80,000 contingency/reserve fund, a contribution of \$40,000 to fund the OPEB liability, and a contribution of \$30,000 to pre-fund LAFCO’s retirement account with the Contra Costa County Employees’ Retirement Association (CCCERA).

With 25% of the fiscal year elapsed, the Commission’s first quarter expenditures are \$111,552 or 12% of total appropriations. The Commission budgeted \$454,786 in *salaries/benefits* for FY 2018-19; at the end of the first quarter, actual expenses total \$70,092 or 16% of the total budgeted amount. The Commission budgeted \$391,629 in *services/supplies*; and at the end of the first quarter, actual expenses total \$41,460 or 11%. Neither the \$30,000 CCCERA liability payment, nor the \$40,000 payment toward the OPEB liability are reflected in the first quarter budget report.

The primary sources of revenues are local agency contributions, application fees, and available fund balance. Total revenues received during the first quarter are \$580,174 (including fund balance) or 59% of projected revenues. As of this writing, the following agencies have not remitted their annual contributions to LAFCO: Green Valley Recreation & Park District, Rodeo Hercules Fire Protection District, and Reclamation Districts (RDs) 2090, and 2121. The Auditor’s Office and LAFCO staff agreed to waive the \$0.05 payment for RD 2090. Also, RD 2121 informed the County Auditor’s Office that they were dissolved and will not remit their payment of \$15.00. LAFCO staff is currently working with the Auditor’s Office to collect funds from the remaining agencies.

As for application fees, FY 2018-19 application activity is slower than FY 2017-18 activity. During the first quarter of FY 2018-19, LAFCO received two new applications, compared to four new applications received during the first quarter of FY 2017-18.

LAFCO is currently receiving some investment earnings through the OPEB trust account, which remains in that account.

Finally, when available, we budget fund balance to offset agency contributions. The FY 2018-19 budget includes \$175,000 in budgeted fund balance.

See table below for a summary of first quarter expenditures and revenues.

<b>Account</b>	<b>FY 2018-19 Final Budget</b>	<b>First Quarter Actuals</b>
Salaries & Benefits	\$454,786	\$ 70,092
Services & Supplies	391,629	41,460
Contingency/Reserve	80,000	0
OPEB Trust	40,000	0
CCCERA Pre-Fund	30,000	0
<b>Total Appropriations</b>	<b>\$996,415</b>	<b>\$111,552</b>
Agency Contributions	\$796,415	\$397,216
Application/Other Revenue	20,000	7,957
Interest Earnings	-	-
Fund Balance	175,000	170,000
<b>Total Revenues</b>	<b>\$996,415</b>	<b>\$580,174</b>

No budget adjustments are recommended at this time. LAFCO staff will continue to closely monitor the budget, and keep the Commission apprised.

**RECOMMENDATION**

It is recommended that the Commission receive the FY 2018-19 first quarter budget report.

Sincerely,

LOU ANN TEXEIRA  
 EXECUTIVE OFFICER



Lou Ann Texeira  
*Executive Officer*

**MEMBERS**

Candace Andersen <i>County Member</i>	Michael R. McGill <i>Special District Member</i>
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November 14, 2018  
 Agenda Item 10

November 14, 2018 (Agenda)

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

**2019 LAFCO Meeting Schedule**

Dear Commissioners:

The Commissioner’s Handbook states that regular meetings of the Commission are held on the second Wednesday of each month commencing at 1:30 p.m. in the Board of Supervisors Chambers, 651 Pine Street in Martinez.

The 2019 meeting schedule proposes one modification, which is to hold the April 2019 meeting on the third instead of the second Wednesday of the month in order to accommodate the 2019 Annual CALAFCO Staff Workshop (April 10-12).

The proposed 2019 meeting schedule is as follows. Following approval, the meeting schedule will be posted on the LAFCO website.

<b>January 9</b>	<b>April 17</b>	<b>July 10</b>	<b>October 9</b>
<b>February 13</b>	<b>May 8</b>	<b>August 14</b>	<b>November 13</b>
<b>March 13</b>	<b>June 12</b>	<b>September 11</b>	<b>December 11</b>

RECOMMENDATION

It is recommended the Commission approve the 2019 LAFCO meeting schedule as proposed.

Sincerely,

LOU ANN TEXEIRA  
 EXECUTIVE OFFICER



## AGENDA

November 14, 2018  
Agenda Item 11

### RETIREMENT BOARD MEETING

SECOND MONTHLY MEETING  
September 26, 2018  
9:00 a.m.

Retirement Board Conference Room  
The Willows Office Park  
1355 Willow Way, Suite 221  
Concord, California

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

1. Pledge of Allegiance.
2. Accept comments from the public.

#### ***CLOSED SESSION***

3. The Board will go into closed session pursuant to Govt. Code Section 54957 to consider the disability application for Rebecca Halvorson.
4. CONFERENCE WITH LABOR NEGOTIATORS  
(Government Code Section 54957.6)

Agency designated representatives:  
Gail Strohl, Chief Executive Officer  
Anne Sommers, Admin/HR Manager  
Joe Wiley, CCCERA's Chief Negotiator

Employee Organization: AFSCME, Local 2700

#### ***OPEN SESSION***

5. Consider and take possible action to accept the GASB 68 report from Segal Consulting.
6. Review of Report on Growth Sub-portfolio.
7. Update from StepStone Group on Private Credit implementation.
8. Presentation from Verus on Risk Parity manager search process and recommendations.
9. Presentation from AQR regarding a potential commitment to Risk Parity strategy.
10. Consider and take possible action regarding a commitment to AQR Risk Parity strategy.
11. Presentation from PanAgora regarding a potential commitment to Risk Parity strategy.

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

12. Consider and take possible action regarding a commitment to PanAgora Risk Parity strategy.
13. Educational session on fiduciary duties presented by fiduciary counsel.
14. Educational presentation on Ralph M. Brown Act open meetings laws.
15. Educational presentation on the California Public Records Act.
16. Consider and take possible action to amend CCCERA's Accessibility of Investment Records Policy.
17. Consider and take possible action to issue a Request for Proposal for Actuarial Consulting and Actuarial Auditing Services.
18. Consider and take possible action on SACRS Voting Proxy Form.
19. Report from Audit Committee.
20. Consider authorizing the attendance of Board:
  - a. Nossaman's 2018 Fiduciaries' Forum, Nossaman LLP, October 18-19, 2018, San Francisco, CA.
21. Miscellaneous
  - a. Staff Report
  - b. Outside Professionals' Report
  - c. Trustees' comments

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



## AGENDA

### RETIREMENT BOARD MEETING

REGULAR MEETING  
October 10, 2018  
9:00 a.m.

Retirement Board Conference Room  
The Willows Office Park  
1355 Willow Way, Suite 221  
Concord, California

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

1. Pledge of Allegiance.
2. Accept comments from the public.
3. Approve minutes from the August 22 and September 12, 2018 meetings.
4. Routine items for October 10, 2018.
  - a. Approve certifications of membership.
  - b. Approve service and disability allowances.
  - c. Accept disability applications and authorize subpoenas as required.
  - d. Approve death benefits.
  - e. Accept Asset Allocation Report.
  - f. Accept Liquidity Report.

### ***CLOSED SESSION***

5. The Board will go into closed session pursuant to Govt. Code Section 54957 to consider recommendations from the Medical Advisor and/or staff regarding the following disability retirement applications:

<u>Member</u>	<u>Type Sought</u>	<u>Recommendation</u>
a. Scott Anderson	Service Connected	Service Connected
b. Angela Parga	Service Connected	Service Connected

### ***OPEN SESSION***

6. Presentation of the Housing Authority of Contra Costa County Final Audit Report.
7. Presentation of the Contra Costa County Office of the Public Defender Final Audit Report.
8. Presentation of the Rodeo-Hercules Fire Protection District Final Audit Report.
9. Update from staff regarding the lease at the Willows Office Park.

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

10. Consider and take possible action to cancel the October 24, 2018 meeting.
11. Miscellaneous
  - a. Staff Report
  - b. Outside Professionals' Report
  - c. Trustees' comments

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





## AGENDA

### RETIREMENT BOARD MEETING

REGULAR MEETING  
November 7, 2018  
9:00 a.m.

Retirement Board Conference Room  
The Willows Office Park  
1355 Willow Way, Suite 221  
Concord, California

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

1. Pledge of Allegiance.
2. Recognition of Janet Kutrowski for 25 years of service.
3. Accept comments from the public.
4. Approve minutes from the September 26 and October 10, 2018 meetings.
5. Routine items for November 7, 2018.
  - a. Approve certifications of membership.
  - b. Approve service and disability allowances.
  - c. Accept disability applications and authorize subpoenas as required.
  - d. Approve death benefits.
  - e. Accept travel report.
  - f. Accept Asset Allocation Report.
  - g. Accept Liquidity Report.

#### ***CLOSED SESSION***

6. CONFERENCE WITH LABOR NEGOTIATORS  
(Government Code Section 54957.6)

Agency designated representatives:  
Gail Strohl, Chief Executive Officer  
Anne Sommers, Admin/HR Manager  
Joe Wiley, CCCERA's Chief Negotiator

Employee Organization: AFSCME, Local 2700

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

7. The Board will continue in closed session pursuant to Govt. Code Section 54957 to consider recommendations from the Medical Advisor and/or staff regarding the following disability retirement applications:

<u>Member</u>	<u>Type Sought</u>	<u>Recommendation</u>
a. Haidee Jezek	Service Connected	Service Connected
b. Mary Oades	Service Connected	Service Connected
c. John Whittington	Service Connected	Service Connected

8. The Board will continue in closed session pursuant to Govt. Code Section 54957 to consider the Hearing Officer's recommendation regarding the disability application for Angela Alex-Moore.

***OPEN SESSION***

9. Consider and take possible action to authorize the CEO to execute a contract with Northern Trust for Master Custodian.
10. Consider and take possible action to add a meeting on November 28, 2018 and to cancel the meeting on November 20, 2018.
11. Consider and take possible action on Board meeting schedule for 2019.
12. Consider authorizing the attendance of Board:
- a. Board & Audit Committee Compliance Conference, SCCE, February 18-19, 2019, Scottsdale, AZ.
  - b. Advanced Principles of Pension Management for Trustees, CALAPRS, March 27-29, 2019, Los Angeles, CA. (Note: Conflict with meeting)
13. Miscellaneous
- a. Staff Report
  - b. Outside Professionals' Report
  - c. Trustees' comments

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

# MEMORANDUM

November 14, 2018  
Agenda Item 13a(1)

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**CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION**  
651 Pine Street, Sixth Floor ♦ Martinez CA 94553 ♦ (925) 335-1094 ♦ Fax (925) 335-1031

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November 8, 2018

**TO:** Each Member of the Commission

**FROM:** LAFCO Executive Officer

**SUBJECT:** Highlights of 2018 Annual CALAFCO Conference

Commissioners, guests and LAFCO staff attended the 2018 Annual CALAFCO Conference in Yosemite (October 3-5). The conference was very well attended with approximately 325 attendees, guests and speakers representing 47 of the 58 LAFCOs.

The conference theme was *A Vision for California* and provided a number of timely sessions. General sessions included “*The Natural Disaster Phenomenon: How it is Changing the Way LAFCOs Plan and Respond*,” *Municipal Service Reviews – Friend or Foe?*” (Commissioner Tatzin was a speaker), and *Promoting Adaptive Change in a Messy World*.

Breakout sessions included *Agricultural Preservation – From Vision to Action* (Commissioner Tatzin was a presenter), *LAFCOs’ Role to Encourage and Support Local Agency Accountability and Transparency*, *LAFCOs and Affordable Housing – What’s the Connection?*, *State Tools for Climate Smart Growth*, *LAFCO in a Perfect World: A Facilitated Creative Discussion on Making LAFCOs More Effective*, and *LAFCOs and Fire Protection Services: Synching up Spheres, Boundaries, Contracts and Auto Aid*.

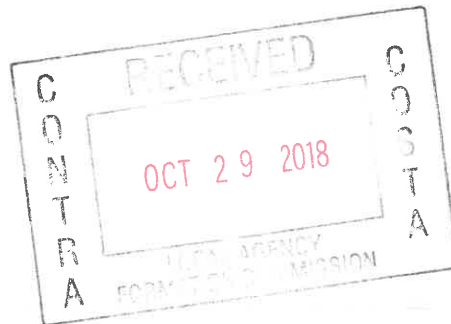
The conference drew a number of expert speakers including representatives from the State Water Resources Control Board, CALFIRE, USDA Forest Service, California Department of Conservation, Strategic Growth Council, Self-Help Enterprises and Urban Footprint; as well Assembly members Aguiar-Curry and Caballero, and a number of local government officials and LAFCO Commissioners and staff from around the State.

The conference also included a mobile workshop on tree mortality and the impacts to California, a LAFCO 101 session, regional caucus meetings and elections (Commissioner McGill was re-elected to the CALAFCO Board), the annual CALAFCO business meeting, the annual awards ceremony, CALAFCO Board of Directors meeting, and a CALAFCO legislative update. During the annual CALAFCO meeting, Commissioner McGill was appointed Vice Chair of the CALAFCO Board of Directors. Conference material is available on the CALAFCO website at [www.calafco.org](http://www.calafco.org).

The 2019 CALAFCO Conference will be held in Sacramento (October 30 – November 1).

October 25, 2018

Contra Costa LAFCo  
651 Pine Street, 6th Floor  
Martinez, CA 94553



Dear Chair and Commission:

On behalf of the California Association of Local Agency Formation Commissions (CALAFCO), I would like to thank your commission for allowing some of your members and/or staff the opportunity to attend the CALAFCO 2018 Annual Conference in Yosemite.

We understand that prioritizing expenditures can be challenging. Ensuring you and your staff have access to ongoing professional development and specialized educational opportunities, allows all of you the opportunity to better serve your commission and fulfill the mission of LAFCo. The sharing of information and resources among the LAFCo commissioners and staff statewide serves to strengthen the LAFCo network and creates opportunities for rich and value-added learning that is applied within each LAFCo.

We also wish to thank Commissioner Mike McGill for his service on the CALAFCO Board and congratulate him on his re-election to the Board and election to the role of Vice Chair.

Thank you again for your participation in the CALAFCO 2018 Annual Conference, I hope you found it a valuable experience. We truly appreciate your membership and value your involvement in CALAFCO.

