

MENDOCINO

Local Agency Formation Commission

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COMMISSIONERS

Carre Brown, Chair

County Board of Supervisors

Tony Orth, Vice Chair

Brooktrails Township CSD

Gerald Ward, Treasurer

Public Member

Gerardo Gonzalez

Willits City Council

Scott Ignacio

Point Arena City Council

John McCowen

County Board of Supervisors

Vacant

Special District Member

Jenifer Bazzani, Alternate

Ukiah Valley Fire District

Vacant, Alternate

City Member

Richard Weinkle, Alternate

Public Member

John Haschak, Alternate

County Board of Supervisors

STAFF

Executive Officer

Uma Hinman

Analyst

Larkyn Feiler

Commission Clerk

Kristen Meadows

Counsel

Scott Browne

Regular Meetings

First Monday

of each month

at 9:00 AM

in the Mendocino

County Board

of Supervisors Chambers

501 Low Gap Road

Approved by Commission on June 7, 2021

CORRECTED MINUTES

Local Agency Formation Commission of Mendocino County

Regular Meeting of Monday, January 4, 2021

Meeting held via Zoom due to COVID-19 Pandemic Emergency Conditions

1. **CALL TO ORDER and ROLL CALL** (Video Time 5:13)

Chair Brown called the meeting to order at 9:03 a.m.

Regular Commissioners Present: Carre Brown, Tony Orth, Gerald Ward, Gerardo Gonzalez, John McCowen, and Scott Ignacio

Regular Commissioners Absent: none

Alternate Commissioners Present: Jenifer Bazzani (immediately seated for the vacant Regular Special District seat)

Alternate Commissioners Absent: Richard Weinkle, John Haschak

Staff Present: Uma Hinman, Executive Officer; Larkyn Feiler, Analyst; Kristen Meadows, Clerk; Scott Browne, Legal Counsel

2. **PUBLIC EXPRESSION** (Video Time 6:38) None

3. **CONSENT CALENDAR** (Video Time 7:14)

3a) **Approval of the December 7, 2020 Regular Meeting Summary**

There were no corrections or comments from the Commission.

3b) **Approval of the December 2020 Claims & Financial Report**

December 2020 Claims totaling:		\$ 10,522.06
Hinman & Associates Consulting	\$	6,728.00
Ukiah Valley Conference Center	\$	468.60
P. Scott Browne	\$	1,170.00
County of Mendocino	\$	2,213.46
Streamline	\$	50.00
Pacific Internet (Web Hosting Refund)	\$	(108.00)

EO Hinman noted a correction on page 8. The account number for Website Hosting should be 5700. The amounts are correct.

Motion by Commissioner Ward: Approve the December 7 Meeting Summary and the December Claims & Financial Report with noted correction.

Seconded by Commissioner McCowen.

Approved by roll call vote: unanimous.

Ayes: (7) McCowen, Bazzani, Ward, Orth, Ignacio, Gonzalez, Brown

Chair Brown asked how checks will be signed. EO Hinman responded that three Commissioner signature cards are needed for the file. Chair Brown suggested that Commissioner Ward provide the wet signature and she will call in the 2nd signature.

4. **PUBLIC HEARING ITEM** None.

5. **WORKSHOP ITEMS** None.

6. **MATTERS FOR DISCUSSION AND POSSIBLE ACTION** (Video Time 14:52)

6a) SOI Policy Update and Work Plan Budget Discussion

EO Hinman provided a report on the development process of the Sphere of Influence (SOI) policy, the costs associated with current LAFCo practices and the potential impact on the Fiscal Year 2021-22 Work Plan Budget.

The proposed policy changes were intended to seek guidance from the outgoing commissioners, put into writing the current practices of the Commission, establish uniform treatment, secure cost recovery from agencies requesting SOI expansion, and ensure that LAFCo continues to carry out its statutory mandate to prepare MSR/SOI and CEQA review in a timely manner. There is not consensus in the LAFCo Community regarding interpretation of the SOI Update timing. Some review every agency every five years, others conduct updates on an as needed basis.

The 5-Year Rolling Work plan is a schedule and cost estimate plan for conducting MSR/SOI Updates for every agency on a five-year cycle and allows for flexibility to shift priorities during the year. However, budget limitations make it difficult to carry out the Work Plan in a timely manner. The current approach is to establish a coterminous sphere during the SOI Update process and to prepare studies in-house which helps keep apportionment fees low. As a result, the LAFCo budget is not sufficient for a non-coterminous SOI Update with CEQA review within a single fiscal year. The current Work Plan includes the City of Ukiah and the Ukiah Valley Sanitation District (a two-year process for each), plus three other agencies, but does not address CEQA. EO Hinman noted that CEQA costs can range from \$5,000 to \$100,000 and more depending on the scope of analysis.

