

AGENDA LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

SPECIAL COMMISSION MEETING
Wednesday, February 2, 2022

10:00 a.m.

The Commission will hold this meeting virtually only, without a physical location for public participation. The meeting is accessible by phone or video conference and livestreaming, in order to avoid public gatherings and until further notice.

Public Participation Instructions

1. **To View this Meeting:** Please click on the following link to the LAFCO of Monterey County YouTube site: <https://www.youtube.com/channel/UCIF6pPx2hn3Ek94Wg0UI7QA>

Then click on the Live Stream of the scheduled meeting.

2. **To Participate in the Meeting:** Use the Zoom app on your smart phone, laptop, tablet or desktop and click on this link: <https://montereycty.zoom.us/j/94732555068>.

The meeting ID is: [947 3255 5068](#). There is no password. To make a public comment, please “Raise your Hand.”

3. **To Participate by Phone:** Please call: +1 669 900 6833
Enter the meeting ID: [947 3255 5068](#) when prompted. There is no participant code – just enter the meeting ID and the pound sign # after the recording prompts you. To make a public comment by phone, please push *9 on your phone keypad.
4. **To Make Remote Public Comments Via Email:** Written comments can be emailed to the Interim Clerk to the Commission at: malukis@monterey.lafco.ca.gov Please include the following Subject Line: “Public Comment – Agenda Item #__”. Written comments must be received by 12:00 Noon, Tuesday, February 1, 2022. All submitted comments will be provided to the Commission for consideration, compiled as part of the record, and may be read into the record.

Call to Order

Roll Call

Pledge of Allegiance

General Public Comments

Anyone may address the Commission briefly about items not already on the Agenda.

Closed Session

1. [Pursuant to Government Code Section 54956.9\(d\)\(2\), the Commission will confer with legal counsel regarding one matter of significant exposure to litigation.](#)

Public Comments on Closed Session Items

The Commission Recesses for Closed Session Agenda Items

Closed Session may be held at the conclusion of the Commission's Regular Agenda, or at any other time during the course of the meeting, before or after the scheduled time, announced by the Chairperson of the Commission. The public may comment on Closed Session items prior to the Board's recess to Closed Session.

Reconvene on Public Agenda Items

Roll Call

Read Out from Closed Session by LAFCO General Counsel

Read out by General Counsel will only occur if there is reportable action (s).

Consent Agenda

2. [Approve finding, pursuant to AB 361 and in order for the Commission to continue to meet remotely, that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; that the Commission has reconsidered the circumstances of the state of emergency; and that the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies.](#)

Recommended Action: Pursuant to AB 361 and in order for the Commission to continue to meet remotely, the Commission finds: that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; that the Commission has reconsidered the circumstances of the state of emergency; and that the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies of local agencies.

3. [Approve Draft Minutes from the January 24, 2022 LAFCO Regular Meeting.](#)

Recommended Action: Approve Minutes.

Adjournment to the Next Meeting

The next LAFCO Regular Meeting is scheduled for Monday, February 28, 2022 at 4:00 p.m. and will be held virtually only by phone, video conferencing and livestreamed.

Alternative Formats and Facility Accommodations: If requested, the agenda packet will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 USC 12132) and the federal rules and regulations adopted in implementation thereof. Also, if requested, facility or other accommodations will be made for persons with disabilities. Please contact (831) 754-5838 for assistance.

CLOSED SESSION

1. Pursuant to Government Code Section 54956.9(d)(2), the Commission will confer with legal counsel regarding one matter of significant exposure to litigation.

LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

LOCAL AGENCY FORMATION COMMISSION
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KATE McKENNA, AICP
Executive Officer

DATE: February 2, 2022

TO: Chair and Members of the Formation Commission

FROM: Kate McKenna, AICP, Executive Officer

BY: Kelly Donlon, General Counsel

SUBJECT: Approve finding, pursuant to AB 361 and in order for the Commission to continue to meet remotely, that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; that the Commission has reconsidered the circumstances of the state of emergency; and that the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies.