Yours sincerely,

Pamela Miller  
Executive Director

November 14, 2018  
Agenda Item 13a(2)

# 2019 Events Calendar

## JANUARY

- 16-18 League New Mayor & Council Academy (Sacramento)
- 23-25 CA Assn. of Sanitation Agencies Conference (Palm Springs)
- 25 **CALAFCO Legislative Committee** (San Diego)
- 30-2/1 League New Mayor & Council Academy (Irvine)

## FEBRUARY

- 22 **CALAFCO Legislative Committee** (Sacramento)
- 28 **CALAFCO Board of Directors Strategic Planning Retreat** (Irvine)

## MARCH

- 1 **CALAFCO Board of Directors Meeting (TBD)**
- 13 Assn. of CA Water Agencies Legislative Symposium (Sacramento)
- 14-17 Local Government Commission Ahwahnee Conference (Yosemite)
- 22 **CALAFCO Legislative Committee** (San Diego)

## APRIL

- 3-5 Fire District Assn. Annual Meeting (Monterey)
- 10-12 **CALAFCO Staff Workshop (San Jose)**
- 24 League of Cities Legislative Day (Sacramento)
- 24-25 CA State Assn. of Counties Legislative Days (Sacramento)

## MAY

- 3 **CALAFCO Legislative Committee** (Sacramento)
- 10 **CALAFCO Board of Directors Meeting** (Sacramento)
- 7-10 Assn. of CA Water Agencies Conference (Monterey)
- 21 CA Special Districts Assn. Legislative Days (Sacramento)

### Sharing Information and Resources

CALIFORNIA ASSOCIATION OF  
LOCAL AGENCY FORMATION  
COMMISSIONS

1215 K Street, Suite 1650  
Sacramento, CA 95814

916-442-6536

## JUNE

- 7 **CALAFCO Legislative Committee** (Conference call)
- 19-21 League Mayor & Council Executive Forum (Newport Beach)

## JULY

- 26 **CALAFCO Legislative Committee** (Conference call)

## AUGUST

- 9 **CALAFCO Board of Directors Meeting (San Diego)**
- 21-23 CA Assn. of Sanitation Agencies Annual Conference (San Diego)

## SEPTEMBER

- 25-27 Regional Council of Rural Counties Annual Conference (South Lake Tahoe)
- 25-28 CA Special Districts Assn. Annual Conference (Anaheim)

## OCTOBER

- 11 **CALAFCO Legislative Committee (2020)** (Conference call)
- 16-18 League Annual Conference (Long Beach)
- 30-31 **CALAFCO Annual Conference** (Sacramento)
- 31 **CALAFCO Annual Business Meeting** (Sacramento)

## NOVEMBER

- 1 **CALAFCO Annual Conference** (Sacramento)
- 1 **CALAFCO Board of Directors Meeting** (Sacramento)
- 15 **CALAFCO Legislative Committee (2020)** (Sacramento)

## DECEMBER

- 3-6 CA State Assn. of Counties Annual Conference (San Francisco)
- 3-6 Assn. of CA Water Agencies Conference (San Diego)
- 13 **CALAFCO Board of Directors Meeting** (Sacramento)

**CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
PENDING PROPOSALS – November 14, 2018**

November 14, 2018  
Agenda Item 13b

<b>LAFCO APPLICATION</b>	<b>RECEIVED</b>	<b>STATUS</b>
LAFCO No. 10-09 - Town of Discovery Bay Community Services District (DBCSD) sphere of influence (SOI) Amendment (Newport Pointe): proposed SOI expansion of 20± acres bounded by Bixler Road, Newport Drive and Newport Cove	July 2010	Currently incomplete
LAFCO No. 10-10 - DBCSD Annexation (Newport Pointe): proposed annexation of 20+ acres to supply water/sewer services to a 67-unit single family residential development	July 2010	Currently incomplete
LAFCO No. 13-04 - Bayo Vista Housing Authority Annexation to Rodeo Sanitary District: proposed annexation of 33± acres located south of San Pablo Avenue at the northeastern edge of the District's boundary	Feb 2013	Continued from 11/12/14 meeting
LAFCO No. 14-05 - Reorganization 186 (Magee Ranch/SummerHill): proposed annexations to Central Contra Costa Sanitary District (CCCSD) and East Bay Municipal Utility District (EBMUD) of 402± acres; 9 parcels total to CCCSD (8 parcels) and EBMUD (7 parcels)	June 2014	Removed from Commission's calendar pending further notice
LAFCO No. 16-07 - Tassajara Parks Project – proposed SOI expansions to CCCSD and EBMUD of 30± acres located east of the City of San Ramon and the Town of Danville	May 2016	Currently incomplete
LAFCO No. 16-06 - Tassajara Parks Project – proposed annexations to CCCSD and EBMUD of 30± acres located east of the City of San Ramon and the Town of Danville	May 2016	Currently incomplete
LAFCO No. 18-11 – Spinnaker Cove Waterline Extension Annexation to Contra Costa Water District (CCWD)	July 2018	Under review
LAFCO No. 18-12 – City of Martinez Out of Agency Service (Subdivision 7609 Creekside Oaks)	October 2018	Under review
LAFCO 18-13 – Santiago Island Village - proposed SOI expansions to CCWD and Diablo Water District (DWD) of 23.11± acres located at 3505 Gateway Road in unincorporated Bethel island	October 2018	Under review
LAFCO 18-14 - Santiago Island Village Reorganization - proposed annexations to CCWD and DWD of 23.11± acres located at 3505 Gateway Road in unincorporated Bethel island	October 2018	Under review

## **East County fire agency to start charging for some emergency services**



East Contra Costa Fire Protection District will begin charging fees to insurance companies for some services.

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

PUBLISHED: September 18, 2018 at 10:39 am | UPDATED: **September 19, 2018** at 9:27 am

Residents in far East Contra Costa County who receive emergency fire services may see a bill go to their insurance companies to cover the cost as early as next month.

The financially strapped East Contra Costa Fire Protection District, which serves 249 square miles east of Antioch and more than 114,000 residents, will join a number of fire districts in the Bay Area and elsewhere that already charge some type of cost recovery fees. Among those are the Contra Costa Fire Protection District, Sacramento Metropolitan Fire District, Novato Fire Protection District, San Ramon and Orinda-Moraga fire districts.

The East Contra Costa Fire Protection District Board last week approved the fees on an 8-1 vote, with Joe Young dissenting. No resident spoke for or against the fees during the hearing.

Fire Chief Brian Helmick said the fees will be charged for responses to emergencies involving vehicle accidents and extrications, helicopter landings, illegal fires, hazardous material releases and water emergencies.

The charges will range from \$448 an hour per engine or \$560 per truck for those starting illegal fires to \$6,608 for three hours for complex hazardous material incidents. A routine car accident fee will be billed at \$487 an hour. The fee amounts will increase as additional crews or air ambulances are needed, but could be waived if a patient demonstrates a financial burden, does not have insurance, or dies, Helmick said.

Fees will not be charged for residential, commercial or vegetation fires, he said.

The fire chief estimates about 10 to 15 percent of the district's 8,000 annual calls will be subject to the new fees, bringing the agency about \$50,000 in additional revenue a year.

"The root issue is we are an underfunded fire agency," Helmick said, noting the district gets far less in property tax allocations than other districts in the area. "It's not paying again (for services) because the property tax revenues are not adequate. If they were, we would not be going for this."

The board adopted a similar fee plan in 2016 — the first of its kind in the district's history — for medical aid responses to urgent health complaints such as chest pains or dangerously low blood sugar levels, which raised some \$50,000 last year. That fee, now at \$209.46 for 30 minutes or \$399 an hour, was intended to cover not only a portion of the salaries and benefits for an engine's three-man crew, but also the cost of district management supervising each incident, as well as fuel and equipment maintenance. The fees can be waived if a patient demonstrates financial hardship or dies.

Bethel Island resident Mark Whitlock Sr. said he originally was against the cost recovery fees, but changed his mind when more administrative staff was hired recently, making it more manageable.

"I was always against it up until a year or so ago," he said. "We had no staff to do it — and I was not wanting to spend any more on staff."

But, Whitlock said, the proposed fees were one of the few resources the district found in "turning over every stone" for revenue as voters had suggested.

"It is a damned if you do and damned if you don't," he said. "People insisted we look at everything that is out there. Will all this be in effect in two or three years? Only the test of time will tell."

Helmick cautioned residents to look beyond the individual fees to the larger issue of the cash-strapped fire agency whose staffing levels and response times are far below the national standard.

"This decision is part of a much larger and complex problem," he said.

The district's financial woes date back decades when the area's population was much smaller and volunteer firefighters provided service. In 1978, Proposition 13 cemented the property-tax



allocation for the fire district at 8 percent — far less than the average 12 percent elsewhere, leaving the fire agency with less money than other area agencies.

Over the years, the district has tried to remedy the shortfall with such measures as a parcel tax, benefit assessment and utility-user tax, all of which failed at the ballot box.

“Folks have been recommending that we live within our means and explore additional means of generating revenue,” Helmick said. “This is us kicking over a rock and giving us every revenue we can. ... We are doing everything we can do legally.”

The newly approved cost recovery fees are possible under a section of the California Health and Safety Code and the [Fire Protection District Law of 1987](#), which allows districts to cover the cost of providing services, he said, noting the board can cancel them at any point.

“Cost recovery for fire districts is not unique to us. Up and down the state, and across the U.S. to some degree, fire districts are doing this to cover their expenses.”

Board member Young, however, said he voted against it because residents already pay taxes to cover such services.

“We support the fire district through our property tax system and I think it is inappropriate to be singling out a user of an emergency service for payment of these fees,” he said. “The services we are billing for are services that we already are charging for with taxes. In my mind, it’s billing twice for the same service.”

Young also noted that for the administrative burden the cost recovery fees will create, the return will be relatively small.

“We already have a medical fee that didn’t produce much revenue — in fact, far less than what we had projected,” he said. “... I think the fire district is providing the best service that can be provided with the money the public is willing to pay.”

Young also noted that the small amount of revenue from the new extra fees is not worth angering future voters considering proposed fire district revenue-generating measures.

“You might be sending a bill to your strongest supporters,” he said. “It’s better to fully fund the fire district for the services you need rather than nickel and dime your customers. That discourages them. I don’t think it’s the way to go.”

To view the fee schedule, visit <https://bit.ly/2NCqOal>.

## San Francisco Chronicle

# Housing prices are resegregating the Bay Area, UC Berkeley study finds

[Kimberly Veklerov](#) Sep. 19, 2018 Updated: **Sep. 19, 2018** 10:07 a.m.

The Bay Area's soaring housing costs are pushing poor people into neighborhoods where poverty and racial segregation are on the rise, a [UC Berkeley study published Wednesday](#) found.

As a result, the region's low-income families — particularly minority families — are increasingly cut off from relatives, their children may face worse health outcomes and parents' commutes to work can dramatically lengthen.

UC Berkeley researchers tracked migratory patterns and demographic changes across the region from 2000 to 2015. They found that movements caused by housing costs are intensifying racial disparities among neighborhoods.

Many neighborhoods in San Francisco, Oakland, Berkeley and Richmond saw declines in black population while farther-out areas of the East Bay and beyond saw increases. Neighborhoods such as San Francisco's Bayview and [Oakland's flatlands](#) lost thousands of low-income black households; places like unincorporated Cherryland in Alameda County and eastern Contra Costa County saw influxes.

Neighborhoods with low pollution, high-quality schools and other resources have become increasingly inaccessible for African Americans, according to the report. The study was a project by UC Berkeley's Urban Displacement Project and the California Housing Partnership, a nonprofit that advocates expanding affordable housing.

Interactive Map by: [Ethan Burrell and Eva Phillips](#)

“The housing market today is operating in the context of an architecture of segregation and vulnerability that was baked into cities and regions over a period of many decades,” said Dan Rinzler, a senior policy analyst with the group. “It's more or less moving the pieces around to the detriment of people of color and low-income communities.”

Living in areas that give residents a better chance at educational success, good health and upward mobility often comes down to race, not class, the study said.

For instance, by 2015 in San Francisco, a low-income white family was three times more likely to live in a high-resource area than a moderate- or high-income black family, the research found. In Alameda County, low-income white households were seven times more likely to live in such a neighborhood compared to a wealthier black family. And in Contra Costa County, a low-income

white family was 14 times more likely to live in a better-off neighborhood than a black family with moderate or high income.

“The disparities were shocking in some cases,” Rinzler said.

Miriam Zuk, director of the Urban Displacement Project, said the research was undertaken to look at granular, neighborhood-level changes. She said it was also important to break out various racial groups, rather than compare all people of color to white people.

“We talk about the reshuffling of people in spaces as if there are no consequences,” Zuk said. “There’s this trope of, ‘Oh, everyone is free to move where they want and maybe moving from a low-income area of the city to the suburbs is a good thing.’ What we see is that’s not happening. When people move, they are not necessarily moving to better-off places.”

Families that moved needed to use a higher share of their income to pay rent in their new home, the study found.

The analysis showed that across the Bay Area, a 30 percent increase in [median rent](#) in a given neighborhood corresponded with a more than 20 percent decrease in the number of low-income African Americans, Latinos and Asians living there. The researchers found no significant relationship between rent increases and losses of low-income white households.

The research team drew from tract-level Census data, the annual American Community Survey and other sources. The study received funding from the San Francisco Foundation.

In three counties studied in the most detail — San Francisco, Alameda and Contra Costa — the researchers found “significant and uneven shifts” between 2000 and 2015 in the neighborhoods where low-income people of color lived. Demographic changes at the city level could be pinpointed to just a few neighborhoods where they were the most concentrated.

The Longfellow neighborhood in North Oakland, for instance, lost 400 low-income black households — more than any other in Alameda County — between 2000 and 2015, according to the study. Three East Oakland ZIP codes whose low-income Latino populations increased in that period saw the highest rates of child lead poisoning in the county.

[In San Francisco](#), although the low-income Asian and Latino populations grew on an aggregate level, [they decreased in historical cultural hubs](#) such as Chinatown and the Mission.

The researchers found that Contra Costa County households that moved in 2015 tended to stay within the county, while those displaced from San Francisco usually settled somewhere else in the Bay Area.

But a large proportion of low-income families that moved out of their Alameda County homes left the region altogether: Black families often went to Stockton and areas of Contra Costa County, while Latino families primarily went to Tracy, San Jose and cities in San Mateo County, and Asian families typically went to parts of Santa Clara and Solano counties.

The costs of displacement can be destabilizing and multigenerational, said Tony Roshan Samara of Urban Habitat, an Oakland nonprofit that advocates policies to help low-income people and people of color.

The research “basically confirms what we suspected but couldn’t really prove” about household-level migratory patterns, said Samara, who wasn’t involved in the study but worked on a [similar paper](#) that was published in 2016.

“One of the riddles of displacement work is that it’s been near impossible to say, for instance, this person left the Mission and ended up in Antioch,” he said.

Matt Schwartz, CEO of the California Housing Partnership, said one clear solution to combat the trend of resegregation would be increasing and [preserving affordable housing](#) units.

“It’s pretty obvious that unequal access to capital in the housing market has played a significant role here,” Schwartz said. “Ignoring the racial dynamics in the housing market is only going to result in a continued trend toward resegregation.”

*Kimberly Veklerov is a San Francisco Chronicle staff writer. Email: [kveklerov@sfchronicle.com](mailto:kveklerov@sfchronicle.com)  
Twitter: [@kveklerov](#)*

## McClatchy Washington DC Bureau

# More critical water storage is finally coming to California. It took nearly 40 years.

By Kate Irby

[kirby@mcclatchy.com](mailto:kirby@mcclatchy.com)

September 13, 2018 05:04 PM

Updated **September 13, 2018** 05:13 PM

WASHINGTON

California officials have been pushing for more natural water storage since the last large-scale facility was built in 1979. Now they're finally going to get it, thanks to political pressure, President Donald Trump and some congressional creativity.

The House approved several provisions Thursday that help fund water storage projects. The Senate is expected to concur shortly, and Trump is expected to sign the legislation into law next week.

Republican Rep. Jeff Denham and Democrat Rep. Jim Costa have been pushing for additional water storage for the state for years in constantly-at-risk-of-drought California. Since 1979, California's population has grown 70 percent.

Trump has been pushing infrastructure project funding since he came into office and spoken publicly in support of more water for the Central Valley — though some of his statements have showed a misunderstanding of the issue, such as when a Tweet suggested lack of water was to blame for wildfires in California.