Apportionment fees are the primary revenue source for LAFCo, and the Work Plan accounts for approximately a quarter of the overall budget. During the Fiscal Year 2021-22 Budget development process, the Commission will need to consider the Work Plan priorities and budgeting for CEQA review in addition to potential cost recovery from agencies and an increase in apportionment fees. EO Hinman noted staff provided a list of options in the staff report and invited Commission input to support the Budget and Work Plan development process.

Commissioner Orth asked if determining the lead agency for purposes of CEQA is an important initial step when beginning work on any application or MSR/SOI Review. Counsel Browne confirmed that the agency that acts first is generally the lead agency for the purposes of CEQA and explained that an SOI Update is a LAFCo action initiated by the Commission and in cases of an application the other agency may be lead agency. Commissioner Orth stated that the current policy does not clearly define or designate a lead agency and, if modified, could address some of the issues noted by the cities. He commented that special districts have far less revenue than cities or the county and usually do not have the authority to spend budget dollars on planning unless they adopt that power through the State. He commented that cost recovery is a critical component of an application process and believes there should be distinct verbiage to illustrate the difference between an application from an agency and a LAFCo-initiated process. He commented that the budget process should accurately reflect the costs of doing business and suggested adding a Policy Review Process budget line item to allow for a more thorough vetting process and collaboration with member agencies.

Commissioner McCowen agreed with the comments noted and encouraged the Commission to find a way to pass along the cost to the agency that would benefit from any update or boundary change. He suggested looking into frequency and necessity of review for agencies that do not provide municipal services.

Chair Brown reminded the Commission that the requirements for agency reviews is a State unfunded mandate and given the difference in interpretation, suggested seeking clarification from the state and or legislation so that LAFCo can be reimbursed for the associated costs.

Commissioner Orth suggested changing the designation of Fire Protection District to Fire/EMS Services. Counsel Brown clarified that under the Health and Safety Code, the districts are statutorily held as Fire Protection Districts and therefore the name cannot be changed, but EMS can be included when referring to the service provided. Commissioner Orth recommended a policy change to include EMS services in the Fire Protection District definition.

Chair Brown invited public expression and asked Staff to bring interested parties into the meeting.

Sage Sangiacomo, City of Ukiah City Manager, acknowledged that a lot more work is needed to appropriately develop the policy. He suggested identifying the appropriate approach to minimize costs while allowing LAFCo to carry out its duties of good governance should be the major objectives of the policy. He encouraged the Commission to allow the Policies and Procedures Committee to work through the issues to avoid unintended consequences and unnecessary costs for any of the governmental entities.

Commissioner McCowen expressed concern that if in depth environmental review is deemed necessary, significant costs could be added to an MSR/SOI Update when there is no immediate intention to make a change. He supports creating a policy that minimizes adding significant cost to an update and that reserves environmental review for applications. He believes that no environmental change is made by re-drawing the lines of an SOI. He asked if there is a way to assure agencies protection from environmental review costs through policy or other legal means.

Counsel Brown responded citing Supreme Court case *Bozung vs Local Agency Formation Commission of Ventura County* in which the question whether LAFCo decisions are subject to environmental review was raised. Counsel Brown explained that the potential eligibility for municipal services is changed when the SOI of an agency is changed, CEQA should be conducted at the earliest possible time when irrevocable steps are being taken that will lead to direct or indirect physical impacts on the environment, and one must consider to what extent a change will encourage later development that will ultimately have impacts on the environment when planning a project.

Commissioner Ward expressed concern with correspondence from Attorneys that suggest LAFCo is in violation of its Policies and LAFCo law and requested clarification from Counsel Browne at the next Policies and Procedures Committee meeting before they proceed with a recommendation to the Commission.

Chair Brown requested comments from Mr. Sangiacomo related to Commissioner Ward's comments and EO Hinman noted that Mr. Phil Williams would also like to speak to this item. Mr. Sangiacomo commented that there are approaches that LAFCo can take that would avoid a lengthy and expensive CEQA process. He reminded the Commission that Cities and the County have land use authority and encouraged partnerships and collaboration for both LAFCo and the Cities to reach their goals.

