

Calaveras Local Agency Formation Commission

Regular Meeting Agenda

Monday – May 20, 2019 – 6:00 p.m.

**Calaveras County Board of Supervisors Chambers
County Administrative Center
San Andreas**

6:00 PM Regular LAFCo Meeting Items:

1. Call to Order/Pledge of Allegiance/Roll Call

Commissioners

Anita Paque, Chair, Public Member

Alvin Broglio, City Member

Joseph Oliveira, City Member Alt.

Gary Tofanelli, County Member

Merita Callaway, County Member

Tony Tyrrell, Vice-Chair Special District Member

John Lavaroni, Special District Member

Roark Weber, Public Member Alt.

Dennis Mills, County Member Alt.

Jon Dashner, Special Dist. Member Alt.

Amanda Folendorf, City Member Alt.

Staff:

John Benoit, Executive Officer

Nancy Mees, LAFCO Clerk

Michael Colantuono, LAFCO Counsel

2. Election of Chair and Vice-Chair per Section 4.6 of LAFCo's Bylaws:

a. Election of Chair (special district member)

b. Election of Vice-Chair (city member)

3. Approval of Agenda (Deletions/Additions)

4. Consider minutes of May 18, 2019

a. Approve May 18, 2018 LAFCo Minutes

5. Consent Agenda:

- a. *Review and Authorize Claims for March and April 2019*

6. Correspondence:

7. Consent for LAFCo General Counsel to represent County of Calaveras in a lawsuit *Greer et. al v. Calaveras County et al.*

Action: Review memorandum from Colantuono, Highsmith and Whatley, PC dated March 18, 2019 and consider request.

PUBLIC HEARING:

8. Public Hearing - Final Fiscal Year 2019- 2020 LAFCo Budget

- a. *Receive Executive Officer's report and open public hearing regarding the final 2019-2020 fiscal year budget and consider resolution 2019-0005 adopting a final budget for fiscal year 2019-2020*

9. Contract Amendment thereby amending a February 22, 2005 contract between Calaveras LAFCo John Benoit, Contractor for LAFCo Staff Services.

- a. *Consider first amended contract between Calaveras LAFCo and John Benoit, Contractor for LAFCo Staff Services per direction given at the May 18, 2019 LAFCo meeting and authorize the Chair to sign amended contract.*

WORKSHOP:

10. Review Service Review requirements and conduct a goal setting workshop for Calaveras LAFCO with regards to Calaveras LAFCO's role in orderly growth in Calaveras County and discuss the need and methods of achieving reorganization of various services.

- a. *Review March 18th, 2019 minutes (item #9) and provide any additional input if desired.*

11. Legislation: Oppose AB-600, a repeat of SB 1318 which Calafco opposed in 2016 re: Disadvantaged Communities and water and wastewater facilities.

- a. *Authorize the Chair to sign a letter in opposition to the proposed AB-600*

12. Consider being the host for the Spring 2021 Calafco Staff Workshop to be held in Murphys.

- a. *Receive Executive Officer's report and consider being the host for the workshop.*

13. Executive Officer' s report

Calaveras LAFCO

May 20, 2019

a. *Discussion of the Calafco Annual Staff Workshop in San Jose.*

14. LAFCo 101 presentation by LAFCo Staff- Part 1 (a general overview of LAFCo)

15. Commissioners Reports

This item is placed on the agenda for Commissioners to discuss items and issues of concern to their constituency, LAFCo, and legislative matters

16. Public Comment

This is the time set aside for citizens to address the Commission on any item of interest to the public that is within the subject matter jurisdiction of the Commission. For items that were on the agenda, public comment was heard when the item is discussed. If your comments concern an item that is noted as a public hearing, please address the Commission after the public hearing is opened for public testimony. The Chair reserves the right to limit each speaker to three (3) minutes. Please understand that by law, the Commission cannot make decisions on matters not on the agenda.

17. NEXT LAFCo MEETING IS: July 15, 2019 - 6:00 PM San Andreas

The Commission may take action upon any item listed on the agenda. Unless otherwise noted, items may be taken up at any time during the meeting.

Any member appointed on behalf of local government shall represent the interests of the public as a whole and not solely the interest of the appointing authority Government Code Section 56325.1

Public Comment

Members of the public may address the Commission on items not appearing on the agenda, as well as any item that does appear on the agenda, subject to the following restrictions:

- Items not appearing on the agenda must be of interest to the public and within the Commission's subject matter jurisdiction.
- No action shall be taken on items not appearing on the agenda unless otherwise authorized by Government Code Section 54954.2 (known as the Brown Act, or California Open Meeting Law).

Public Hearings

Members of the public may address the Commission on any item appearing on the agenda as a Public Hearing. The Commission may limit any person's input to a specified time. Written statements may be submitted in lieu of or to supplement oral statements made during a public hearing.

Agenda Materials

Materials related to an item on this agenda will be available on the Calaveras LAFCo website as noted below to the extent practicable and subject to staff's ability to post the documents prior to the meeting.

Accessibility

The location of this meeting is wheelchair-accessible.