This is also the year Republicans are most worried about defending Denham's seat. Democratic presidential nominee Hillary Clinton won his district by three points in 2016 and the GOP frets about a blue wave taking the House in 2018.

But water — and getting more of it — is the most important issue in the district. If Denham can get some concrete wins on the water issue before November, he has a much better chance of keeping his seat.

“All Valley incumbents are at least somewhat at-risk right now,” said Carl Fogliani, a political strategist who once worked for San Joaquin Valley Republicans. “They're showing that they're doing their job, and water is absolutely the way to do that in these districts.”

“This has been on our agenda for ages, before I even started here in 1991,” said Bruce Blodgett, executive director of the San Joaquin Farm Bureau, which has endorsed Denham. “It's even more important now because the changing weather patterns have been more severe in recent years.”

Denham denied politics has anything to do with the water storage action, lamenting in an interview with McClatchy that “politics is the excuse for everything I do every other year.

“This is Congress, I think most people would say getting this done in eight years is expedited,” Denham said.

He and Costa instead credit some common sense thinking on the issue, creating a new way of funding water storage instead of relying on the same federal process.

Sal Russo, a Republican political strategist based in Sacramento, said Trump probably deserved more credit than the political atmosphere.

“That probably moved it way up on the priority list — what the president wants always matters,” Russo said. “There’s politics in everything, but it’s more than that, too.”

Denham’s proposal allows local irrigation districts to apply for low-interest federal loans from the Environmental Protection Agency to build new reservoirs, below ground storage projects, recycling and desalination projects. Those are desperately needed in parts of California to capture rains and runoff from the mountains so water can be stored and used in drier seasons and in years of drought.

Theoretically, the irrigation districts could eventually easily repay low-interest loans through control of the new water sources, and having a larger supply of water would drive down demand and cost of fresh water throughout the state. Several water storage projects in the state have already been authorized by legislation and are awaiting funding.

Costa’s proposal would allow dams and other water facilities regulated by the Army Corps of Engineers but owned by local entities to use non-federal funds.

Currently, if reports indicate more water will flow to an area in a certain season, local entities that own dams cannot provide money to the Army Corps to prepare more storage, for example. Those have to be federal funds, even though the dams are not federally owned. And water storage tends to fall low on a long list of federal priorities.

Interested parties in the San Joaquin Valley and in Washington, D.C. aren’t so concerned with assigning praise to politics or the president, saying they’re just glad it’s finally happening.

“Some people may think (Denham) is pandering to the district, but he’s been consistent as long as I’ve known him,” said Tom Orvis, governmental affairs Director for the Stanislaus County Farm Bureau, one of the largest in California.

“If you want to be a cynic and believe it was all politics, you can do that,” Costa said. “But I don’t think that’s accurate.”

“Timing sometimes has to do with politics, but this is good policy and we’re proud of it,” he added.

Kate Irby: 202-383-6071; @KateIrby

## Stockton Record

# Tunnel foes shift focus to Delta's most disadvantaged communities

By [Joe Goldeen](#)  
Record Staff Writer

Posted Sep 17, 2018 at 8:06 PM Updated Sep 17, 2018 at 8:11 PM

STOCKTON — California's proposal to construct two massive tunnels underneath the Delta northwest of the city to divert Sacramento River water south would "devastate" Stockton and other communities in and around the Delta, especially what a new report refers to as "environmental justice communities" that often have been ignored in the discussion around the tunnels.

The 216-page report — ["The Fate of the Delta: Impacts of Proposed Water Projects and Plans on Delta Environmental Justice Communities"](#) from grassroots advocacy group Restore the Delta — was released Monday during a news conference attended by Stockton's representatives in Congress and the California Legislature, Mayor Michael Tubbs, San Joaquin County Supervisor Kathy Miller and others all stating their support.

It is Restore the Delta's intent to change the primary focus surrounding the twin tunnels proposal from water to people.

Miller, who said she was speaking on behalf of the Board of Supervisors, said "today, we stand united in our fight to preserve our precious Delta and the livelihoods of our families and friends who were raised here and have fished, farmed and protected this land for generations (and) who will never relent and never give up this good fight."

Environmental justice, as defined in the report, "is the potential for public decisions to avoid or mitigate disproportionate or discriminatory environmental impacts to minority and low-income people."

It is the role of government agencies to consider environmental justice concerns as they affect all groups of people, including communities of color and low-income residents that comprise a significant number of residents in Stockton and throughout the Delta region. Many of those communities are impoverished, according to the report.

"This report addresses a number of things that San Joaquin County has been fighting for and we stand behind the principles that seek protection of the Delta and the people that we serve," Miller said. "The story of San Joaquin County is one that is deeply rooted in the story of the Sacramento-San Joaquin Delta, and the socioeconomic climate of the people who live and work in and around the Delta is a story that must be told and understood by all Californians."

Miller and her colleagues believe, as the report states, that the \$20 billion twin tunnels project being pushed by Gov. Jerry Brown will only make the problems facing Stockton — among the most economically disadvantaged cities in the state — worse environmentally and impact the economic future of the entire region through increased water contamination, farmland degradation, levee road deterioration and job loss.

“San Joaquin County has long advocated for increased common-sense statewide investments in recycled water, underground storage, stormwater capture, desalinization and other alternatives that actually produce more water for regions who need it and increase our statewide water supply,” she said.

“It is unacceptable to build these tunnels and disproportionately affect our residents and our environment. San Joaquin County will continue to work with (Restore the Delta) to defeat WaterFix and stand up to the bullies, critics and naysayers who minimize and disregard the devastating impacts their poorly thought-out decisions will have on our region,” Miller said.

Restore the Delta Executive Director Barbara Barrigan-Parrilla said the report creates a voice for the region’s voiceless, creating one historic record of what has been said to the State Water Resources Control Board previously about the tunnels’ impact.

Acknowledging the need by millions of state residents for water from the Delta, Barrigan-Parrilla said “the fight has never been about fish vs. farmers. In fact, the fish vs. farmers campaign was created 10 years ago by former tobacco advertising executives as a way to split California’s environmental justice communities, with Northern California (Indian) tribes and Delta (environmental justice) communities on one side and San Joaquin Valley farm towns and Greater Los Angeles Area residents on the other.”

U.S. Rep. Jerry McNerney, D-Stockton, praised “The Fate of the Delta” for going into the long history of the Delta and why it has declined so quickly in recent years.

“It fills in the gaps,” McNerney said. “This WaterFix will make it much, much worse,” he said, cautioning that the project will accelerate its devolvement into a saltwater estuary.

The report concludes that state water officials need to “embrace” the 2009 Delta Reform Act that spells out the requirements for reduced reliance on Delta water exports, restoration of the region’s vast waterways and ecosystems, and enabling the protection of Delta communities as “places of cultural and historical significance.”

The full report is available online at [restorethedelta.org/thefateofthedelta](http://restorethedelta.org/thefateofthedelta).

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# Lafayette City Manager Falk announces resignation



Lafayette City Manager Steven Falk, flanked by Lafayette city staff, reads his letter of resignation at Monday night's City Council meeting. Falk, who has been with the city for 28 years, will leave at the end of the year. (Jeffrey Heyman/City of Lafayette)

By [Jon Kawamoto](#) | [jkawamoto@bayareanewsgroup.com](mailto:jkawamoto@bayareanewsgroup.com) | Bay Area News Group

PUBLISHED: September 25, 2018 at 9:22 am | UPDATED: **September 25, 2018** at 3:51 pm

LAFAYETTE — Lafayette City Manager Steve Falk cited voters' rejection of two recent measures and BART's current plan for housing as key reasons why he decided to resign Monday after nearly three decades with the city.

“It has been the great privilege of my professional career to serve Lafayette for 28 years, and I am proud of our many accomplishments on behalf of this splendid city,” Falk said in his letter of resignation, which he submitted to the city before the council meeting. “The time has come ... for Lafayette to hear a new voice from the city manager's office and for me to discover my unexplored potential.

“I will always love Lafayette,” he concluded in his letter.

Falk, 56, will continue working through the end of the year, and offered to help with the transition to a new city manager.

In his letter, Falk noted his role in the Measure C sales tax, which was defeated in November 2016. The sales tax would have protected open space, beefed up police patrols, created a downtown park, added public parking and restored the landmark Park Theater.

He also noted his role in Measure L, a ballot measure allowing 44-house project hammered out by the developer and the city on the 22-acre Deer Hill parcel north of Highway 24. Voters rejected Measure L in June, and the developer has resubmitted plans for up to 315 apartments there.

“Elections have consequences, and one is that Lafayette residents deserve a city manager who is better aligned with their priorities,” he wrote.

Falk also referred to — not specifically by name — Assembly Bill 2923, sponsored by state Assemblymen Tim Grayson, D-Concord, and David Chiu, D-San Francisco. The bill would remove a city’s zoning and land-use authority on BART-owned land within one-half mile of a transit station and hand it over to the BART board. The bill would allow BART to approve new standards for housing development.

Lafayette Mayor Don Tatzin and other East Bay officials opposed to AB 2923 are urging Gov. Brown not to sign the bill.

“All cities – even small ones – have a responsibility to address the most significant challenges of our time: climate change, income inequality, and housing affordability,” Falk wrote. “I believe that adding multifamily housing at the BART station is the best way for Lafayette to do its part, and it has therefore become increasingly difficult for me to support, advocate for, or implement policies that would thwart transit density. My conscience won’t allow it.”

Tatzin, in a statement released Tuesday, said: “I have had the privilege to know Steve for his entire tenure with Lafayette and recognize that his contributions have made the city far better than it was before he joined.”

Tatzin pointed to Falk’s contributions to “tangible projects”: improving the infrastructure of roads and drains; the Lafayette Library and Learning Center; the Lafayette Veterans Memorial Center; improving parks and recreation facilities at Lafayette Community Park, Buckeye Fields and the Jennifer Russell Building at the community center; and overseeing a 60 percent city reserve of the general fund.

“It’s very sad to see you make this decision,” said Councilman Mike Anderson. “All I can say is that you’ve done an incredible job here. I think it’s a change going on that you recognize and are freeing us up to move forward.”

Burks called Falk “an exceptional leader” and “a visionary.”

“He’s made this city really what it is today,” Burks said. “I just wanted to say thank you, Steve, on behalf of my family.”

Councilman Ivor Samson, who was the only council member who did not endorse Measure L, also praised Falk.

“You and I have crossed swords, but we’ve always done so respectfully and in a business setting and not a personal setting,” Samson said. “And while we haven’t always agreed on a lot of things, I respect you incredibly.”

Falk’s annual salary is \$253,683.

His employment contract came under scrutiny last year over concerns that its 18-month severance package was too generous. Falk’s contract gave the city manager 18 months of paid salary and health benefits — equal to about \$512,142 — in the event his employment was ended by the council, which was not the case here.

## East Bay Times

# Week-long emergency levee work begins on Bradford Island



Karen Cunningham walks across the boat dock in front of her home on Bradford Island where she lives and raises cattle, Friday July 22, 2011.

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

PUBLISHED: September 26, 2018 at 8:11 am | UPDATED: **September 26, 2018** at 4:47 pm

A portion of the north side of Bradford Island Levee Road was closed Wednesday for week-long emergency construction work to shore up a levee where water has been seeping through the dirt.

Bradford Reclamation District 2059, which declared the remote East Contra Costa County island in a state of emergency on Aug. 24, has begun the project by placing metal sheet piles in an effort to impede the 25-foot wide levee seepage before it grows and unleashes a fury of water that could flood the entire island.

Bradford is one of the eight Delta islands the State Department of Water Resources deems critical to the region's water quality because it prevents seawater intrusion into the fresh river water. If one island floods, others could follow, affecting the region's water quality, officials say.

District engineer Blake Johnson of DHG Engineering has been monitoring the situation on the private island for several months and says the nearly \$200,000 fix will be just a temporary one. Although he doesn't have evidence that the seepage has gotten worse, he said any active seepage

through a levee is not good because “at some point it could start moving material through, and then it becomes problematic.

“It’s hard to say if this will do the trick,” he said. “It is more than likely it’s an interim fix until we can construct the final seepage berm and stability berm. We will be revisiting this and we will be keeping our eye on it.”

Johnson said engineers are trying to cut through a gravel layer to prevent further seepage.

“That’s where the seepage is, but the question is, where does the gravel layer end?” he said, noting expensive boring efforts have not shed any light so far. “We still don’t know how wide that gravel layer will be.”

So, in the meantime, contractors will overlap the seepage and stability berms in an attempt to sop the water coming through the gravel, he said.

“Unfortunately, water has a way of finding a path,” Johnson said. “That’s why we are considering it temporary. We’re making an educated guess as to the distance. We can always add more (metal) sheet piles to the wall.”

The seepage is on the northern side of the island between Smith and Karen Cunningham’s home and Port of Stockton property. Smith Cunningham, the levee’s superintendent, has been monitoring the situation for months, and he and wife Karen have expressed concern about how long it’s taking to fix the problem.

Robert Davies, president of Bradford Reclamation District 2059, said the district had to acquire funding first, but is pleased the fix has now begun before the winter tides and rains come.

“This should stabilize it and prevent any immediate danger,” he said. “We’ll do more down the line in the future.”

Johnson agreed it is good to see the long-awaited repair work begin.

“At least we are doing something to prepare for the winter,” he said. “It’s finally happening and we didn’t have a levee failure.”



Published October 3rd, 2018

## MOFD and the firefighters union come to tentative labor agreement

By Nick Marnell

After nearly six months of negotiations, which included discussions with a state-appointed mediator, the Moraga-Orinda Fire District and Local 1230 reached a tentative agreement on a new three-year labor contract. The union ratified the tentative agreement on Sept. 18.

The term of the Memorandum of Understanding runs from July 1, 2018 through June 30, 2021. Among its significant provisions are salary increases of 3 percent across the board for years one and two and 2 percent in year three. A 2 percent equity adjustment will also be added to wages in the first two years, with 1 percent added in year three.

According to the district, salary survey data showed firefighters, engineers and captains were behind the labor market in both salary and total compensation. The purpose of the equity adjustment increase was to move district salaries closer in line to salaries paid by comparable agencies.

"We worked very long and hard on this. We came to a pretty good compromise," Director Kathleen Famulener said about the MOU.

Director Steve Anderson was out of town when the two parties reached the tentative agreement. "Before I left I was very clear on what I would accept and not accept. When I came back, the MOU exceeded those upper limits," Anderson said. "We need to pay our employees and we need to pay them well, but I have some serious questions about the MOU. Considering our finances, we were overly generous."

Other board members either declined to discuss the agreement or could not be reached for comment.

Representatives from Local 1230 also declined to comment on the MOU.

The full cost to the district to implement the MOU for the 2018-19 fiscal year comes to more than \$750,000.

At the Oct. 3 district meeting, should the agreement be approved by the board, the district will decide how to account for the added expenditure in the general fund.

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## Richmond to pick from six developers who want to build at Point Molate



The main Winehaven building and former Naval officer's homes, foreground, are seen from this drone view at Point Molate in Richmond, Calif., on Monday, Aug. 14, 2018. Richmond city officials will pick from six developers to build 670 units of housing at the site and preserve the Winehaven buildings. (Jane Tyska/Bay Area News Group)

By [Ali Tadayon](#) | [atadayon@bayareanewsgroup.com](mailto:atadayon@bayareanewsgroup.com) | Bay Area News Group

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RICHMOND — Eight developers have indicated they're interested in bidding for Richmond's plan to build at least 670 housing units on a 270-acre site in Point Molate with views of San Francisco Bay.