Phil Williams, Special Counsel for the City of Ukiah, encouraged the Commission to review the memo from the City of Ukiah written by Attorney Matarazzo which explains the steps to be taken under CEQA to address the questions and concerns of the Commission.

Commissioner Orth expressed support of Option 10 identified in the staff report.

Commissioner Ward expressed support of Options 1, 4 and 5 in addition to 10.

Motion by Commissioner Ignacio: To direct Staff to focus on options 1 and 10 as a start to the budget development process and to reach out to CALAFCO to help address questions.

Seconded by Commissioner Gonzalez

Approved by roll call vote: unanimous.

Ayes: (7) Gonzalez, Bazzani, Ignacio, McCowen, Orth, Ward, Brown

Following the vote, Chair Brown called for a 10-minute break at 10:11 a.m.

TEN MINUTE BREAK (Video Time: 1:12:57)

At 10:21 a.m. Chair Brown called for the next item and noted a correction to the Staff report for item 6b.

6b) Mid-Year Budget Review, Work Plan Report, and Proposed Budget Amendment (Video Time 1:23:52)

EO Hinman presented an overview of the current budget as of 12/30/20 and introduced a proposed budget amendment to address shortfalls in basic and legal service budget accounts. As noted in the staff report, 70% of basic services has been expended for the first half of the year.

Mid-Year Expense Summary	Adopted	Mid-Year Total	% of total
Staffing Total	72,060	50,544	70
Services and Supplies Total	47,090	25,066	53

Work Plan Total	42,500	4,121	10
Expense Total	161,650	57,197	36

- Revenues: \$150,000 Apportionment fees plus \$11,200 from reserves to close budget gap.
- Expenses: \$79,731 Basic services/staffing & office operations
- Reserves: \$90,469 as of 11/30/20. \$35,000 – Legal, \$55,469 – operational.

Work Plan Status

Agencies scheduled for MSR/SOI Updates:

- City of Ukiah
- Ukiah Valley Sanitation District
- Covelo Community Services District
- Community Service Area 3
- Ukiah Valley Fire District

Staffing Efforts - Current and anticipated

- Processing Applications
- Managing Work Plan
- Policy Development
- Special District Election
- Sustainable Agricultural Lands Committee meetings and grant project participation.
- New Commissioner orientation and training.
- Participation in the City of Ukiah General Plan update.
- Prepare agency comments for circulating land use permit applications and CEQA review.

Budget Amendment Proposal

- 70% of the Basic Services budget has been expended.
- Staff proposed budget increase total: \$22,543.
 - \$20,000 Basic Services.
 - \$4,500 Legal Services.
- Increased reserves use from \$11,200 to \$33,743.
- Reserves remaining: \$21,726 (Below policy threshold of 25%)

Commissioner Ward asked if funds for basic services should be taken out of legal reserves in order to maintain maximum operational reserves. He expressed concern with the proposal to take reserves down below 25%. He suggested modifying the Work Plan and welcomed comments from the Commission.

Commissioners Gonzalez and McCowen echoed Commissioner Ward's comments.

Commissioner Orth supported utilizing legal reserves and added the importance of determining if the Ukiah Valley Sanitation District wishes to move forward with its MSR/SOI Update this fiscal year.

Commissioner Ignacio supported the other comments and encouraged replenishing reserves so the Commission can functionally respond to the public.

Chair Brown encouraged consideration of presenting the SOI Policy to the full Commission instead of the Policies and Procedures Committee since having one conversation with the whole Commission could save on legal fees for all parties and avoid having the debate twice.

Commissioner Ignacio suggested the policy stay before the Policies and Procedures Committee and the policy will return to the Commission for ultimate resolution.

Commissioner Ward noted that he anticipated multiple Policies and Procedures Committee meetings and the Committee can meet more frequently than the Commission and potentially expedite the process. He also noted with the upcoming changes with new Commissioners it is important to keep the full Commission informed.

Commissioners Orth and McCowen suggested use of staff reports and Committee reporting under Agenda item 7d.

Chair Brown invited public Comment.

Mr. Sangiacomo stated that since the cost related to the City's SOI has been resolved, he suggested avoiding unintended consequences is the major issue before the Commission, not cost apportionment, and reaching agreement on a policy that works for everyone is feasible.

Commissioner Ward suggested postponing studies for Covelo Community Services District, County Service Area 3, and/or the Ukiah Valley Fire District to avoid reducing reserves below 25%.