Disclosure & Disqualification Requirements

Any person or group of persons acting in concert who directly or indirectly contribute \$1,000 or more in support of or in opposition to a change of organization or reorganization that has been submitted to Calaveras LAFCo must comply with the disclosure requirements of the Political Reform Act of 1974 applicable to local initiative measures to be submitted to the electorate. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals; they may be reviewed at Government Code §§56700.1 and 81000 *et seq.* Additional information about the requirements pertaining to local initiative measures to be presented to the electorate can be obtained by calling the Fair Political Practices Commission at (916) 322-5660. A LAFCo Commissioner must disqualify herself or himself from voting on an application involving an "entitlement for use" (such as an

Calaveras LAFCo

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

Contact LAFCO Staff at (209) 754-6511

LAFCO Webpage: www.calaveraslafco.org

Email LAFCO at: j.benoit4@icloud.com

Calaveras Local Agency Formation Commission

Regular Meeting Minutes – Monday, March 18, 2019

- 1. Call to Order/Pledge of Allegiance/Roll Call** – Order was called by Chair Paque at 6:01 p.m., on Monday, March 18, 2019, in the Calaveras County Board of Supervisors Chambers, County Administrative Center, San Andreas, California.

Commissioners Present

Anita Paque, Chair, Public Member
Tony Tyrrell, Vice Chair, Spec. Dist. Mem.
Alvin Broglio, City Member
John Lavaroni, Special Dist. Member
Merita Callaway, County Member
Joseph Oliveira, City Member
Dennis Mills, County Member Alt.
Jon Dashner, Special Dist. Mem. Alt.
Roark Weber, Public Member Alt.

Commissioners Absent

Gary Tofanelli, County Member.
Amanda Folendorf, City Member Alt.

Staff Present

John Benoit, Executive Officer
Nancy Mees, LAFCO Clerk

Others Present

- 2. Approval of Agenda:**

MOTION by Commissioner Oliveira to approve the Agenda, second by Commissioner Tyrrell. Motion passed 7 yes, 0 no, 0 abstention, 0 absent.

- 3. Consider Minutes from the January 28, 2019, LAFCo meeting:**

Cindy Secada, General Manager of Murphy's Sanitary District, stated from the audience that she did not believe the January minutes accurately reflected what she had intended to say at the previous meeting, and she therefore wished to clarify what she had meant: (1) Her response to Commissioner Calloway's question regarding extension of service was intended to say that, due to the location of existing main sewer lines and the distance of potential new construction from them, it might discourage more connections. (2) She also wished to clarify that, although they have had brief discussions with CCWD on the possibility of working together, they are not actually working together for finding ways to help with processing effluent. (3) Lastly, Murphy's Sanitary District has also not had any formal conversations with UPUD regarding any project for providing ag water, although it is something that could be discussed between the two agencies for assisting in future growth for the community.

By consensus, the Commission determined that it would be appropriate to include these clarifications as part of the minutes of this meeting rather than amending the minutes from the January meeting.

MOTION by Commissioner Lavaroni to approve the Minutes as presented, second by Commissioner Tyrrell. Motion passed 7 yes, 0 no, 0 abstention, 0 absent.

4. Consent Agenda:

a. Review and Authorize Claims for January and February 2019.

MOTION by Commissioner Oliveira to approve the Consent Agenda and Claims for January and February 2019 as presented, second by Commissioner Mills. Motion passed 7 yes, 0 no, 0 abstention, 0 absent.

5. Correspondence:

Letter from Special Districts Risk Management Authority (SDRMA).

Executive Officer Benoit reported that the letter from SDRMA informed Calaveras LAFCo that its liability insurance would be increasing five percent this year.

Letter from the California Special Districts Association re Leadership Training.

Mr. Benoit reviewed the letter regarding a leadership training summit that was coming up and reported that scholarships are available, although he will not be attending. Chair Paque pointed out that the letter specified which counties are eligible for the scholarship, and Calaveras is not one of the ones listed.

PUBLIC HEARING

6. Public hearing regarding the Service Review and Sphere of Influence Update for the Murphy's Sanitary District.

Review Service Review and Sphere Update report, conduct Public Hearing, discuss and consider the following:

a. LAFCo Resolution 2019-0001 adopting a Service Review for the Murphy's Sanitary District
Chair Paque reminded everyone that there had been a workshop on this MSR and SOI at the January meeting. She then opened the public hearing.

Commissioner Callaway asked whether Murphy's Sanitary District had also received a letter from SDRMA stating that their liability insurance would be increasing. Ms. Secada responded that they had, and that it was increasing. Commissioner Oliveira asked if LAFCo shopped around for insurance. Executive Officer Benoit replied that he had in the past, but that since Calaveras LAFCo is a member of CSDA, their insurance is the best price.

Commissioner Oliveira commented that Murphy's Sanitary District appears to be more financially stable now, and their capital improvement plan shows that the district and its board are looking forward in their planning. He congratulated them on all that they are now doing.

MOTION by Commissioner Callaway to approve resolution 2019-0001 adopting the Service Review for the Murphy's Sanitary District as presented, second by Commissioner Tyrrell. Motion passed 7 yes, 0 no, 0 abstention, 0 absent.

- b. *LAFCo Resolution 2019-0002 adopting a Sphere of Influence Update for the Murphy's Sanitary District*

Commissioner Lavaroni asked, since he was not at the January meeting, how much larger the sphere would be. Executive Officer Benoit replied that the size and boundaries of the sphere were not being changed in this update.

MOTION by Commissioner Lavaroni to adopt resolution 2019-0002 updating the Sphere of Influence for the Murphy's Sanitary District as presented, second by Commissioner Broglio. Motion passed 7 yes, 0 no, 0 abstention, 0 absent.