And on Tuesday night, the City Council selected six of them to share their vision in December for what Point Molate could look like in the future. City officials told the council they did not think the other two were qualified to take on such a project.

Point Molate is mostly vacant, except for the [historic Winehaven District](#), which contains what was once a winery and 35 now-boarded houses for its workers, as well as some other structures and piers. Any developer would have to preserve the district, and 70 percent of the land would remain as open space. The developer also would be responsible for providing infrastructure and utilities at the site, according to the [request for qualifications](#) released over the summer.

Those restrictions are part of an agreement reached between Richmond and an Indian tribe and developer that sued the city after it rejected their attempts to build a casino at Point Molate. The

eight-year lawsuit was settled earlier this year, with the city agreeing to sell the land for development and evenly split the profits.

The fate of Point Molate has divided both the community and the City Council. Many oppose the development, accusing city officials of cutting the deal against residents' wishes. Activists have [filed a lawsuit](#) alleging the settlement was improperly done behind closed doors.

Several people who attended Tuesday's meeting urged the council to pause the development process because a lawsuit has been filed by activists and the city has not completed its land use vision for the site.

Meanwhile, the "Point Molate Vision," which residents helped craft to guide development there, will be presented to the Richmond Planning Commission on Thursday and the City Council on Oct. 16.

David Helvarg, executive director of the ocean conservation and policy group Blue Frontier, criticized the council for leaving the public out of the process.

"Approving developers at this point before you publicly approve the settlement is kind of putting the bulldozer before the cart, and increases your legal exposure," Helvarg told council members. "In terms of selecting a plan for Point Molate, there is no envisioning plan, there's envisioning where the houses go."

Councilman Jael Myrick stressed the importance of fulfilling terms of the settlement with the casino developers, which set a tight two-year deadline on when the city must approve land entitlements and zoning requirements and a four-year deadline on when the city must market the development area to sell to developers.

"We have to keep the schedule that we have, we don't know what's going to happen with the (activists') lawsuit, but we don't want to end up in a situation where we're not doing what we said we were going to do on the other settlement," Myrick said. "If for some reason that lawsuit invalidates the settlement, we'll deal with that at that point, but right now we have another lawsuit which was a lot bigger and a lot more risky to the city of Richmond."

The developers who submitted bids for the project and were chosen to present their proposals at the December meeting are Sonnenblick Development, Integral Communities, Warmington Residential, Orton Development, Samuelson Schafer, and Point Molate Partners — a partnership of Mar Ventures and Cal-Coast Companies.

## KQED

# Should Californians Be Rebuilding Homes in a Fire Zone?



A house burned in the Tubbs fire under construction in Santa Rosa. (*Lauren Sommer/KQED*)

A year ago, on a warm, windy night, Paul Lowenthal got the call; he was needed at work.

The Tubbs Fire, [on its way](#) to becoming the most destructive blaze in California history, was spreading into Santa Rosa, and Lowenthal, the city's assistant fire marshal, needed to get people out.

“It was exploding at a rate that I would have never imagined,” he says. “I left in my work truck and uniform and thought: worst case scenario, I’ll be back tomorrow morning.”

'In a disaster, there's such a strong emotional pull to get what you lost back.'  
*Julie Combs, Santa Rosa City Council*

Later that night, he drove past his own neighborhood.

“You couldn’t actually make out individual homes in here,” he says. “It just looked like an entire wall of fire. And then realized right away my house is gone.”

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He worked the next five days on just a few hours of sleep, until finally, he stopped to take stock.

“And then realized I have nothing,” he says. “Literally had nothing.”

### **Picking Up the Pieces**

Fueled by extreme winds, [Sonoma County’s Tubbs fire](#) killed 22 people and destroyed more than 5,000 homes and buildings.



Since then, the community has banded together to pick up the pieces. But it's also been grappling with a tough question -- one that faces fire-ravaged communities around the state.

Wildfire is a normal part of the California landscape. So, how -- and where -- should residents rebuild to protect themselves?



Nearly a year after the Tubbs Fire, Paul Lowenthal's Larkfield rebuild was finally nearing completion -- this time with more fire-resistant materials. (*Lauren Sommer/KQED*)

Hundreds of Sonoma residents have opted to stay put, both financially and emotionally tied to their land.

Lowenthal is one of them.

"Do I think those areas will burn again?" he says. "Absolutely. It's done it before."

It happened 54 years ago, when the Hanly Fire burned almost exactly same area. But since then, Santa Rosa's population has grown nearly tenfold, and Lowenthal was keenly aware of this latest fire's effect on an already-tight housing market.

"I made a decision that it made more sense to rebuild here," he says. His daughter was also a big part of that decision.

"Could I have convinced her that we could live in a really cool place somewhere else?" he says. "Maybe. But this was our home."

In the hills above Santa Rosa, wooden frames of houses are rising among the blackened trees. Many of the rebuilt homes will include new fire-resistant building materials, something few had when the fire swept through.

Still, because of California's decade-old zoning rules, almost 2,000 of the destroyed structures will not be required to meet building standards for wildfire-prone areas. Some homeowners are taking it on themselves to meet them anyway, dipping into their insurance payouts to cover the cost. Others are not.

At the same time, given the region's severe housing shortage even before last year's firestorm, city and county governments are under pressure to build new housing in areas at risk for wildfire.

As people are trying to heal and recover, local leaders have been faced with balancing those delicate issues. With climate change making California's fires more extreme, their decisions will affect lives for decades to come.



The Tubbs Fire swept away about 5 percent of Santa Rosa's housing stock. (Lauren Sommer/KQED)

### **Wildland Building Codes**

A year after the fires, Lowenthal's Larkfield home is finally taking shape, still a few weeks away from final inspection. This time, he says it will be better prepared to withstand fire, built with cement-fiber siding and other fire-resistant materials.

"Between the roof, the siding, things of that nature, it was definitely a step that I wanted to take," he says.

But Lowenthal isn't legally obligated to do any of that, as his home was outside the area subject to California's "[Wildland-Urban Interface Codes](#)." They include a broad range of standards for siding, roofs, decks, and windows, as well as requirements for gutters and attic vents that are meant to [prevent embers blown ahead of a wildfire](#) from igniting a home.

The zones are established by a set of [2008 Cal Fire maps](#) that outline wildfire risk by considering vegetation, fire history and slope. Sonoma County's zones are based exactly on those maps, while the city of Santa Rosa had extended the stricter requirements somewhat beyond what was on the state maps.

Almost 2,000 buildings destroyed in the Tubbs fire in Santa Rosa and Sonoma County weren't mapped in those zones and won't be required to use fire-resistant materials.

"We don't have an extra set of rules or requirements that we put on people to rebuild," says David Guhin, Santa Rosa's director of planning and economic development.

Guhin says Santa Rosa would be on shaky legal ground if it imposed new wildfire building codes on structures that weren't required to meet them when they were destroyed. But since most of the homes were built decades ago, before most modern building codes, he says even the basic code upgrades they'll undergo will help.

"The housing stock that's going in is much more resilient than the previous house stock," he says.

Still, many believe Cal Fire's maps are outdated, since they don't reflect the extreme nature of today's fires. The maps assumed fairly benign weather conditions, just 12 mph for "mid-flame" wind speed, the height that affects fire behavior. During the Tubbs Fire, gusts hit almost 80 mph.

Cal Fire is in the process of updating the fire hazard maps using more realistic data, including localized information and historic fire conditions. A draft of the maps is expected sometime next year. The new maps could put many homes into a fire hazard zone that aren't in one today.

But several North Bay officials say the community can't wait for that to be sorted out.

"I take solace in that the existing code is significantly better than what was there before," Tennis Wick, who heads Sonoma County's Permit and Resource Management Department. "I'm not going to let the perfect be the enemy of the good. This community needs to rebuild."

Wick says many homeowners are choosing fire-resistant materials anyway, such as cement-laden siding and metal roofs.

### **Giving Home Owners Choices**

Some fire victims have opted to pull up stakes after living through the fire's emotional trauma or due to steep rebuilding costs. In the hilly Fountaingrove neighborhood of Santa Rosa, for-sale signs sprout from empty lots among the construction sites.

Other homeowners are tied to their property, either restricted by insurance policies that prescribe where they can rebuild, or simply priced out of other Bay Area homes. And that concerns Santa Rosa City Council member Julie Combs.

"I know I've heard stories about flooding along the Mississippi and thought, 'Why did they keep rebuilding there?'" notes Combs.

"I'm all for having property owners have choice," she adds. "And right now, we aren't really giving them a choice to not build on the land they're tied to in a high-fire-hazard area."

Combs says she's interested in programs like those that already exist for flooded homes, where governments or neighbors can buy out inundated properties so they won't be re-developed.

She's not confident that today's wildfire building codes are enough to protect people. The codes are meant to reduce risk, but don't eliminate it.

Within the Tubbs fire footprint in Santa Rosa, 22 homes were built with the most recent wildfire codes before the fire. Twenty-one of them burned anyway.

“That doesn’t strike me as particularly good odds,” says Combs.

## **Struggle Over New Housing**

Homeowners considering not rebuilding face another hurdle: there are few other places to go.

In Santa Rosa, the Tubbs fire obliterated five percent of the city’s housing stock, exacerbating an already brutal housing market.

Before the fire, the city estimated it needed 5,000 more housing units. The fire added 3,000 more to that number.

“We need to walk and chew gum at the same time,” Guhin says. “We’re going to rebuild our community as fast and quickly and as efficiently as we possibly can, but we also have to build new homes as fast as we can.”



The 237-unit Round Barn Hill Project is proposed for an area burned in the Tubbs fire. (*Lauren Sommer/KQED*)

Santa Rosa is pushing for more “[in-fill development](#),” putting housing downtown and closer to public transit.

“We made that a priority this year,” he says. “We put a number of policies in place such as expedited permit processing, reducing the impact fees substantially for housing in the downtown core.”

But there has long been pressure to build in the surrounding hills, where the wildfire risk is highest.

“Development of single-family homes on the outskirts of town will happen on its own,” Guhin says. “There is a market for that.”

In February, the Santa Rosa City Council faced down that question.

San Francisco-based City Ventures asked for a zoning change to allow its Round Barn Village project to go forward. The 237-unit townhome development is proposed for a hillside that burned in the Tubbs fire.

City Ventures made the case that the homes would be built using wildfire standards and would provide much needed affordable housing.

“We absolutely need the housing,” said council member John Sawyer at the meeting. “And lots of mistakes were made in the past with saying no.”

But doubts hounded at least one council member.

“We are setting a precedent to build more new housing in a fire hazard area when we vote today,” warned Combs at the meeting. “I just think we need to not put more sleeping people in a fire hazard area.”

The rezoning passed 6-1.

“I was really sorry to be a lone vote,” says Combs. “It becomes very difficult to explain why we would approve that and not approve more. And I have real concerns that more is coming. We don’t need sprawl. We need to be building up.”

Sonoma County is also facing pressure to build.

“I met with a resort that burned twice, once in the Hanley fire and a second time in the Tubbs,” Wick says. “New people came to see me about building a third one. And I told them I just could not support the project. There’s an enormous pressure on us to be approving resorts in remote areas.”

In communities still in shock from the fires, these fraught decisions won't come easily.

“I think that in a disaster, there’s such a strong emotional pull to get what you lost back,” says Combs. “I think that’s a powerful pull.”

## Water Deeply

# Figuring on Climate Change: Model Outputs Vary, but Worries Are Real

Water available for California farms and cities could decline as much as 44 percent by midcentury due to climate change. Such numbers, while headache-inducing, could make today's water woes seem trifling.

Written by [Tom Philp](#) Published on **Oct. 9, 2018** Read time Approx. 3 minutes



A farmer walks his dry, dusty field in the San Joaquin Valley during California's recent five-year drought. *Craig Kohlruss, The Fresno Bee*

The state of California recently released its Fourth Climate Change Assessment. Among the technical reports was a [deep dive](#) into the future of the State Water Project and the Central Valley Project. It was over my head. It was calling my name. And in climate change's frenzied media cycle, the whole assessment soon faded.

That's too bad. This assessment of the state's two largest water projects provides an important but foggy glimpse into what all of our water successors come 2060 will likely be fighting about. The fog is due to how there is no single prediction from what today's best science, collectively, is trying to tell us.

Assessing climate change means taking today's tools for gauging the future and averaging their findings into a static set of numbers. The team at the state Department of Water Resources did so in a careful series of analytical steps.

They utilized 10 peer-reviewed climate change models created throughout the world.

They took two established scenarios of our future greenhouse gas concentrations, one rosier (they stabilize), one not (they don't). The 10 climate models and two emission scenarios produced 20 climate change projections. And they also assumed sea level rises ranging from zero to 1.5ft by midcentury for the 20 projections.

To calculate historic baseline conditions, they applied all of today's various water rights, operating rules and project regulations and ran all the data through CalSim (the 3.0 version) over the past 92 years of hydrology. CalSim is the established water planning model for all things California.

To assess climate change, they remodeled 92 years via CalSim for each of those 20 climate projections. (Remember, the climate was the only variable.) And then all these findings were averaged into a prediction for comparison to the baseline results.

On its surface, the headline conclusion was that by midcentury climate change will reduce deliveries of the existing State Water Project and Central Valley Project systems by about 10 percent, something north of a combined 500,000 acre-feet. Yet it is behind the bottom line where things arguably get more interesting, and the head begins to hurt.

One of my favorite water professors frequently says, "All models are wrong and some are useful." At one end of the spectrum, an Australian climate change model used in this study predicts a plummet in precipitation and resulting State Water Project decline in deliveries of up to 44 percent by midcentury. At the other end, a Canadian model predicts 24 percent more water for California and the State Water Project than today.

My preference in beer embraces Australian bitter over the staid lagers of Canada. My taste in water models is suddenly trending the opposite. Beer aside, averaging our best climate change models provides a statistical midpoint, not a precise prediction.

Water agencies have worked with regulators during all previous droughts to prevent status-quo reservoir operations from resulting in "dead pool," when a dam as mighty as Shasta or Oroville or Folsom would be so empty that it could no longer release water to sustain the river downstream. Such years may become four to five times more prevalent, absent changes in water use and regulatory requirements.

Higher temperatures could require as much as 1.4 million acre-feet of additional water to grow the same crops in the Central Valley as today. To embrace the enormity of this finding, my employer at the Metropolitan Water District of Southern California could surrender its entire Northern California supply for the global need of food production, yet Central Valley farmers by midcentury might still not produce the same amount of food as today.

Outflows in the early winter months of January and February will be far greater than today due to more rain and less snow – if we continue with today's reservoir operating rules to release the water rather than hold it back in the event of future big storms. Meanwhile, the existing CVP and

SWP pumping facilities in the Sacramento-San Joaquin Delta, under their own existing rules, would be capable of capturing only 15 percent of the additional outflow.

The founding fathers of environmental groups and government agencies who launched the Bay Delta Conservation Plan/[California WaterFix](#) a dozen years ago never mentioned climate change in their [planning agreement](#). Yet climate change, and the need for northern intakes in the Delta to reliably capture fresh water in the coming precious windows of abundance, may emerge to be the single greatest rationale to modernize the existing Delta facilities.

It seems all but inevitable that we as a state are going to manage tomorrow's climate by adapting the management of water. But how? If this assessment is anywhere near accurate, today's challenges will seem, by midcentury, to be the good old days.