EO Hinman replied that Staff has started working on the Ukiah Valley Fire District Update related to a pending application, it is possible to postpone the Covelo CSD, and Staff will reach out to the County regarding the CSA 3.

Commissioner Orth asked if postponing the Ukiah Valley Sanitation District would resolve the issue.

EO Hinman confirmed that the budgeted two-year process would provide some savings this fiscal year and further information is pending from the District Board of Directors.

Chair Brown requested a motion. (Video Time: 1:50:00)

Motion by Commissioner Ignacio: Adopt Resolution No. 2020-21-03 ~~authorizing a budget amendment of \$24,500, thereby increasing the Fiscal Year 2020-21 budget from \$161,650 to \$184,193.~~ with the amendments listed by the Executive Officer:

- Increase the Basic Services Account 5300 by \$20,000 and the Legal Services Account 6300 by \$4,500 for a total budget of \$184,193*;
- Delay the Covelo CSD MSR/SOI Update and authorizing shifting those funds from Account 7000 to Accounts 5300 and 6300; and
- Authorize the remaining increase be withdrawn from operational and legal reserves, respectively.

**Note: the intent of the motion was to reduce the Proposed Amended Budget total by the savings from delaying the Work Plan's Covelo CSD MSR/SOI Update and transference of associated budget from the Work Plan Account 7000 to Basic Services Account 5300 and Legal Services Account 6300. Therefore, the Amended Budget total is \$176,193.*

Seconded by Commissioner Gonzalez

Approved by roll call vote: unanimous.

Ayes: (7) Gonzalez, Bazzani, Ignacio, McCowen, Orth, Ward, Brown

Chair Brown reminded Staff to email the Resolution to her for her signature.

INFORMATION/REPORT ITEMS (Video Time: 1:56:27)

7a) Work Plan, Current, and Future Proposals

EO Hinman presented the staff report.

7b) Correspondence None.

7c) Executive Officer's Report (Video Time: 2:00)

EO Hinman presented the report.

- The Special District Election ends on January 25. A quorum has not yet been reached, with 1 ballot needed for the remainder term and 4 ballots for the full term. Email reminders have been sent to districts that had not yet turned in ballots.
- Swearing in of new Commissioners, Officer Selection and Committee appointments will be held at the beginning of the February 1st Regular Meeting.
- As discussed under Agenda Item 3, letters to the banks regarding new signatories will be delivered when assigned.
- Staff participated in a City of Ukiah General Plan Community Update on December 8.
- The LAFCo Office remains closed to the public due to the pandemic and local health orders. Staff maintains office functions and responds to information needs.
- Staff continues work on the year-end financial audit.

Chair Brown asked if any of the (non-voting) Districts have contacted the office. EO Hinman confirmed that they have not and regular email reminders have and continue to be sent. Chair Brown confirmed that she has reached out to some of the Districts and will do so again and encouraged her colleagues to do so as well.

7d) Committee Reports (Executive Committee/Policies & Procedures) (Video Time 2:03:22)

- Executive Committee – None
- Policies & Procedures Committee – Any report items were covered earlier in the meeting.

7e) Commissioners Reports, Comments or Questions (2:04:18)

Commissioner Orth reported that Brooktrails has received a little over 14 inches of rain this season.

7f) CALAFCO Business and Legislation Report (Video Time: 2:05:01)

EO Hinman reported:

- The 2020 CKH is now available and posted on the LAFCo Website. It has been emailed to Commissioners and Staff.
- Commissioner Gonzalez attended the Northern Regions Roundtable on December 9th. He reported that it was sparsely attended and the discussion was informal.

Chair Brown asked if CALAFCO offers training for new commissioners on their website.

EO Hinman responded she has been working with Counsel Browne to prepare a LAFCo 101 presentation for the February or March Regular Meeting. CALAFCO offers a PowerPoint to assist with the training.

Commissioner Orth thanked Commissioners Brown and McCowen for their dedicated service on LAFCo and the County of Mendocino.

ADJOURNMENT (Video Time: 2:12:47)

There being no further business, the meeting adjourned at 11:10 a.m. The next regular meeting is scheduled for Monday, February 1, 2021 at 9:00 a.m. The location is to be determined based on guidelines recommended by the Mendocino County Public Health Officer and Executive Orders regarding the COVID-19 pandemic.

*Live web streaming and recordings of Commission meetings are available via the County of Mendocino's YouTube Channel. Links to recordings and approved minutes are also available on the [LAFCo website](#).
[January 4, 2021 Meeting Recording on YouTube](#)*