7. **Public hearing regarding the initiation of dissolution of County Service Areas #5, #7, #10 and #11 as required by Gov. Code Section 56879(b). The Commission intends to adopt a Resolution initiating the process of dissolution of the CSAs as required after having received notice from the State Controller's Office.**

Consider resolution 2019-0003 initiating the dissolution of County Service Areas #5, #7, #10 and #11 as required by Gov. Code Section 56879(b) and make a finding that CSA #6 (La Contenta) has already been dissolved.

Chair Paque noted that we had received notice from the State Controller's Office requiring these dissolutions.

Executive Officer Benoit explained that this new procedure is the result of the Little Hoover Commission's effort to eliminate districts that are inactive. He reported that the Controller's Office has been communicating with the counties to determine what districts are inactive. Although their letter directs Calaveras LAFCo to dissolve CSA #6, that CSA has already been dissolved. The other CSAs that are still in existence were created as part of tentative subdivisions for the purpose of developing roads and maintaining them. Some of these intended CSAs became Homeowner Associations or other entities instead. The County Auditor has verified that none of these CSAs has had any financial transactions.

Mr. Benoit doesn't believe any easement issues are involved in dissolving these districts, but that would be determined as part of the dissolution process. He would also check with Public Works to see if they know of any easements.

Chair Paque commented that the process would also bring out whether there was anyone that wants any of these districts to continue to exist. If that is the case, then that district would have to do what is necessary to once again become a “legally” operating district.

MOTION by Commissioner Callaway to adopt resolution 2019-0003 initiating the dissolution of CSAs #6, #7, #10 and #11, second by Commissioner Tyrrell. Motion passed 7 yes, 0 no, 0 abstention, 0 absent.

8. Public hearing – Proposed Fiscal Year 2019-2020 LAFCo Budget.

Receive Executive Officer's report and open public hearing regarding the proposed 2019-2020 fiscal year budget and consider resolution 2019-0004 adopting a proposed budget for 2019-2020.

Executive Officer Benoit reported that since 2001, LAFCo costs have been split one-third to the City, one-third to the Special Districts, and one-third to the County, and that those costs haven't changed much in the past 15 years. This next year, however, the amount will have to increase due to increasing state mandates and actions of the Legislature.

The General Reserve will be about \$100,000. As already mentioned, liability insurance will be increasing, and CALAFCo dues will be going up by 16.25%. Total executive officer expenses have been raised by \$2,500, again because of increasing state mandates, and also since that amount has not changed since 2005. This line item also includes clerk time. Mr. Benoit pointed out that some of his time is paid through fee-supported projects.

Executive Office Benoit added that he had done a survey of the salaries of other EOs across the state and found the average to be about \$100/hour. He noted that MSR consultants' charges are even higher. As Mr. Benoit's salary has remained at \$75/hour for the past 14 years, he is requesting an increase and has worked that into the budget.

Mr. Benoit stated that he has budgeted for three Commissioners to go to the annual CALAFCo conference in Sacramento this year. The rest of the budget is basically the same as this past year's.

Executive Officer Benoit answered several Commissioner questions regarding various details of the budget, including explaining that the one-third share paid by the Special Districts is split according to their revenues for the previous year, and that the County Auditor determines those amounts and also collects them. Since MSRs and SOIs are not billable to anyone, the work on them is paid out of the contributions from the City, County and Special Districts.

Chair Paque stated that, after no raise in 14 years, Mr. Benoit deserved an increase. Commissioner Lavaroni said he felt the Commission should go with the \$100/hour average.

MOTION by Commissioner Tyrrell to approve resolution 2019-0004 adopting the proposed 2019-2020 fiscal year budget as presented, and to increase Executive Officer Benoit's hourly rate to \$100, second by Commissioner Lavaroni. Motion passed 7 yes, 0 no, 0 abstention, 0 absent.

Chair Paque closed the public hearing.

WORKSHOP

9. Review Service Review requirements and conduct a goal setting workshop for Calaveras LAFCo with regard to Calaveras LAFCo's role in orderly growth in Calaveras County and discuss the need and methods of achieving reorganization of various services.

Executive Officer Benoit commented that there has been a lot of discussion recently about consolidations, and that sometimes consolidation can be good, but sometimes they are not. He wishes to know what the Commission would like to include in MSRs with respect to influencing orderly growth. Mr. Benoit stated that, due to Prop 18, CSDs are having a harder time getting board members and following all the many legal requirements now imposed on them. The county therefore has a lot of CSDs and CSAs that were set up years ago when there were fewer requirements on them, but that are now struggling to maintain themselves. What should LAFCo do? The county doesn't want them, and the people like maintaining their autonomy.

Mr. Benoit reported that the county EIR will be coming out soon, and that LAFCo should look at it and comment on its growth policies. Commissioner Oliveira commented that the state and DWR are requiring counties to show build-out plans in their General Plans. Mr. Benoit added that they are also requiring plans regarding fire suppression. Commissioner Oliveira commented that sometimes JPAs can be a step that works without having to consolidate.

Executive Officer Benoit stated that possibly a portion of LAFCo's policies could discuss how LAFCo will help deal with these issues. Commissioner Callaway commented that, since the city and county General Plans deal with growth, why does LAFCo need to get involved. Chair Paque replied that a lot of what is in those General Plans comes from LAFCo's MSRs. Mr. Benoit added that LAFCo can also regulate timing of growth issues through the MSRs. Chair Paque suggested looking at our policies to see if what they say needs to be updated to address what the county currently needs.