*The views expressed in this article belong to the author and do not necessarily reflect the editorial policy of Water Deeply.*



## Water Deeply

# For Next California Governor, There's Plenty of Advice on Water Issues

Californians choose a new governor in just a few weeks. At a recent water conference in Sacramento, participants got a chance to offer the newbie some advice. There was plenty to be heard, as well as some wry humor.

Written by [Douglas E. Beeman, Water Education Foundation](#) Published on [Oct. 10, 2018](#) Read time Approx. 2 minutes

There's going to be a new governor in California next year – and a host of challenges, both old and new, involving the state's most vital natural resource, water.

So what should the next governor's water priorities be?

That was one of the questions put to more than 150 participants during a wrap-up session at the end of the Water Education Foundation's Sept. 20 [Water Summit](#) in Sacramento.

The audience was asked to respond via a mobile phone survey app to five questions, four of them stemming from Water Summit speakers and panels on climate change, headwaters challenges, the Sacramento-San Joaquin Delta and the state's human right to water law.

The last question asked: "If you were California's next governor, what would your priorities be regarding water?"

Participants responded with a wide-ranging potential to-do list – increasing flood protection and drought resiliency, improving dam safety and access to clean and affordable water for economically pressed communities, focusing on more water storage and groundwater recharge, and doing more for ecosystem restoration and forest management.

California voters will elect a new governor Nov. 6. Democrat Gavin Newsom and Republican John Cox are running to succeed Gov. Jerry Brown. The winner will be sworn in Jan. 7, 2019.

The water summit drew participants from water agencies, engineering firms, law firms, farms, environmental groups, government agencies and other backgrounds. Not surprisingly, the priorities were as varied as the participants and fell under these key topics:

- **Fix stuff:** Address aging infrastructure; improve water efficiency and food security; Salton Sea restoration
- **Trim red tape and use science:** Reduce regulatory redundancy and complexity; streamline decisions and science

- **Water supply:** Accelerate implementation of the state's Sustainable Groundwater Management Act; accelerate recycled water
- **Ecosystems:** Address shrinking snowpack and climate change effects; clean up forests and improve ecosystems
- **Other priorities:** Provide housing for the homeless to get them off the riverbanks; expand the range of voices addressing California's water needs, and more.

You can read the full list, along with responses to other questions stemming from the summit, [here](#).

Yet some participants were clearly skeptical that any water issues would find easy fixes.

“There are no silver bullets,” wrote one. Another suggested, “Whiskey needed.”

Still another offered this bracing advice to the next governor: “Find an easier topic for a legacy.”

*The views expressed in this article belong to the author and do not necessarily reflect the editorial policy of Water Deeply.*

## Plan to revive rivers pits SF against California

[Kurtis Alexander](#) Oct. 14, 2018 Updated: Oct. 14, 2018 6 a.m.

The rivers that once poured from the Sierra Nevada, thick with snowmelt and salmon, now languish amid relentless pumping, sometimes shriveling to a trickle and sparking a crisis for fish, wildlife and the people who rely on a healthy California delta.

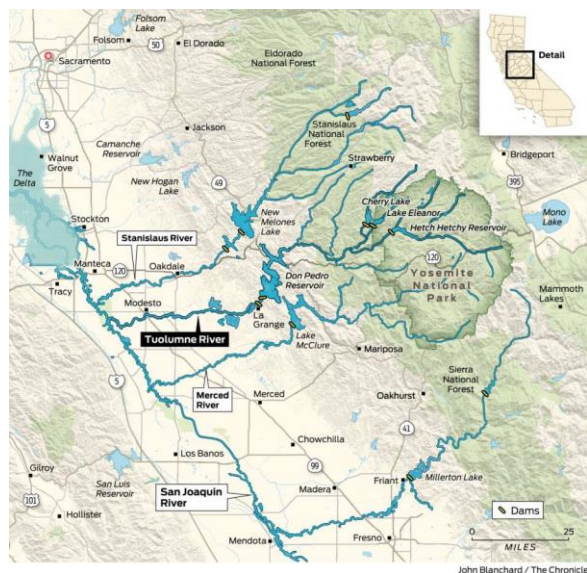
A [state plan to improve these flows](#) and avert disaster, however, has been mired in conflict and delays. And critical opposition is coming from an unexpected place: progressive San Francisco. City water officials worry that the far-reaching effort to revive hundreds of miles of waterways will mean giving up too much of their precious mountain supplies.

Now, as the city water department works to defeat the state plan — pitting itself against environmental groups in an unlikely alliance with thirsty Central Valley farmers, as well as their backers in the Trump administration — some at City Hall have begun wondering if San Francisco is on the right side of California’s latest water war.

In a recent sign of an emerging divide, Supervisor Aaron Peskin is threatening to introduce a resolution that challenges the position of the San Francisco Public Utilities Commission and declares the city officially in support of the state’s river restoration.

“I’m concerned that the PUC is playing footsie with the Trump administration at the detriment of the environment,” Peskin told The Chronicle. “This is a city that prides itself on its environmental record, and we should be part of the solution.”

Whether Peskin’s measure could force the largely independent Public Utilities Commission to change course is unclear. So is the resolution’s chance of winning approval from the full Board of Supervisors.



Peskin's colleagues and those at the water agency remain concerned that forfeiting water, under the state plan, would [prompt mandatory water cuts and drive up water rates](#) as the city is compelled to seek out new, pricey supplies, such as desalination.

But what is clear is that, even without a successful resolution, the city's rift is providing momentum for environmentalists advocating for the rivers. By putting the Public Utilities Commission in the spotlight, they hope to see more of a backlash, and in doing so weaken the hand of San Francisco, which they view as a major hurdle to the state's effort to rescue the river system.

"The SFPUC is not representing the values of its residents," said Peter Drekmeier, policy director of the Tuolumne River Trust. "We expect the Central Valley irrigation districts to oppose the plan. But San Francisco?"

"And, yes, (the city has) a lot of influence over this," he said.

At issue is how much water should flow from the Sierra Nevada's many rivers to the Sacramento-San Joaquin River Delta, a vital ecological and water-supply hub where the state's two largest waterways converge. As it stands, most of the rivers feeding the delta run at only a fraction of their natural flow because of the heavy draws by cities and farms.

The result has been declining water quality and lost wildlife habitat. The chinook salmon population is collapsing, a blow that has reverberated up the food chain to eagles, orcas and beyond. The delta estuary is menaced with invasive weeds and pollution.

Under the plan, the State Water Resources Control Board is proposing that no more than 40 percent of the flows of the San Joaquin River and its tributaries, on average, be taken from the channels during peak runoff periods. The average flow now is less than 30 percent. A similar proposal is forthcoming for the Sacramento River.

State officials tout their effort, formally known as the Bay Delta Plan, as a compromise that will save the delta and the rivers while still leaving the bulk of the water for human consumption.

San Francisco and some of the state's largest irrigation districts, however, contend they won't get enough water to support their needs.

The Tuolumne River, the source of San Francisco's famously pure Hetch Hetchy supply, averages just 21 percent of its historic flow at peak runoff. Meeting the state's target would mean drawing 7 to 23 percent less water from the Tuolumne and other rivers in the San Joaquin River watershed, according to state estimates.

Officials at the Public Utilities Commission acknowledge that in wet years there wouldn't be any supply problems. But when it gets dry, they say, residents and businesses would invariably face water rationing — as much as a 40 percent reduction during a severe drought. Over the long run, as new water sources are developed, water rates could increase, they say, up to 17 percent over 15 years.

Much of the hardship would extend to the roughly two dozen Bay Area communities that purchase water from the city.

Michael Carlin, deputy general manager for the Public Utilities Commission, said the city agency is not ignoring the health of the river. The utility invests millions on restoring the Tuolumne's habitat. But Carlin said he has to look at more than just fish.

"I'm responsible for clean drinking water and protecting the environment, and there's a cost to doing both," he said. "It's a balance sometimes. People don't always see that balance. But it's there."

Officials at the Public Utilities Commission were not aware of any formal push by the Board of Supervisors to block their opposition to the state's effort, saying only that they had been in conversation with board members about the matter.

"I don't think we're going to change course at this point," Carlin said.

San Francisco has played an outsize role in the statewide debate over the Bay Delta Plan.

While water issues often split between agricultural and urban interests, the city's resistance to the plan has created an unusually powerful bloc with the farming industry to take on the state.

"I'm totally amazed that the State Water Board has been able to stick to their guns," said Heinrich Albert, a water committee co-chair at the San Francisco Bay chapter of the Sierra Club. Albert has fought for the state's initiative but acknowledges the city's power to derail it.

The city-farm alliance has recently won the backing of the Trump administration. Interior Secretary Ryan Zinke this summer criticized the Bay Delta Plan as being unfair to water users while President Trump has taken to Twitter to call the state "foolish" for not wanting to pump more water from rivers.

The latest show of support from Washington came as a subtle, yet surprising move by the Fish and Wildlife Service. This month, the agency shied away from what had been widely construed as an embrace of the Bay Delta Plan's proposed flow increases. In a letter submitted to the Federal Energy Regulatory Commission on a separate but related issue of dams on the Tuolumne River, the agency said its strategy for protecting wildlife habitat could be accommodated with lower river flows.

A spokesman for Fish and Wildlife called the change in direction necessary "to balance the needs of people and nature." But supporters of the restoration were quick to suspect that the shift was the result of pressure from above.

Talks between water users and the state, mediated by former Interior Secretary Bruce Babbitt among others, have been ongoing. But so far they've produced no meeting of the minds. The State Water Board is scheduled to vote to approve the proposed targets for the San Joaquin River watershed next month. The decision has already been postponed once because of the disagreement.

Research by the state and independent scientists has shown that boosting water levels is the only way to salvage California's river system. A technical report by the State Water Board has recommended maintaining at least 60 percent of the natural flow of the San Joaquin River and its tributaries, though the board is willing to accept 40 percent for the sake of compromise.

The city's Public Utilities Commission, meanwhile, has [put forth alternative research](#), backed by the Turlock and Modesto irrigation districts, that suggests that the Tuolumne River can be restored without drastically cutting back on the amount of water taken out.

The study, performed by water agency scientists, calls for more habitat improvements, from planting trees along the river banks to enhancing gravel beds for fish to removing the invasive creatures that prey on salmon.

Critics have dismissed the city's report as simply self-serving.

Supervisor Peskin said he hopes the Public Utilities Commission will eventually stand down, and he's been speaking with agency officials to encourage them to do so. If they don't, though, he believes he's got a good shot at forcing their hand.

A resolution from the Board of Supervisors that proclaims the city in support of the Bay Delta Plan would not necessarily require the Public Utilities Commission to adopt the city's position.

The water agency operates independently of City Hall, with its own governing board, budget and staff.

However, the supervisors hold certain powers over the Public Utilities Commission. They must approve large infrastructure bonds and sign off on budgets, for example, and Peskin said he'd leverage that authority if the agency declines to cooperate.

“The bottom line is that if the Board of Supervisors were to set the policy of the city and county as having larger, unimpaired flows (in the river system), that would be a pretty significant move,” Peskin said. “It would have both political and legal implications.”

At least two of San Francisco's 11 supervisors have expressed formal support for the Public Utilities Commission in letters to the state. But Peskin believes he could win enough votes from the others to pass a resolution.

Mayor London Breed, who would have veto power over the measure, declined to comment for this story.

The governing board of the Public Utilities Commission, which typically doesn't get involved in the day-to-day affairs of the agency, like lobbying against the Bay Delta Plan, appears to be taking a greater interest in the issue. The board is nominated by the mayor and approved by the supervisors.

Board member Francesca Vietor told The Chronicle that she has reservations about her agency's stand.

“As a San Francisco resident and a commissioner, I'm not willing to compromise the well-being of our fish, rivers and ecosystems,” she said. “I'm not convinced we can't get to a better set of solutions.”

Commissioner Ike Kwon also expressed concern for the health of the rivers but appeared more confident in his agency's ability to protect both wildlands and water supplies.

“In a sense we're all environmentalists,” he said, “just to a different degree.”

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## East Bay Times

# Delta's largest wetlands restoration project kicks off in Oakley



Kristopher Tjernell, Deputy Director of the Integrated Watershed Management Program for the California Department of Water Resources, gives a speech at the Dutch Slough Restoration Project site in Oakley, Calif., on Wednesday, Oct. 17, 2018. The Department of Water Resources purchased three parcels of old farmland to be turned into functioning wetlands. The plan is to take this former dairy farm and return it to its natural state by breaching the levee after it moves 2 million yards of dirt to create the correct elevations for a tidal marsh for plants to grow. (Doug Duran/Bay Area News Group)

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

PUBLISHED: October 17, 2018 at 5:13 pm | UPDATED: **October 17, 2018** at 9:55 pm

More than 1,000 acres of unused farmland in East Contra Costa County are slowly being converted back to the vibrant wetlands they once were in what's hailed as the largest tidal marsh restoration project ever in the Sacramento-San Joaquin River Delta.

The Dutch Slough Tidal Marsh Restoration Project, which recently broke ground, is the California Department of Water Resources' first major tidal wetlands restoration in the Delta. On Wednesday, representatives of the various agencies involved in the effort gathered on site in Oakley to celebrate what started 15 years ago and is now in full swing.

"Envision what this place looked like 150 years ago," Patty Finfrock, Water Resources' tidal marsh restoration project manager, said while standing on a sand dune beside Dutch Slough. "Everything to the west was sand dunes and oak woodlands and everything to the east was tule marsh — 350,000 acres of tule marsh all the way from Sacramento to Stockton. The best estimates are that only 2 to 5 percent of those are left, so we are going to try to get back a little bit of that habitat that was so crucial to native species here in the Delta."

Finfrock said that before European settlers came and built levees for agriculture, the Delta was extremely complex.

“All the changes that humans have done have simplified things — straightened the channels, closed off the marshes — so we’ve lost a lot of our species, as there’s nowhere for them to live anymore,” she said. “What we are doing with this project is reintroducing that diversity. We are creating a big, complicated mosaic of different micro-habitats for lots of different species.”



An excavator is used to work on part of the Dutch Slough Restoration Project in Oakley, Calif., on Wednesday, Oct. 17, 2018. The Department of Water Resources purchased three parcels of old farmland to be turned into functioning wetlands. The plan is to take this former dairy farm and return it to its natural state by breaching the levee after it moves 2 million yards of dirt to create the correct elevations for a tidal marsh for plants to grow. (Doug Duran/Bay Area News Group)

In addition to the restored marsh, the project will provide more trails, a fishing pier, water access for non-motorized boating, and recreational and educational opportunities. Meanwhile, the city of Oakley plans to develop a 55-acre park abutting the wetlands for nature lovers to enjoy. Left intact are more than 13 acres of 150-year-old grapevines that originally were slated for removal.

The \$63.5 million project is part of California EcoRestore, an initiative to restore 30,000 acres of critical Delta wildlife habitat by 2020. The multi-agency group is highlighting a series of six restoration projects that broke ground this year, including the Fremont Weir this spring.

John Laird, Secretary of the California Natural Resources Agency, said 17,000 acres of wetlands restoration are already in the works and more are planned.

“It has been our goal to really try to restore wetlands and march down the path to where they once were, where there were hundreds of thousands of acres and a fraction now, and it is a hard thing to do,” he said, pointing to the many hurdles agencies must clear.



In late May, construction workers began the formidable task of moving two million cubic yards of dirt in one of the few remaining undeveloped areas along East Cypress Road in Oakley. The colossal mounds of dirt are being moved from a former dairy farm to create the correct tidal marsh elevations for plants to grow, Finfrock said.

The Dutch Slough project is designed to advance scientific understanding of Delta restoration and benefit the many native species, among them the chinook salmon and Sacramento splittail, she said.



“We hope this is going to be a good nursery for the baby salmon that come down here ... and the splittail like to breed in a tidal marsh,” Finfrock said. “We are hoping this will encourage the return of native species.”

The restoration project encompasses 1,187 acres in an area that stretches from Marsh Creek east to Jersey Island Road and is bounded by Dutch Slough at the north end of Sellers Road and the Contra Costa Canal to the south. It is part of the Department of Water Resources’ Delta Levees Program, which funds levee improvements and projects that preserve and restore Delta habitats.

John Laird, Secretary of the California Natural Resources Agency, gives a speech at the Dutch Slough Restoration Project site in Oakley, Calif., on Wednesday, Oct. 17, 2018. The Department of Water Resources purchased three parcels of old farmland to be turned into functioning wetlands. The plan is to take this former dairy farm and return it to its natural state by breaching the levee after it moves 2 million yards of dirt to create the correct elevations for a tidal marsh for plants to grow. (Doug Duran/Bay Area News Group)

The Dutch Slough Project dates back to 1998 when John Cain, then with the Natural Heritage Institute, visited the area and envisioned it for tidal wetlands restoration. He would later organize field trips for scientists and help convince the property owners to sell their land to the state.

In 2003 the Department of Water Resources purchased three properties for \$28 million on the western edge of the Delta known as the Emerson, Gilbert and Burroughs parcels. Formerly home to a dairy operation and cattle grazing, the pasture land was earmarked for a housing development before Water Resources stepped in.

The agency’s goal, according to Finfrock, is to create an area that’s mostly flooded at high tide and exposed when the water recedes, an environment that will encourage the return of native wildlife and plants.

Once it has finished grading, Water Resources will establish the marsh by cutting channels to route the tidal water through the parcels, Finfrock said. When completed, about 50,000 tules will be planted across the marsh plain, as well as riparian trees, grasses on levee slopes and other native plants, which will be managed for two years until the next phase, she said.

After the plants are established, likely by 2020, Water Resources plans to breach the levees in a multiphase project.

Once completed, Dutch Slough will provide flood protection for surrounding neighborhoods and serve as a regional park, with Marsh Creek Trail rerouted through the new wetlands so visitors can enjoy hiking, bird watching and fishing.

For Oakley Councilman Kevin Romick, who has been watching the project since its inception, the restoration is “a tremendous project the city can take pride in.”

“For the city of Oakley, the three families — Emerson, Gilbert and Burroughs (who sold the land) — have provided us with a truly unique gift,” he said. “Combined with the adjacent Big Break Regional Shoreline, this project will provide over 3,000 acres of open space and eight miles of Delta shoreline on the urban edge. It’s creating a serene environment devoid of development and interrupted only by the sounds of nature.”



Published October 17th, 2018

## Split MOFD board approves three-year labor contract with firefighters union

By Nick Marnell

The Moraga-Orinda Fire District came within one vote of a near meltdown.

A deeply divided MOFD board narrowly approved a three-year labor contract with the firefighters union Oct. 3 and staved off an impasse and a likely unfair labor practice charge filed by the union had the agreement not been passed. The board voted 3-2 in favor, with the swing vote coming from Director Steve Anderson, who had previously balked that the agreement was overly generous to the union.

"It was political suicide," Anderson said of his vote to approve the agreement. "But it was the best thing to do for the district. We needed that so that MOFD can move on, and the chief can do the job he wants to do." Anderson is fighting a hotly contested Division 3 race against a union-backed candidate and an independent. The agreement includes a 13 percent wage increase over the three years, a portion of which is a 5 percent equity adjustment, used to address how far district employee wages had drifted below comparable compensation in the market. "It was a way to catch up to the median," said district lead negotiator Jeff Sloan.

"I am still in shock," said Division 3 independent candidate Red Smith. "I guess it was a parting gift to labor from the three board directors that are either retiring or being challenged for their board seats."

Kathleen Famulener, one of the two directors who is retiring, voted for the agreement. Famulener has been in favor of pay increases for the rank and file since the beginning of negotiations, to the extent that she protested the funding of the district pension stabilization trust in order to have more money available for firefighter compensation. Outgoing President Brad Barber, hoping to bring the community together, cast a yes vote despite his reservations. "The financial condition of the district is a serious problem," Barber said. "We don't have enough revenue and we have too much pension liability."

Director Craig Jorgens, who voted no, disagreed with the comparables used to arrive at the equity adjustments, insisting that salary and benefits - not just salary - should have been included in the formula. Jorgens also called the negotiation process broken, complaining that the public only saw information once the tentative agreement was reached, allowing not enough time for citizen input.

The other no vote was cast by John Jex, the director who based his action on what he often cites as the tenuous financial condition of the district. "Our general fund reserves are totally inadequate," Jex said.

According to the latest audited district financial statements, MOFD reports an unfunded pension and retiree health care liability of \$68 million and a general fund reserve of nearly \$5 million.

With such a bitterly divided final vote, neither management nor labor engaged in any high fives or victory laps, and reactions were muted, if any. "We looked forward to having this contract settled so we can move on to other things," said Vince Wells, Local 1230 president. Fire Chief Dave Winnacker declined to comment on the agreement.

The new labor pact runs through June 30, 2021.

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## The Sacramento Bee

# ‘So much water.’ Trump moves to slash environmental rules on Delta, putting farms before fish

By Dale Kasler

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October 19, 2018 01:02 PM

Updated **October 21, 2018** 07:41 AM

The Trump administration Friday pledged to slash the thicket of federal environmental regulations that govern the Delta and much of California’s water supply, aiming to increase water deliveries to his political allies in the San Joaquin Valley.

President Donald Trump [signed a memorandum](#) directing his underlings to review a broad swath of water regulations and “eliminate all unnecessary burdens,” the president said during an appearance in Arizona.

Trump’s memo drew quick reaction from California officials, who have fought the Trump administration on multiple fronts and said water supply can co-exist with environmental goals. “We can and must do both, without sacrificing one for the other,” said spokeswoman Lisa Lien-Mager of the Natural Resources Agency. “We hope we can continue working with the federal government to achieve these shared goals.”

The order represents Trump’s latest effort to make good on a campaign promise to bring more water to Valley farmers, who have chafed for years under environmental restrictions that prioritize water for salmon, Delta smelt and other endangered species. In August, Interior Secretary Ryan Zinke sent a [blunt memo to his aides](#) demanding an action plan to push more water south through the Delta and onto Valley farms.

“What’s happened there is disgraceful,” Trump said of California’s water situation. “They’ve taken it away. There’s so much water, they don’t know what to do with it, they send it out to sea .... They don’t let the water come down into the Valley and into the areas where they need the water.”

Trump was surrounded by five Republican congressmen from the Central Valley: Tom McClintock, Devin Nunes, Jeff Denham, David Valadao and House Majority Leader Kevin McCarthy, whom he credited with bringing the issue to his attention. “They are the ones who really led this drive,” the president said.

Denham, in a press release, said: “My number one priority has always been to deliver more water to the Central Valley. This order will reduce regulatory burdens and promote more efficient environmental reviews of California water storage projects, ensuring that Valley farmers and residents have a supply of water for generations to come.”

The memorandum, among other things, orders the administration to speed up a 2-year-old examination of the rules covering how water is [pumped through the Sacramento-San Joaquin Delta](#) — the environmentally fragile hub of California’s elaborate water delivery network.

Trump’s insistence on strict timetables for completing that review suggests he wants to find ways to pump more water to the San Joaquin Valley’s farmers, potentially at the expense of endangered fish species that ply the Delta’s waters. Sometimes the pumps have to be shut off or throttled back, allowing water to flow to the Pacific, in order to keep fish from being sucked into the pumps.

“For the last decade people have done a lot of talking and a lot of examination (of the Delta) and the reality is that the on-the-ground results for people and species have not dramatically improved,” Deputy Interior Secretary David Bernhardt told reporters.

Bernhardt is a [former lobbyist for Westlands](#) Water District, a Valley irrigation district that has long advocated increased pumping operations. He vowed that the administration would move “in a way that’s protective to species and responsible to people.”

Asked about the timing of the memorandum, just weeks before the midterm election, Bernhardt said, “I think the administration got to a point where they’re ready to make a decision” on water issues.

Farm groups applauded the president’s initiative. “This action is an important and common-sense move that will benefit Western farmers and ranchers,” said Dan Keppen of the Family Farm Alliance.

Environmentalists immediately pounced. Noah Oppenheim of the Pacific Coast Federation of Fishermen’s Associations said Trump is trying to “gloss over the science” and his initiative would leave endangered fish populations defenseless.

The memorandum also covered environmental regulations covering the Klamath Irrigation Project in Oregon and the Columbia River Basin project in Washington state.

Earlier Friday, [it appeared that Trump was stepping into one of the biggest water wars of all](#) — the State Water Resources Board’s plan to re-allocate more of the San Joaquin River watershed’s supplies to fish at [the expense of farms and cities](#), but Friday’s move stopped short of that.

Bernhardt said the Trump administration stands by its earlier threat to sue the state if it goes forward with the plan. But he said the administration also wants “wind through the process in a way that’s amenable to all parties.”

## East Bay Times

# Bay Area tops U.S. in new office space, but lags in housing starts



An Amazon logo is visible on a building adjacent to an office tower in Sunnyvale that is under construction and has been leased to Amazon. Amazon has begun to assemble a mega-campus in Sunnyvale next to the eastern edges of Moffett Field for two of the online commerce giant's cutting-edge subsidiaries, leasing enough offices to accommodate 5,000 or more workers. Seattle-based Amazon has leased a minimum of four Sunnyvale office buildings just east of Moffett Field, Santa Clara County public records, this new organization's on site research, and property listings shows. George Avalos / Bay Area News Group

By [Louis Hansen](#) | [lhansen@bayareanewsgroup.com](mailto:lhansen@bayareanewsgroup.com) | Bay Area News Group

PUBLISHED: October 22, 2018 at 7:00 am | UPDATED: **October 22, 2018** at 3:20 pm

The Bay Area is a hot place to build cubicles, conference rooms and office suites. But don't look for as many hammers pounding out new homes, condos and apartments.

The region is expected to open 18.2 million square feet of office space in 2018 — tops in the nation and more than New York City and Dallas combined — while home, condo and apartment building has grown only modestly.

More work space, more jobs and more people chasing a limited supply of homes is expected to add more steam to the pressure cooker of the Bay Area housing market.

“It's encouraging that so many respected employers are investing in Bay Area jobs and immigration growth” said Carl Guardino, CEO of the business-backed Silicon Valley Leadership Group. “But we all recognize that jobs need a place to go home and sleep at night.”

The region created six times as many jobs as housing units between 2010 and 2015, according to a study by the leadership group and the Silicon Valley Community Foundation. The increased housing pressure has forced lower-income workers out of the region at much faster rates than higher paid workers, even as jobs go unfilled.

The run up in commercial development is led by major office openings in the South Bay, according to a survey from real estate data company Yardi Matrix. The big projects in 2018 include the official, complete opening of the 2.9 million square foot Apple Park in Cupertino, Park Tower at Transbay and The Exchange on 16th in San Francisco totaling 1.5 million square feet, and Facebook's MPK 21, a half-million-square-foot campus designed by Frank Gehry in Menlo Park.

Other major developments underway include the Voyager property developed by Nvidia in Santa Clara, Microsoft and Google projects in Mountain View, the Stoneridge Mall Road project in Pleasanton, and Moffett Towers in Sunnyvale, according to Yardi Matrix.

The real estate data firm estimates that commercial openings in Santa Clara County are up 6.5 percent over the same period last year. The San Francisco and Oakland metro has seen three times as much commercial space open up this year compared to last year.

Meanwhile, housing starts have lagged on the Peninsula but have been stronger in the East Bay and San Francisco. Local governments in Santa Clara County have issued permits for 5,500 housing units through August, a drop of 8.5 percent from the same period in 2017, according to the Sacramento-based Construction Industry Research Board.

Residential building has been more robust in the San Francisco, Oakland and Hayward metro, with permits for 12,370 units issued through August, an increase of 10.3 percent from the previous year, according to the research board.

Planners and analysts say residential building has not been strong enough to make up for a decades-long deficit in new housing.

“If you keep pace in 2018, it doesn't do anything to work off the backlog,” said Steve Levy, director of the Center for Continuing Study of the California Economy in Palo Alto. “We need a lot more to work off the backlog.”

Levy believes the Bay Area recently has improved its mix of housing and commercial development. He pointed to major projects in Santa Clara County — North Bayshore in Mountain View and Vallco Mall in Cupertino — that are expected to bring thousands of new homes, condos and apartments. Several other developments have been planned and approved but have not been completed.

Robert Dietz, chief economist at the National Association of Home Builders, said residential growth in the Bay Area has been slowed by high costs for land and labor, in addition to nationwide increases in construction materials, especially Canadian lumber.

The surge in Bay Area office development also pulls construction workers away from residential projects, he said. And high housing costs for workers make it more difficult to recruit skilled laborers.

The result has been rising costs for new home construction. “How do you build that starter home?” Dietz said. “You’re just going to chase your younger generation away.”

High housing costs remain a top concern among Bay Area residents, according to polls. California residents will vote on a \$4 billion bond measure in November to support housing for veterans and low income residents. The additional funds will support subsidized housing but will not address the majority of the housing market.

“It is crisis proportions,” Guardino said. “The only step higher is Biblical proportions.”



**East Bay Times**

# **Election could unlock billions of dollars for housing, ramp up Bay Area development**

## **Prop. 1 and 2 could bring up to \$6 billion for affordable housing**

By [Marisa Kendall](#) | [mkendall@bayareanewsgroup.com](mailto:mkendall@bayareanewsgroup.com) | Bay Area News Group  
PUBLISHED: October 22, 2018 at 6:00 am | UPDATED: **October 22, 2018** at 3:20 pm

Up to \$6 billion for affordable housing is on the line in November as California voters prepare to weigh in on two statewide bonds that could fund tens of thousands of new homes in the Bay Area and beyond — potentially making a dent in the housing shortage.

City officials, nonprofits and developers say they're counting on [Proposition 1](#), which would provide \$4 billion for affordable housing construction and home loans, and [Proposition 2](#), which would authorize \$2 billion to build housing for people with mental illness, to help them fill the dire need for cheaper alternatives to the Bay Area's exorbitantly priced homes and apartments.

Together, the bonds represent a major effort to address a statewide housing crisis that has pushed the cost of buying or renting a home out of reach of all but the highest earners and forced many workers to live far from job hubs. If Prop. 1 succeeds, it would be the first statewide general housing bond passed since voters authorized a \$2.9 billion bond in 2006. That money is all gone. And in 2012, the state dissolved its redevelopment agencies, eliminating another major source of affordable housing funding.

“We have to do something, or else there's going to be some horrible consequences,” said state Sen. Jim Beall, D-San Jose, who wrote the legislation that placed Prop. 1 on the ballot.

If passed, the measures would fund a variety of state housing initiatives — money would go toward building and renovating multifamily rental units for families making 60 percent or less of the area median income, for example, and to help low and moderate-income home buyers make down payments on their first home.

But opponents worry about the cost of funding the measures. Prop. 1 would create debt that ultimately would be paid back by taxpayers — adding to the existing \$83 billion in bonds the state already is paying off. Prop. 2 would divert funds previously earmarked for mental health services.