Commissioner Callaway further commented that she hasn't seen LAFCo comment on ag land usage. Mr. Benoit responded that he hasn't seen a developer plan in years, but that the county knows to contact LAFCo when it is an affected agency in any proposed plan, but that LAFCo is not affected in every proposed plan. Chair Paque added that when development is in an area that already has services and is not expanding boundaries, LAFCo has already

examined any ag land use issues at a prior time. She then suggested sending our policies out to the Special Districts to review and provide input.

Audience member Joe Fontana from Murphy's Sanitary District asked whether LAFCo had any input on the placement of light industry next to a subdivision or issues of that sort. Chair Paque responded that LAFCo does not control zoning. Districts, not developers, come to LAFCo regarding expansion of district boundaries. LAFCo can set requirements regarding services with respect to a development that would extend boundaries, but it cannot address zoning issues. Executive Officer Benoit added that LAFCo can indirectly affect land use through density requirements, requiring new EIRs, etc.

10. Consider authorizing the Chair to sign letters of support for AB 213 (Reyes), VLF revenue backfill for inhabited annexations, and AB 1253 (Rivas) regarding Grants for LAFCOs with Disadvantaged or Severely Disadvantaged Communities.

Executive Officer Benoit explained that AB 213 came about as the result of SB 89 passed in 2011 that had caused a loss of VLF revenue to cities. AB 213's goal is to reinstate that funding. The purpose of AB 1253 is to provide the grant funding that had been removed from some legislation last year, thus causing the Governor to veto that bill as it had no appropriations. This bill provides grants for studying services to disadvantaged communities.

Commissioner Oliveira asked if AB 213 would affect our city, and Mr. Benoit replied that it had not so far. Commissioner Oliveira then asked if there were any restrictions on the grants in AB 1253. Chair Paque responded that any study must be specific to water service in locations where there is poor service, and the grants are specific to LAFCo.

Ms. Secada asked what study LAFCo might do and where the money from these studies was coming from. Chair Paque said the money would come from the General Fund, and that the study could look at such things as who could take over a district that was providing inadequate services, whether a consolidation would work, etc. The study would be dependent on the particular area at which LAFCo was looking.

MOTION by Commissioner Tyrrell to approve the signing of the two proposed letters regarding AB 213 and AB 1253, second by Commissioner Oliveira. Motion passed 7 yes, 0 no, 0 abstention, 0 absent.

11. Executive Officer's Report

a. 700 Forms due to LAFCo – April 1, 2019

Executive Officer Benoit stated that the forms should be filed with him.

b. LAFCo 101 – May 2019 LAFCo meeting.

Mr. Benoit explained that he is having the workshop so that the board is informed about what exactly LAFCo is and what it does.

c. Outreach to the public and agencies regarding LAFCo

Executive Officer Benoit stated that a brochure giving a brief explanation of LAFCo is in this month's packet.

d. Valley Springs Public Utility District MSR and SOI

Mr. Benoit reported that he is currently working on draft MSRs for this and the following three districts. He will meet with each district to go over the draft and discuss whether they are intending to expand their SOIs.

Commissioner Oliveira asked if they would be done in sequence. Mr. Benoit replied that he sends the requests for information out to all of them at the same time, but will complete and present the MSRs and SOIs in a sequence. The last time around all the MSRs were completed and presented as a group, and that was too daunting.

e. Calaveras Public Utility District MSR and SOI

f. San Andreas Sanitary District MSR and SOI

g. Union Public Utility District MSR and SOI

12. Commissioners Reports

Chair Paque reported that she will again be the Conference Chair for the CALAFCO State Conference in October. She told the Commissioners to let her know if there was a topic about which they would like to hear at the conference. Commissioner Callaway suggested a session on how LAFCo relates to city and county EIRs. Where do they come together, where do they conflict?

13. Public Comment:

There was no public comment.

14. Adjournment:

Meeting was adjourned at 7:37 p.m. The next regular meeting will be Monday, May 20, 2019, at 6:00 p.m., in San Andreas.

Minutes submitted by Nancy Mees.

DATED:

APPROVED:

Anita Paque, Chair, or Tony Tyrrell, Vice
Chair, Calaveras Local Agency Formation

CALAVERAS LAFCO
LAFCO CLAIM AUTHORIZATION FORM

for

March and April 2019

Authorize payment of the following claims:

<u>Date of Claim</u>	<u>Description</u>	<u>Amount</u>
FY 2018-2019 Expenses:		
March 18, 2019	Commission meeting stipends	\$ 450.00
April 1, 2019	Staff Svcs and Expenses Mar 19	\$ 3,798.81
May 1, 2019	Staff Svcs and Expenses April 19	\$ 3,208.70
Mar 1, 2019	Valley Spgs News 19-20 Fin Budget	\$ 13.97
TOTAL:		\$ 7,471.48

DATED: May 20, 2019

APPROVED: May 20, 2019

Anita Paque, Chair or Tony Tyrrell, Vice-Chair
Calaveras Local Agency Formation Commission

Attest:

John Benoit
Executive Officer

Item Account Number	Comm Stipends 62001	Insurance 62050	Communications 62051	Memberships 62052	GenOfficeExp 62053	Postage 62054	copies 62055	MSR 62057	SOI 62058	Ex. OFF. Svcs 62059	City Fin Chrg 62060
Total Budgeted	\$ 3,300.00	\$ 1,721.00	\$ 800.00	\$ 925.00	\$ 350.00	\$ 500.00	\$ 1,500.00	\$ 25,000.00	\$ 20,000.00	\$ 42,500.00	\$ 3,600.00
Calafco dues 18-19		\$ (1,198.00)		\$ (925.00)							
SDRMA Insurance 18-19											
reimb JD one night conf. lodging											
Ciafco Conf. reg Tj, JD and AP	\$ (400.00)										
Commission Stipends 7.16.18			\$ (44.36)			\$ (7.97)	\$ (20.60)	\$ (1,050.00)		\$ (3,956.25)	
JB claim staff Svcs July 18 2018-0068			\$ (43.27)			\$ (1.00)	\$ (10.00)	\$ (1,650.00)		\$ (2,062.50)	
Revenue for Metzger and Padou											
JB claim MSR and Svcs Aug 2018	\$ (400.00)					\$ (10.26)	\$ (50.50)	\$ (3,000.00)		\$ (3,225.00)	
Sept 17, 2018 Payroll			\$ (64.96)				\$ (11.00)	\$ (3,000.00)		\$ (3,000.00)	
JB Claim MSR and Services Sept 2018											
JB Claim MSR and SOI Svcs Oct 2018											
Pioneer Review Padou Metzger SOI											
Conf Reimb/Anita Paque											
Conf Reimb - Jon Dashner											
Conf Reimb - Tony Tyrrell											
CSDA 2019 Memb renewal				\$ (500.00)							
Payroll November 19, 2018 Calav Mtg	\$ (400.00)										
REIMBURSEMENT Paque Conf regis 2018											
JB claim MSR and Staff Svcs Nov 2018			\$ (39.38)			\$ (11.04)	\$ (84.40)	\$ (1,075.00)		\$ (3,500.00)	
JB Claim MSR and Services Dec 2018			\$ (39.38)				\$ (15.00)	\$ (1,000.00)		\$ (1,962.50)	
JB Claim MSR and SVCS Jan 2019			\$ (39.36)				\$ (15.10)	\$ (1,000.00)		\$ (2,112.50)	
Payroll Jan 28, 2019	\$ (300.00)										
Staff Svcs Feb 2019			\$ (39.28)			\$ (15.82)	\$ (126.70)	\$ (2,000.00)		\$ (2,462.50)	
Valley Springs News 19-20 Bud.Dissol											
Staff Svcs March 2019			\$ (39.71)		\$ (67.90)		\$ (10.00)		\$ (1,000.00)	\$ (2,600.00)	
Payroll March 18, 2019	\$ (450.00)										
Staff Svcs April 2019			\$ (39.82)			\$ (27.63)	\$ (52.00)		\$ (975.00)	\$ (1,837.50)	
Valley Springs news Fin19-20 Budget											
TOTAL EXPENDED	\$ (1,950.00)	\$ (1,198.00)	\$ (433.32)	\$ (1,425.00)	\$ (67.90)	\$ (73.72)	\$ (395.30)	\$ (13,775.00)	\$ (1,975.00)	\$ (26,718.75)	\$ -
TOTAL REMAINING	\$ 1,350.00	\$ 523.00	\$ 366.68	\$ (500.00)	\$ 282.10	\$ 426.28	\$ 1,104.70	\$ 11,225.00	\$ 18,025.00	\$ 15,781.25	\$ 3,600.00

5/9/19

120 Sierra College Drive, Suite 140
 Grass Valley, CA 95945-5091
 Voice (530) 432-7357
 Fax (530) 432-7356

**COLANTUONO
 HIGHSMITH
 WHATLEY, PC**

Michael G. Colantuono
 (530) 432-7359
 MColantuono@chlwlaw.com

Our File No. 1900293191

March 18, 2019

VIA ELECTRONIC MAIL

John Benoit, Executive Officer
 Calaveras LAFCO
 P.O. Box 2694
 Granite Bay, CA 95746

Re: Consent to Representation of the County of Calaveras

Dear John:

I write to request the Calaveras Local Agency Formation Commission's consent to our firm's representation of Calaveras County in a putative class action lawsuit challenging the County's cannabis registration fees and Measure C cannabis cultivation tax (*Greer et al. v. Calaveras County et al.*, Calaveras Superior Court, No. 18CV43460).

As you know, we represent LAFCO as its General Counsel and the County and LAFCO occasionally have different interests in matters that come before LAFCO.

The informed written consent of all clients is required whenever a law firm represents clients with potentially or actually adverse interests, even in unrelated matters. California Rule of Professional Conduct 1.7 provides, in relevant part:

(a) A lawyer shall not, without the informed written consent* from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter.

...

(d) Representation is permitted under this rule only if the lawyer complies with paragraphs (a), (b), and (c), and:

- (1) the lawyer reasonably believes* that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law; and
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

(Terms followed by asterisks are defined elsewhere in the Rules.)

We believe we can effectively serve as General Counsel of LAFCO and assist the County as to the defense of *Greer et al. v. Calaveras County et al.* because we understand that LAFCO has no interest in or position on the County's cannabis registration fees and Measure C cannabis tax and we will not represent the County on matters affecting LAFCO. Nor are we aware of law which would prohibit our representing the County as to *Greer et al. v. Calaveras County et al.* We will not assert a claim against the County or LAFCO in our service to either.

Whether to grant this consent is a business judgment for LAFCO and it may wish to seek independent advice from other legal counsel regarding it. The pros that we see of granting this consent are that the County will have access to our services as to *Greer et al. v. Calaveras County et al.* It maintains our ability to assist LAFCO in the other matters in which it has retained us, which are of service to the communities both LAFCO and the County serve. The cons we perceive include the potential that we will be viewed as having divided loyalties. We think we can provide effective, able, and energetic service to all our clients notwithstanding these multiple representations, but that is a judgment the County and LAFCO must each make for itself.