Many people with severe mental illness are not able to live safely on their own, said Gigi Crowder, executive director of NAMI Contra Costa. If they are placed in housing without receiving intensive treatment, they could hurt themselves or end up back on the streets.

“Over time, they lose the housing — and that’s sad, but it’s true,” she said.

San Jose officials say the bonds could help move the city closer to its [ambitious goal of building 10,000 affordable homes by 2022](#). The city has the money to build about half of those units and would need another \$600 million to fund the rest, said Rachel VanderVeen, deputy director of the San Jose Housing Department. Prop. 1 and 2 wouldn’t completely fill that gap — San Jose won just \$127 million from the 2006 housing bond — but it would be a start, VanderVeen said. San Jose also has a local housing bond on the ballot, dubbed Measure V, which would raise \$450 million for affordable housing.

In San Francisco, the city needs funding for about 900 affordable housing units that are set to be built through 2025. It would take an estimated \$272 million to build them all, according to the San Francisco Mayor’s Office of Housing and Community Development.

If the state bonds pass, “you’re going to see a very definite increase in production, not only here, but across the whole state,” said Geoffrey Morgan, president and CEO of San Jose-based nonprofit affordable housing developer First Community Housing.

If approved by a majority of voters, Prop. 1 would authorize \$3 billion in bonds to build affordable multifamily housing, housing in urban areas near public transit, and farm worker housing, and provide loans and grants for low and moderate-income home buyers. The measure also would provide an additional \$1 billion to help veterans buy homes.

The bond would help fund up to 30,000 multifamily and 7,500 farm worker homes, according to the Secretary of State’s voter guide.

Money spent under Prop. 1 eventually would have to be repaid with interest. State officials estimate it would cost taxpayers \$5.9 billion to pay off the \$3 billion bond — or about one-tenth of 1 percent of the state’s general fund budget. The \$1 billion in veteran assistance would be repaid by the veterans themselves.

Prop. 2 would allow the state to borrow up to \$2 billion to build and rehabilitate housing for the mentally ill who are homeless or at risk of becoming homeless. The state would repay the money by diverting funds raised by the 2004 Mental Health Services Act, which increased the income tax for those earning more than \$1 million to fund county mental health programs. More than 134,000 people are homeless in California, according to the Department of Housing and Urban Development’s 2017 point-in-time count. As many as a third are living with an untreated mental illness, according to a pro-Prop. 2 report by the presidents of Mental Health America of California and the California Police Chiefs Association, and a former member of the National Advisory Mental Health Council of the National Institute of Mental Health.

Some mental health workers oppose taking money from mental health services and putting it toward housing. While Prop. 2 promises to build “supportive housing,” which would provide residents with medical care, case managers, job training and other services, Crowder of NAMI Contra Costa argues it likely won’t be enough to help the severely mentally ill safely stay in their homes.

“We do not feel hopeful that once the housing is built, that those with severe mental illness will benefit greatly from the housing,” she said.

Prop. 1 and Prop. 2 have garnered a great deal of support so far. The only voice opposing Prop. 1 in the Secretary of State’s official voter guide is attorney Gary Wesley, who often argues against statewide ballot measures that have no other organized opposition.

“I think they’ll pass,” said David Garcia, policy director for the UC Berkeley Turner Center for Housing Innovation, “because they really have a broad group of supporters that really understand that need for more resources to address the housing and homelessness crisis.”

## San Francisco Chronicle

# SF supes urge backing off alliance with farmers, Trump on reviving rivers

[Kurtis Alexander](#)

Oct. 30, 2018 Updated: **Oct. 30, 2018** 9:53 p.m.

The San Francisco Public Utilities Commission, which provides water to the city and more than two dozen suburbs, has fiercely opposed a far-reaching state plan to revive California's river system, including the languishing Sacramento-San Joaquin River Delta, because it means giving up precious water supplies.

The agency's bid to protect its stake on the Tuolumne River, high in the mountains of Yosemite, and prevent potential water shortages has aligned it with similarly concerned Central Valley agricultural suppliers and their allies in the Trump administration. The unlikely alliance has created a powerful bloc that has so far succeeded in sidelining the state's restoration effort.

San Francisco Supervisor Aaron Peskin put forward a resolution Tuesday, insisting that [a city known for its environmental bona fides should stand up for the rivers](#) and not partner with Washington to let them run dry. The board unanimously approved his measure, which pledges full city support for the state plan. The plan is scheduled to be taken up by state officials next week.

"It's time for a new page," Peskin said. "It is time not to act like a business enterprise, but realize the health of our region is at stake."

The mostly symbolic resolution stops short of telling the quasi-independent Public Utilities Commission what to do. But it sends a signal to the water agency about where the supervisors stand and that more severe action could follow.

Officials at the Public Utilities Commission said after Tuesday's vote that they had no intent to stop pushing for a solution that would provide more water to the city than is currently promised in the state proposal. They cited a provision in the resolution that allows for additional talks with the state.

"We support the goals of the state plan, but not the methods that they are using to get to that goal," said spokesman Tyler Gamble. "We're going to continue moving forward with the negotiations."

Peskin has threatened to use the board's budgetary powers to weaken the Public Utilities Commission if the agency puts up too much of a fight.

The initiative by the State Water Resources Control Board comes as the rivers that once poured from the Sierra Nevada run low because of relentless pumping by cities and farms. The lack of water has decimated the delta, a critical juncture for salmon and other wildlife as well as the hub of California's water supplies.

To address the impending crisis, state officials want to boost the amount of water in the San Joaquin River and its tributaries that flow to the delta by limiting draws to no more than 60 percent of a river's flow during peak runoff periods. Currently, some rivers run at just 10 percent of their natural level.

The state water board is slated to vote on the proposal next Wednesday. A similar initiative for the Sacramento River and its tributaries is expected to follow.

Environmental groups and the fishing industry, which have long supported the state's restoration effort, applauded Tuesday's action by the Board of Supervisors.

"We have renewed hope that we'll finally get a little bit more water in the rivers that is so desperately needed," said John McManus, president of the Golden Gate Salmon Association.

Largely due to insufficient river flows, the number of salmon in the San Joaquin River watershed has plummeted to a fraction of the tens of thousands that spawned there just decades ago. The decline has had a heavy toll on fishermen.

McManus speculated that without San Francisco's opposition, the state water board would be more inclined to move forward with its plan next week.

The Public Utilities Commission's unlikely alliance with agricultural water suppliers on an issue often split between urban and rural interests had given city water officials unusual clout on the matter.

For more than a year, moderators tapped by the state to work with opponents of the state plan, including former Interior Secretary Bruce Babbitt, had urged the city to back off. So had Gov. Jerry Brown.

Peskin acknowledged that the Public Utilities Commission could continue to work behind the scenes to fight the state, but he said his resolution is almost certain to prevent the agency from taking legal action.

While state officials have touted the so-called Bay Delta Plan as a compromise that will help rescue California's river system yet still leave the bulk of water for humans, several municipal water agencies and irrigation districts believe they're not getting enough.

Meeting the state's target on the San Joaquin River and its tributaries would mean drawing 7 to 23 percent less water, according to state estimates.

The San Francisco Public Utilities Commission has said the plan would necessitate immediate development of alternative water sources, like desalination plants, prompting higher water rates of as much as 17 percent over 15 years in order to fund the new infrastructure.

Water rationing may also be needed until additional supplies come on line, according to the agency.

“Our core responsibility is to deliver clean, reliable, safe drinking water,” said Harlan Kelly, the Public Utilities Commission general manager, at a committee hearing Monday on Peskin’s resolution. “We are prepared to put more aside, but we thought it must be done in a responsible way.”

The agency has maintained that it can revive struggling salmon runs on the Tuolumne River without major water cuts to cities, though the state and independent scientists say that’s not possible.

Opponents of the Bay Delta Plan have won recent support from Washington, where Interior Secretary Ryan Zinke has characterized the state’s proposal as a water grab and threatened to take legal action to stop it.

President Trump has criticized California on Twitter for being “foolish” for not wanting to pump more water from the rivers.

At Monday’s preliminary hearing on the San Francisco resolution, a handful of labor activists and workforce development officials also questioned the state’s push to withhold supplies from people when shortages could affect businesses and jobs.

Mayor London Breed has been mum on the issue. She declined repeated attempts by The Chronicle to get her to comment on efforts to restore the rivers and the delta ecosystem.

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Published October 31st, 2018

## ConFire's Carman named fire chief of the year

By Nick Marnell



Jeff Carman Lamo archive

The California Fire Chiefs Association named Contra Costa County Fire Protection District Chief Jeff Carman as its 2018 statewide fire chief of the year at its annual conference in Sacramento. The Ronny Jack Coleman award is named after retired State Fire Marshal Ronny Coleman and recognized Carman as a role model for all fire chiefs in the state as demonstrated through his leadership and management, not only with ConFire but also regionally and statewide.

"We are so proud that Chief Carman has been recognized for his achievements," said Karen Mitchoff, chair of the Contra Costa County Board of Supervisors. "We are fortunate to have him serve our community, and congratulate him and those who support him on this special recognition from his peers." The county board of supervisors, which doubles as the ConFire board of directors, recognized Carman during its Oct. 9 meeting.

Jeff Meston, president of the fire chiefs association and fire chief of the South Lake Tahoe Fire Department, specifically praised Carman's efforts in securing state funding for repositioning of local strike teams and for the formation of the Alliance, the partnership between ConFire and American Medical Response to deliver emergency medical service to the bulk of Contra Costa County. "Agencies all over the state are watching the progress of that EMS model," said Meston, who also noted that 22 different local strike teams had been repositioned throughout the state by mid-October thanks in large part to Carman's efforts. Fire resources have been repositioned four times throughout Contra

Costa County in response to red flag warnings this fire season.

"It was quite a surprise," Carman told his Advisory Fire Commission Oct. 8 of the award. "I haven't done anything on my own, but it's been a team effort. And I hope that we can continue that effort. I accept that award on behalf of the whole organization."

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Published October 31st, 2018

## Lafayette residential occupancy fire inspections nearly complete

By Nick Marnell



ConFire Capt. Steve Aubert prepares to inspect the post indicator valve. Photos Nick Marnell

properly now."

Fire Prevention Capt. Steve Aubert conducted an inspection of a Lafayette apartment complex. "We don't schedule these visits. You want to see things on their worst day," he said.

Aubert first checked that the fire roads were properly marked, and that the fire hydrants were not blocked. He saw the structure had a sprinkler system, so he checked the post indicator valve - the valve that controls the sprinkler system. It was operational. The fire department connection inlets were accessible and functioning, ensuring an adequate water supply.

"We are not allowed to go into individual apartments," Aubert said, as he inspected the indoor common areas, corridors, hallways and elevators. He found his first violation along one of the inside walls: the fire extinguisher was not stamped as tested.

Fire rated doors were inspected for smoke seals. The elevator was tested. Aubert checked the horn strobe system, which produces flashing light and a loud noise to alert those inside or outside the building. The captain inspected the fire alarm control panel - the controlling component which makes sure all systems are

The Contra Costa County Fire Protection District made several changes to its fire prevention bureau in order to catch up on past due fire inspections and Fire Chief Jeff Carman has assured Lafayette residents that all mandated residential occupancy inspections will have been completed by the end of the year.

Schools and residential occupancies with three or more dwelling units are subject to mandatory annual fire inspections. The district fell behind with its inspections after the recession due to budget cutbacks and the inability to hire qualified personnel and, according to Carman, ConFire had to prioritize the inspections, doing those that could cause the largest loss of life and property first, such as residential care homes.

With improved finances and a sharper focus on the lagged inspections, ConFire hired four new fire inspectors in the summer and reassigned two inspectors from the engineering department to help out with the backlog; it also stopped assisting the East Contra Costa Fire Protection District with fire inspections in order to concentrate on its own workload. ConFire then hired several temporary clerks to input the data for the field inspectors, which allowed the inspectors to spend more time in the field. The district also added a temporary fire inspector.

The larger staff allowed ConFire to complete its inspections of the 11 Lafayette education facilities in June and to tackle the inspections of the city's 159 commercial residential structures.

A random review of Lafayette inspection reports, from a fourplex on Bickerstaff Street to the iconic Lafayette Park Hotel, showed that the most common violations included failure to service fire extinguishers, inspect sprinkler systems and test fire alarms. Occasionally, a structure received a "No violations" report, as did the building on Bickerstaff. The hotel was cited for repairs needed on its fire doors, which must not only close but latch shut to stop smoke and fire from spreading into corridors and stairs. "We installed new hallway carpet with a higher pile so the doors were not completely closing on their own," said Nick Bozych, Lafayette Park Hotel general manager. "The doors were shaved and the doors close



being monitored. He checked for lighting on exit signs, and pointed out numerous other items that a layperson would probably never think twice about.

"Our job is to educate the property owners and managers. They aren't trained in any of this," Aubert said.

In October, ConFire saw the departure of its fire marshal, who had assured management that all mandated residential fire inspections were on track for completion by Dec. 31. Not wanting to lose momentum, Carman immediately appointed Deputy Chief Lewis Broschard as the interim fire marshal, a job Broschard previously held for the district.

"We are both working on the basis that the inspections will be done by that date," Carman said.

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**East Bay Times**

# Discovery Bay license plate readers await state approval for installation

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

PUBLISHED: October 30, 2018 at 1:57 pm | UPDATED: **October 31, 2018** at 11:57 am

DISCOVERY BAY — A plan to install 24 license plate readers in and around Discovery Bay to help law enforcement solve crimes is on hold awaiting state approval.

The project was first presented more than a year ago to the Discovery Bay P-6 Zone Citizens Advisory Committee, which suggests ways to spend funds earmarked for local law enforcement. In January, the committee approved spending up to \$350,000 from reserve funds for the cameras, which cost about \$14,000 each plus \$825 in annual fees for maintenance, licensing and software.

Cameras that scan license plates are to be installed at key locations and operate 24 hours a day in the far eastern Contra Costa County town of nearly 15,000. They photograph license plates and compare the information with local records and a state database of stolen vehicles. When a match is found, dispatchers are alerted to the vehicle's location.

“The (P-6 Zone) board's intent was to create a virtual boundary around Discovery Bay for the purpose of assisting law enforcement solve crimes where vehicles were used for transport to or from the area,” said Captain Steve Borbely of the Contra Costa Sheriff's Office Special Operations Division.

But 14 of the 24 license plate readers to be located on the state Highway 4 corridor have yet to be approved, said sheriff's spokesman Jimmy Lee.

The cameras, which were supposed to be in place this fall, cannot be installed until everything is approved, officials said.

“If permission is not given for the state-run locations, which are ideal for best coverage, other locations will need to be looked into,” Lee said, noting the state has not given a time frame for its decision.

Borbely said the readers not only will help the Sheriff's Office identify vehicles used in crimes in Discovery Bay but also will notify officers when a vehicle connected to any crime has entered the area — if the license plate is already in the database.

“The cameras can also assist law enforcement with missing persons, kidnapping, runaways or other persons-at-risk cases,” he said.

All data obtained from the license plate readers will be kept for one year and then purged unless needed as evidence for an investigation, Borbely said, noting that the data is only accessed in conjunction with an active criminal investigation.

Borbely, formerly manager of the Contra Costa County Sheriff's Delta Station in Oakley, has been working on identifying locations and getting permits for the license plate readers, which are similar to those installed in Brentwood, Pinole, Martinez, Danville, Alamo, Antioch and Pittsburg, among others. Lt. Matt Foley, who replaced Borbely in Oakley, is now assisting with the project.