By signing below, LAFCO confirms it has carefully considered the advantages and disadvantages of providing the consent we seek and agrees that we may represent it as described above while continuing to represent the County as to *Greer et al. v. Calaveras County et al.* while also serving as your General Counsel, even in matters in which the County has an interest.

John Benoit, Executive Officer
March 18, 2019
Page 3

If you require further information or would like to discuss this further, please let me know.

Very truly yours,

Michael G. Colantuono

Michael G. Colantuono

(Hm)

MGC:aal

On behalf of Calaveras LAFCO, I hereby agree that Colantuono, Highsmith & Whatley, PC may represent the County of Calaveras as referenced above and in other matters in which the County does not have an adverse interest to those of LAFCO while simultaneously serving as General Counsel of LAFCO.

Calaveras LAFCO

Date: _____, 2019

By: _____

Name:

Title:

CALAVERAS LAFCO
EXECUTIVE OFFICER'S REPORT

May 20, 2019

TO: Local Agency Formation Commission
FROM: John Benoit, Executive Officer
RE: Final Budget for FY 2019-2020

A "recommended" budget was presented at the March 18, 2019 meeting along with a justification report, which was adopted. Please refer to the Budget Justification Report from the March LAFCo meeting and the proposed budget report for the March 2019 meeting for detail on each of the items below.

SUMMARY OF EXPENSES:

Commission Clerk This item is budgeted in the Professional Services Category again this year.

Insurance The Commission recommended \$1,807.05 for liability Insurance, which includes a membership to the California Special Districts Association. This will cover the cost of this item for the year. There is a 5% increase from this year.

Commission Stipend The Commission recommended a stipend of \$3,300.00. This is adequate to cover Commissioner Stipends for the year, assuming full attendance at six meetings. This item has been reduced next year since the Commission now only has 6 regular meetings.

Memberships The Commission recommended in its proposed budget \$1,078.05 For Calafco dues. This item has increased 16.05% this year.

Communications Communications is budgeted at \$800.00 this year.

Office Supplies This is a combined budget (copies (\$1,500.00), general (\$350.00), postage (\$500.00).

Professional Services: Professional Services include two categories: Executive Officer and Clerk at \$45,000.00, an increase of \$2,500.00 from this year. Notwithstanding a very complex reorganization or incorporation project for Calaveras LAFCO, this amount should cover LAFCO administration and non complex project processing.

Service Reviews and Sphere of Influence updates This item is budgeted at \$25,000 to continue Service Reviews and \$20,000 is to be budgeted to initiate and continue work on Spheres of Influence. This is a statutory mandatory activity in this case and LAFCO must update and maintain its Service Reviews.

City of Angels Finance Charges \$3,600 is to be budgeted for this activity in accordance with LAFCO's agreement with the City of Angels.

File Scanning and Retention \$6,000 is proposed for file scanning and retention of files for FY 2017-2018.

Legal Notices/Publications The Commission recommended in its proposed budget \$1,000.00 for legal notices.

Training The Commission recommended in its proposed budget \$4,000 for this item. This includes conference registrations for items such as CALAFCO Annual Conference in Sacramento , October 30 –Nov 1, 2018) and Annual Staff Workshop in Spring 2020.

Personal Mileage Reimbursement This category is for reimbursement for mileage incurred in the course of business (\$1,500.00).

Travel Expense Travel Expense includes meals and lodging and other travel expenses in the amount of \$2,000.00.

Legal Counsel LAFCO has been relatively successful in not requiring extensive legal advice in the past several years. LAFCO had a lawsuit in the late 1990's, which has resulted in a substantial costs for LAFCO for legal services. LAFCO has a proposed budget of \$2,500 for this item. It is anticipated additional legal costs will be paid by project proponents, as necessary. If it is a LAFCo initiated action, the districts, the City and the County will ultimately be required to pay the costs.

Special District (Agency) Training This year, the Commission allocated \$5,000 for agency training. Next year no funds are allocated.

Contingency/Reserve The contingency/reserve funds are proposed to total \$100,000 this year per Commission Policy. Any carryover funds exceeding \$137,199 will be placed back into the Reserve Fund.

The amount to be apportioned between the City, Districts and the County is proposed to be \$91,778.88 next year.

Recommendation:

- a. Review, discuss, amend, and consider the Final Budget. A budget justification report for FY was prepared by staff for the adopted proposed budget on March 18, 2019.
- b. Adopt LAFCO Resolution 2019-0005 approving the final LAFCo budget.

Resolution 2019-0005

of the

Calaveras Local Agency Formation Commission

Resolution of the Calaveras Local Agency Formation Commission Adopting a Final Budget for 2019-2020

WHEREAS, Calaveras LAFCO is required by Government Code Section 56381(a) to adopt annually, following a noticed public hearing, a proposed budget by May 1st and a final budget by June 15th; and,

WHEREAS, the Commission has prepared a proposed budget for public review which was adopted on March 18, 2019; and,

WHEREAS, the Executive Officer has prepared a final budget including estimated budgeted carryovers; and

WHEREAS, the Executive Officer has given notice of hearing in the form and manner specified by law for adoption of the final budget and upon the date, time and place specified in said notice of hearing, the Commission heard, discussed and considered all oral and written testimony submitted including, but not limited to, the approved budget priorities for Fiscal Year 2019-2020 and the Executive Officer's report and recommendations; and

WHEREAS, the Commission has considered the attached Budget in light of the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000;

NOW THEREFORE, the Calaveras Local Agency Formation Commission does hereby determine, resolve, and order the following:

1. Notwithstanding item 3 below, that Calaveras LAFCO hereby adopts the attached final 2019-2020 budget service and supplies appropriation of \$119,435.05
2. That Calaveras LAFCO hereby establishes a contingency fund of \$11,943.51 for FY 2019-2020.
3. LAFCO hereby allocates \$100,000.00 for its general reserve fund plus any unrestricted carryover funds from the previous fiscal year.
4. Directs the Executive Officer to transmit the final budget to the County Auditor and all parties specified in Government Code Section 56381 (a) as promptly as possible.
5. The Commission desires to retain any and all carryover funds to fund future Municipal

Service Reviews, special projects, legal expenses, its reserve fund and Spheres of Influence projects as provided for in G.C. Code Section 56381.

6. Request the Auditor collect the funds as required in Section 56381 of the government code and apportion \$74,515.60 between the City, the Special Districts and the County for the operational costs of LAFCO. In the event of non-payment of LAFCO funds by any entity subject to the LAFCO's apportionment, the Commission hereby requests and authorizes the Auditor to collect the funds from property tax revenues or any other revenue source and deposit the funds into the LAFCO account.

PASSED AND ADOPTED by the Calaveras Local Agency Formation Commission at a regular meeting of said Commission held on May 20th , 2019 by the following roll call vote:

AYES: -

NOES: -

ABSTAINS: -

ABSENT: -

Signed and approved by me after its passage this 20th day of May 2019.

Chair or Vice-Chair, Calaveras LAFCO

Attest:

John Benoit, Executive Officer
Calaveras LAFCO

Calaveras LAFCo
Final Budget 2019-2020

EXHIBIT "A"

	2015-2016 Final Budget	2016-2017 FINAL Budget	2017-2018 FINAL Budget	2018-2019 FINAL Budget	2019-2020 Proposed Budget	2019-2020 FINAL Budget
EXPENDITURES						
SERVICES AND SUPPLIES						
62001 Extra Hire - Commissioners Stipend	\$6,600.00	\$6,600.00	\$6,600.00	\$3,300.00	\$3,300.00	\$3,300.00
62050 Insurance	\$1,662.60	\$1,623.60	\$1,623.60	\$1,721.00	\$1,807.05	\$1,807.05
62051 Communications	\$800.00	\$800.00	\$800.00	\$800.00	\$800.00	\$800.00
62052 Memberships - Calafco	\$785.00	\$840.00	\$899.00	\$925.00	\$1,078.00	\$1,078.00
62053 Office Expense - General	\$350.00	\$350.00	\$350.00	\$350.00	\$350.00	\$350.00
62054 Office Expense - Postage	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00
62055 Office Expense - Copies	\$2,000.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00
62056 Water-Wastewater MSR-SOI	\$25,000.00	\$20,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00
62057 Prof Services-(CSD-water-wastewater SOI)	\$20,000.00	\$19,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00
62058 File Scanning and Retention	\$0.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00
62059 Professional Services-Exec. Officer/Clerk	\$42,500.00	\$42,500.00	\$42,500.00	\$42,500.00	\$45,000.00	\$45,000.00
62060 City Finance Charges (formerly A-87)	\$3,600.00	\$3,600.00	\$3,600.00	\$3,600.00	\$3,600.00	\$3,600.00
62061 Legal Notices	\$500.00	\$1,000.00	\$1,000.00	\$1,000.00	\$500.00	\$500.00
62062 Training	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00	\$4,000.00
489.6 Personal Mileage Reimb	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00
62064 Travel Expense	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
62065 Legal Counsel Services and misc Legal Expenses	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
62067 Special Dist. Training	\$5,000.00	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL SERVICES AND SUPPLIES	\$119,297.60	\$119,313.60	\$120,372.60	\$117,196.00	\$119,435.05	\$119,435.05
62066 Contingency Fund	\$11,929.76	\$11,931.36	\$12,037.26	\$11,719.60	\$11,943.51	\$11,943.51
General Reserve Fund	\$70,000.00	\$70,000.00	\$75,000.00	\$75,000.00	\$100,000.00	\$100,000.00
Services, Contingency and Reserve Total	\$201,227.36	\$201,244.96	\$207,409.86	\$203,915.60	\$231,378.56	\$231,378.56
Carryover from prior year	\$120,909.00	\$121,000.00	\$127,000.00	\$127,000.00	\$137,199.68	\$137,199.68
Anticipated Project Revenue	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
Anticipated Interest	\$400.00	\$400.00	\$400.00	\$100.00	\$400.00	\$400.00
Contributions from Governments	\$77,918.36	\$77,844.96	\$78,009.86	\$74,515.60	\$91,778.88	\$91,778.88
AMOUNT TO BE APPORTIONED	\$77,918.36	\$77,844.96	\$78,009.86	\$74,515.60	\$91,778.88	\$91,778.88

CALAVERAS LOCAL AGENCY FORMATION COMMISSION

By: _____
Chair, Calaveras Local Agency Formation Commission

Dated: _____

JOHN BENOIT, Contractor

By: _____
John Benoit

Dated: _____

CALAVERAS LOCAL AGENCY FORMATION COMMISSION

May 20, 2019

The Honorable Kansen Chu
California State Assembly
State Capital Room 3126
Sacramento, CA 95814

Subject: **Oppose AB 600 (as amended April 11, 2019)**

Dear Assembly Member Chu:

The Calaveras Local Agency Formation Commission (LAFCo) joins the California Association of Local Agency Formation Commissions (CALAFCO) to oppose your bill **AB 600**. LAFCOs are aware of and concerned about the disparity of local public services, especially for residents and properties located within disadvantaged unincorporated communities (DUCs). All Californians deserve adequate and safe drinking water and wastewater facilities. We support your efforts to address these problems, which persist in many counties, however **AB 600** in its current version does not represent a collective stakeholder dialogue with reasonable and systemic solutions to the problem.