Although all the locations have yet to be approved, Borbely said cameras will be installed in spots "that will be of the most use, along the Highway 4 and Bixler corridors and entrances to the community."

Leslie Belcher, chairwoman of P-6 Zone Citizens Advisory Committee, said the town has been asking for some sort of surveillance mechanism for a while. Videotape was explored, but did not prove viable, she said.

"The community is very happy that this (the reader program) is coming," she said. "The myth is all of our crime comes from Stockton, but some are in our community as well; this happens in every community."

Although Borbely said Discovery Bay has not seen an uptick in crime, there has been a series of unrelated, random crimes. In 2017, a Discovery Bay resident was shot and killed for confronting reckless drivers. That same year, two separate murders were also committed close to Discovery Bay.

"Though there does not appear to be any link to Discovery Bay regarding the murders, they nevertheless had an impact on the community," Borbely said.

Belcher said Discovery Bay has experienced petty theft, property crimes and vandalism as well as a rash of mail thefts in the last year, but otherwise the statistics have been pretty stable.

The town's location at the far edge of the county has resulted in some crimes of opportunity and town leaders are hoping the license plate readers will help.

"We are an island, so to speak, at end of county, the last stop going out to another county," she said. "With crimes of opportunity, it's the last stop, and they are gone."

Although state approvals are taking longer than anticipated, Belcher said she is still hopeful that the plan will proceed this fall.

"There definitely has been progress made — the goal was for the project to be completed in the fall," she said. "We thought the project would be up and running by now. Hopefully, we'll get some movement soon."

**Los Angeles Times**

# **In a first, California abolishes Compton's water district board after years of dirty-water allegations**

By [Angel Jennings](#)

Oct 31, 2018 | 8:00 PM

State officials on Wednesday removed the elected board and general manager of a water district that for years has been accused of serving brown, smelly water to its customers in Compton.

With a 22-page decree, the State Water Resources Control Board abolished Sativa Los Angeles County Water District's five-member board of directors and ousted its manager. In their place, the state appointed the county's Department of Public Works to temporarily run the district while officials seek to merge the small district, which delivers water to about 1,600 homes, with a larger provider.

The move marks the first time that the state has used its power to order the takeover of a water agency.

"For far too long, our residents have had to endure the unacceptable — they had no idea what would flow when they turned on their tap," L.A. County Supervisor Mark Ridley-Thomas said. "Enough is enough. Los Angeles County is ready to step in and step up ... and immediately begin to triage the situation."

County officials will move into Sativa headquarters Thursday, said Paul Novak, executive officer of the county's Local Agency Formation Commission, which monitors Sativa.

Calls to Sativa were not immediately returned.

Novak said the takeover will not immediately fix the problems that have plagued the water district, including manganese-coated pipes that discolor residents' water. Officials estimated that \$10 million to \$15 million is needed to upgrade the 70-year-old pipes.

But it will get rid of the administration of a long-criticized agency accused of financial instability, nepotism, poor maintenance and mismanagement.

"These are the changes I think they will see: They will see staff that's more accessible, that is more transparent, that is communicating with the ratepayers on a regular basis," Novak said. "Instead of encountering a board and staff that are hostile to the ratepayers, they will have people they can come in and communicate with."

Department of Public Works Director Mark Pestrella said the county will meet staff Thursday to take control of Sativa's facilities and assets, then come up with a plan to deliver clean, safe water to residents.

In September, [Gov. Jerry Brown signed AB 1577](#), a bill introduced by Assemblyman Mike Gipson (D-Carson), that would allow for the dismantling of the Sativa board.

Two years ago, the state water board was granted the authority to install an administrator at a failing water system. However, the role has to be paid for by the state, and the law did not provide funding.

The governor signed legislation Sept. 17 that appropriates \$200,000 for a state-appointed administrator to helm Sativa. The L.A. County Board of Supervisors and the Local Agency Formation Commission had asked the state to appoint the county's Department of Public Works as the interim administrator.

The takeover ends a long-fought battle over Sativa's operations. Over decades, [district officials have been accused](#) of giving themselves illegal Christmas bonuses, hiring family members and lacking the funding to replace aging pipes, which deposit a high concentration of manganese into the water.

Outrage reached a boiling point when discolored water began flowing from taps with greater frequency this year. Customers posted videos online of tea-colored water coming from their faucets.

That prompted the Local Agency Formation Commission to vote in July to dissolve Sativa — a lengthy and rare process separate from state-directed takeover. The commission has scheduled a February hearing to continue the dissolution so that Sativa will no longer exist.

The state's decision to have L.A. County take control of Sativa boiled down to the district's inability to provide clean, safe drinking water to its ratepayers, authorities said. The decree listed numerous violations for failing to meet water quality standards and inadequate water monitoring, as well as infrastructure problems.

"I'm excited to be serving this community and to be taking on the challenge of bringing them sustainable, clean water supply, which all residents deserve," Pestrella said.

**8:00 p.m.:** This article was updated with additional context about the district.

*This article was originally published at 5:15 p.m.*

## East Bay Times

# Toxic cleanup at Concord Naval Weapons Station doesn't ease concerns



A view of ammunition bunkers is seen during a community and city employee tour of the Concord Naval Weapons Station in Concord, Calif., on Wednesday, May 23, 2018. The city and the chosen reuse developer, Lennar Concord LLC, have agreed to extend by a year the initial studies for development of the 2,300-acre area. (Jane Tyska/Bay Area News Group)

By [Annie Sciacca](#) | [asciacca@bayareanewsgroup.com](mailto:asciacca@bayareanewsgroup.com) | Bay Area News Group

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CONCORD — Officials overseeing the cleanup of the Concord Naval Weapons Station tried to reassure City Council members this week that the arduous task of removing toxic materials left behind by the Navy is on the right track.

But after a year in which it [became public that some soil tests at the Hunters Point Naval Shipyard site in San Francisco had been falsified and much of the dirt was trucked to the Keller Canyon Landfill in Pittsburg](#), worries about potential environmental danger to residents of planned housing there still linger.

Vice Mayor Carlyn Obringer said at the meeting that although the presentation at Tuesday night's special meeting by officials from the Navy, U.S. Environmental Protection Agency, the regional water board and the state Department of Toxic Substances Control was "informative," she continues to have reservations about the cleanup process.

For example, even though Navy representatives said their contracts with Tetra Tech EC Inc. are soon coming to an end, the Navy still plans to work with that company's subsidiaries in the future. Tetra

Tetra Tech's employees have admitted to switching clean dirt for contaminated soil for testing at the Hunters Point Superfund site.

"Tetra Tech still makes me nervous," Obringer said. "I would encourage you to look for a substitute."

Councilmember Laura Hoffmeister agreed, noting that "credibility was lost with them."

In a presentation to the council, Marc Smits, an environmental coordinator for the naval weapons station's closure, explained that the Navy's cleanup and property transfer process includes a "preliminary assessment" to determine through documents, maps and aerial photographs what the site was used for and what may need to be cleaned up. The station had fewer radiological operations than Hunters Point, Smits said, noting they were limited to "munitions-related assessment" and handling of equipment with radioluminescent dials and gauges.

Tetra Tech's work at the Concord site involved preparing the Historical Radiological Assessment, a document that identified 48 buildings and bunkers in need of further radiological investigation. The company did not conduct any fieldwork, such as soil sampling, according to the Navy. Tetra Tech also had two contracts to investigate munitions-related cleanup sites at the Concord station. According to the Navy, an independent contractor was hired to oversee that work.

Concerns have also surfaced about the thousands of tons of [potentially radioactive soil trucked from Hunters Point to the Keller Canyon Landfill in Pittsburg](#). The Keller Canyon Landfill is not licensed to receive radiological waste. After a months-long search and review, the county's health department this week has hired a contractor, TRC Solutions, to investigate the data that Navy consultants provided to landfill operator Republic Services certifying the soil as "nonhazardous," as well as to survey the soil itself for toxic material.

Smits said about 70 percent of the Concord base is ready for transfer to the city. The Navy and regulatory agencies such as the EPA have to verify the base is safe for reuse before it can be transferred to the city and to the East Bay Regional Park District. The transfer is to happen in phases and is expected to be complete in 2026. The city envisions redeveloping the Concord Naval Weapons Station into 13,000 housing units and millions of square feet of office, retail and campus space.

While the Navy and agency representatives at the meeting said the plan is to make the land as safe as possible, the cost of cleanup is sometimes prohibitive, so in some cases the Navy would place restrictions on land use instead of cleaning it up to the level required for homes. That concerned some council members and residents, who questioned why not all areas will be cleaned up to the highest standard.

At the end of the meeting, council members urged the Navy to provide a written document outlining new protocols adopted after the Hunters Point-Tetra Tech incident, such as hiring an independent contractor to oversee the work, and to describe the differences between Hunters Point and the Concord Naval Weapons Station cleanups. The Navy representatives did not publicly confirm whether they will provide that type of document to the city. Mayor Edi Birsan said he'd like the soil retested every several years to make sure dangerous material is not present.

"I hold collectively you all partly responsible (for what happened with Hunters Point)," he told the officials. "We have a damaged Navy and federal government oversight .... We can't change what happened."

"This is something that scares a lot of people," Councilmember Tim McGallian summed up.

## San Francisco Chronicle

# SF Mayor Breed vetoes supervisors' resolution that supported state river plan

[Kurtis Alexander](#) Nov. 2, 2018 Updated: **Nov. 2, 2018** 7:51 p.m.

San Francisco Mayor London Breed broke her silence on California's latest water war Friday, saying she wouldn't support a state river restoration plan that would mean giving up some of the city's pristine Hetch Hetchy water.

In addition to her unexpected announcement, Breed vetoed a [resolution passed unanimously by the Board of Supervisors](#) earlier this week that offered the city's blessing for the little-known, but far-reaching state initiative.

The city's now-conflicting positions on the matter, which are unlikely to be resolved before the State Water Board takes up its plan to protect degraded rivers and threatened salmon, underscores the emerging divide at City Hall over how much environmental concerns should interfere with Bay Area water supplies.

The [Bay-Delta Plan](#) calls for limiting the draws of cities and farms from California's waterways to prevent what the state sees as an impending collapse of the Sacramento-San Joaquin River Delta. The estuary is the hub of the state's river flows and an ecological hot spot. The State Water Resources Control Board is scheduled to vote on the plan Wednesday.

"We all want the same outcome for the Bay-Delta — a healthy ecosystem that both supports fish and wildlife and provides reliable water delivery," Breed said in a statement. But "it is deeply irresponsible for San Francisco to take a position that would jeopardize our water supply."

Supervisor Aaron Peskin authored [the now-vetoed resolution](#) in support of the Bay-Delta Plan amid worries by environmental groups that the city's Water Department was impeding efforts to revive California's river system.

The San Francisco Public Utilities Commission has aligned with Central Valley farm groups and their allies in the Trump administration to create a powerful bloc in opposition to the plan.

While state leaders, environmentalists and fishing groups contend that cities and farms need to make sacrifices to save California's rivers, opponents of the restoration effort say the proposal by the State Water Resources Control Board goes too far.

The SFPUC, which relies on the Tuolumne River high in the mountains of Yosemite National Park for most of its water, claims that the Bay-Delta Plan would necessitate water rationing of up



to 40 percent during dry spells. Officials also expect higher rates for customers as the agency invests money into developing new water sources, like desalination.

The impacts would go beyond the city to the more than two dozen Bay Area communities that buy their water from San Francisco, officials say.

On Thursday, SFPUC General Manager Harlan Kelly wrote a letter to the Board of Supervisors, calling the board's resolution "counterproductive" to efforts by his agency to protect city water in closed-door talks with the state.

Breed agreed with Kelly, saying the Public Utilities Commission should not be handicapped by environmental concerns.

"We must keep every alternative available, including legal options to protect the city's interests in the event that the negotiations fail," she said in her statement.

Several supervisors said Friday that they were reconsidering their position on this week's resolution after hearing from the Public Utilities Commission.

Peskin, however, remained convinced that supporting the state's restoration effort was the right thing to do.

"Frankly, vetoing this resolution just makes San Francisco look like its house is not in order and, quite frankly, makes the city look a little goofy," he said. "Besides, I think we've already sent our message to the State Water Board."

San Francisco's position on the Bay-Delta Plan has been watched closely by those on all sides of the debate, but it's likely to play a limited role in the state's final decision.

While State Water Board officials have said they would like to have city support for their plan and they continue to work behind the scenes to get it, they also have said they intend to take action next week.

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## **Could restrictions scare off potential developers of Richmond's Point Molate?**



The main building and former Naval officer's homes, foreground, are seen from this drone view at Winehaven in Richmond, Calif., on Monday, Aug. 14, 2018. Winehaven was the world's largest winery from 1906-1919, and then became a fuel depot for the U.S. Navy. The city is in the process of selling the Point Molate property to developers. (Jane Tyska/Bay Area News Group)

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**RICHMOND** — With the clock ticking for Richmond to sell the 270-acre Point Molate waterfront property so it can be developed into a community of at least 670 housing units, some City Council members fear restrictions tied to the project could scare off developers.

Six developers are currently bidding for the project and will pitch their plans to the council in December. The council in turn has a deadline of April 2020 to approve a plan to build on 30 percent of the site and leave 70 percent as open space. That's according to the terms of a lawsuit settlement the city reached with the Guidiville Rancheria of California Indian Tribe and Upstream Point Molate LLC. Guidiville and Upstream, sued the city after the council denied their plan to build a casino there.

If the city misses its deadline to approve a development plan, it must sell the land back to Guidiville and Upstream — virtually for pennies.

The council last month approved guidelines for ranking developers' proposals and, following a heated discussion, decided to limit the area where housing can go to the historic Winehaven District and some surrounding parts. It also decided developers must aim to make two-thirds of the units affordable and cover all associated infrastructure costs.

Council members Jael Myrick, Ben Choi, Ada Recinos and Eduardo Martinez voted for the requirements and Mayor Tom Butt and council member Jovanka Beckles dissented while council member Melvin Willis abstained.

Butt called the requirements "about the dumbest thing (he's) ever seen a city council do in the city of Richmond."

"You all are incredibly irresponsible," Butt said. "We settle one lawsuit, got another one, and now you've essentially drawn a plan that is not economically feasible. We're going to get Upstream and the tribe back on our case, they're going to sue us. I mean, this thing is never going to end."

Martinez disagreed.

"In the design classes that I've taken, I've found that the more restrictions, the more creative the solutions," Martinez said. "If we have the kind of developers that we want to attract to Richmond, we should give them the restriction that we, as a city, expect, and see what kind of creativity they have."

Butt said those who voted for the requirements did so mainly to please a small group of people who have been fighting against development at Point Molate and have accused the city of entering into the settlement agreement improperly behind closed doors.

Choi said that although people may disagree with the lawsuit settlement, the city would have had to spend a lot of money if it didn't accept it. Not to follow the terms now would be disastrous, Choi added.

"At a minimum it's tens of millions of dollars that the city doesn't have if we completely abrogate the settlement, and if we're putting on the table a deal that is not feasible we might as well just abrogate the settlement," Choi said.

In addition to approving the set of guidelines for ranking the development proposals, the council also voted to include a "community plan" compiled by the Point Molate Alliance — a group of people opposed to a housing development at Point Molate — that calls for most of the property to be used as an open space park and for housing to be built closer to downtown.