Annexations concerns and changes proposed to Government Code Section 56375 pose several problems. First, the proposed changes in §56375(a)(8)(A) and (B) seem to confuse the annexation of territory into an incorporated city and the annexation of territory into a special district. When the Legislature created LAFCOs in 1963, one of LAFCOs' primary missions was and still is to ensure orderly growth and development. This is done in a variety of ways including the authority to adopt spheres of influence for local agencies and approve annexations. To ensure orderly growth, when the LAFCo approves a service extension outside the jurisdictional boundary but within the sphere of influence, they do so in anticipation of a later change of organization (annexation), pursuant to §56133(b). Changes to §56375(a)(8)(A) add the exclusion of annexation into a qualified special district.

Further, changes to §56375(a)(8)(B) create an inconsistent exception for protest proceedings which takes away rights that have been long-established in governmental reorganizations in California. The residents of the DUC are afforded the right to file protests for boundary changes but other residents living within a larger annexation boundary that are not part of the DUC would lose their right to protest.

Removes LAFCo discretion. When considering a change of organization pursuant to §56133, LAFCo has the discretion to consider the unique local circumstances and conditions that exist. This is an important and basic construct within the legislatively stated purpose of LAFCOs. This bill removes that discretion and authority through proposed changes to §56375(a)(9), §56425(k)(1) and (2), and §56425 (l).

Lack of clarity. The bill proposes changes to §56301 by adding "considerations of equity" as an additional basis upon which LAFCOs fulfill their purposes. Yet the bill does not define

C/O John Benoit, Executive Officer P.O.Box 2694 Granite Bay, California 95746 - ph.
707.592.7528 email: j.benoit4@icloud.com

CALAVERAS LOCAL AGENCY FORMATION COMMISSION

"considerations of equity", which leads to a wide open interpretation. Each LAFCo will create their own local policies related to "considerations of equity".

Accessibility plans. The bill requires LAFCo, within five years of the approval of an accessibility plan (pursuant to §56440), to hold a noticed public hearing for the purposes of reviewing the status of every DUC that is subject to an accessibility plan. This has the potential of being a vast number of public hearings and comprehensive reviews without the necessary resources to execute such a requirement.

Additionally, the bill requires LAFCo to initiate a change of organization, reorganization or service extension should the commission determine the needs of the DUC remain unaddressed. LAFCo-initiated actions are costly to the LAFCo (as there is no funding source to support the action) and like all other changes of organization or reorganization, are subject to protest proceedings. Further, a service extension without annexation would not be a likely LAFCo-initiated action.

The required contents of the accessibility plan are confusing. First, §56440(a)(5)(A) states: *"Any actions and alternatives necessary to be taken by the commission, if any, to enable the entity determined pursuant to paragraph (2) to provide services to the affected territory."* How is a county, city or special district best positioned and informed to prescribe to the LAFCo commission what actions the LAFCo should be taking?

Second, §56440(a)(6)(B) requires the commission to approve or approve with conditions the accessibility plan. Once again there is a divestiture in LAFCo authority. Further, we fail to see LAFCos' authority to enforce any conditions that may be applied to the accessibility plan.

Third, §56440(a)(2) requires the commission to determine which entity is best positioned to provide adequate water or wastewater services to the affected territory. Without a thorough study of surrounding service providers, this may be difficult to determine.

One size does not fit all. We are concerned that the bill has unintended consequences in the ability to provide necessary services to an existing DUC. For example, if it is reasonable to extend services to a particular DUC but not to others, this bill prevents the extension of services to the area that can reasonably be serviced. The same is true for those areas currently contained within a city's sphere, where it may make better sense to have another service provider providing the service. These changes are complicated by the fact the bill interchangeably uses the term "disadvantaged community" and "disadvantaged unincorporated community".

Creates a significant unfunded mandate to LAFCo and local agencies. The studies, analysis, preparation of recommendations regarding underserved disadvantaged communities and public hearings on all accessibility plans and potential subsequent actions initiated by LAFCo that would be required, all impose unfunded mandates on counties, cities, qualified special districts and LAFCos. By law LAFCo is forced to pass their costs on to cities, counties – and in 30 counties – special districts, which fund the commissions.

C/O John Benoit, Executive Officer P.O.Box 2694 Granite Bay, California 95746 - ph. 707.592.7528 email: j.benoit4@icloud.com

CALAVERAS LOCAL AGENCY FORMATION COMMISSION

We support workable and sustainable policy solutions to the disparities in service delivery to disadvantaged communities. However a major obstacle remains the infrastructure and operational funding for these services. We believe that addressing the needs of disadvantaged communities through the planning process and finding tools to support the infrastructure deficiencies and implementation actions remain a very important part of the solution.

For all of the reasons noted above, Calaveras LAFCo is opposed to **AB 600**. Please contact me should you have any questions.

Sincerely,

Calaveras LAFCo Chair

Cc: Members, Assembly Local Government Committee
Jimmy MacDonald, Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
Pamela Miller, Executive Director, CALAFCO