SUMMARY OF RECOMMENDATION:

Pursuant to AB 361 and in order for the Commission to continue to meet remotely, the Commission finds: that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; that the Commission has reconsidered the circumstances of the state of emergency; and that the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies of local agencies.

EXECUTIVE OFFICER'S REPORT:

On September 16, 2021, Governor Newsom signed AB 361. This legislation amends the Brown Act to allow meeting bodies subject to the Brown Act to meet via teleconference during a proclaimed state of emergency in accordance with teleconference procedures established by AB 361 rather than under the Brown Act's more narrow standard rules for participation in a meeting by teleconference. AB 361 provides that if a state or local health official recommends social distancing, a "legislative body" – which is defined to include the Commission – may meet remote remotely after September 30, 2021, provided that within 30 days of the first meeting after September 30, and every 30 days thereafter, the legislative body finds 1) the Governor's proclaimed state of emergency is still in effect; 2) the legislative body has reconsidered the circumstances of the state of emergency, and 3) the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies and/or the state of emergency continues to directly impact the ability of the members to meet safely in person.

The Monterey County Health Officer has recommended and continues to recommend social distancing measures for meetings of legislative bodies, so the Commission was able to meet remotely under AB 361

from October 2021 through January 2022.

The Commission must make the findings at least every 30 days in order to keep meeting remotely. If the Commission makes the findings at a special meeting on February 2, 2022, the Commission may continue to meet remotely for the next thirty days. If the Commission declines to make the findings on February 2, the next regular Commission meeting on February 28 would be held under the standard Brown Act requirements. Under those requirements, the meeting must be held in a physical location accessible to the public, and if any Commissioner were to want to participate by teleconference, that teleconference location would need to be identified on the agenda, be accessible and open to the public in a manner that enables the public to participate from that location, and the agenda would need to be posted at that location.

LAFCO Counsel Kelly Donlon was consulted in the preparation of this report.

Respectfully Submitted,



Kate McKenna, AICP
Executive Officer

LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

2022

Commissioners

Chair

Christopher Lopez
County Member

Vice Chair

Mary Ann Leffel
Special District Member

Luis Alejo

County Member

Wendy Root Askew

County Member, Alternate

Kimbley Craig

City Member

Matt Gourley

Public Member

Ian Oglesby

City Member

Warren Poitras

Special District Member

Steve Snodgrass

Public Member, Alternate

Graig R. Stephens

Special District Member, Alternate

Anna Velazquez

City Member, Alternate

Counsel

Kelly L. Donlon

General Counsel

Executive Officer

Kate McKenna, AICP

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DRAFT MINUTES

LOCAL AGENCY FORMATION COMMISSION
OF MONTEREY COUNTY

Scheduled for Adoption February 2, 2022

Monday, January 24, 2022

All Commissioners and public participated in the meeting on Monday, January 24, 2022 by Zoom video conference or telephone, in order to avoid public gatherings and until further notice.

Call to Order

The Local Agency Formation Commission was called to order by Chair Lopez at 4:00 p.m.

Roll Call

Commissioner Root Askew
Commissioner Craig
Commissioner Gourley
Commissioner Oglesby
Commissioner Poitras
Commissioner Snodgrass
Commissioner Stephens
Commissioner Velazquez
Chair Lopez
Vice Chair Leffel

Members Absent (Excused Absence)

Commissioner Alejo

Staff Present

Kate McKenna
Jonathan Brinkmann, Senior Analyst
Safarina Maluki, Interim Clerk to the Commission/Office Administrator

Also Present

Kelly L. Donlon, General Counsel

Pledge of Allegiance

Commissioner Oglesby led the Pledge of Allegiance.

Closed Session

1. Kelly Donlon, General Counsel advised that there were no items for closed session.

General Public Comments

There were no comments from the public.

Consent Agenda

2. Approve finding, pursuant to AB 361 and in order for the Commission to continue to meet remotely, that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; that the Commission has reconsidered the circumstances of the state of emergency; and that the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies.

Recommended Action: Approve finding.

3. Approve Draft Minutes from the January 5, 2022 LAFCO Special Meeting.

Recommended Action: Approve Minutes.

4. Approve Warrant Register for December 2021.

Recommended Action: Approve warrant register.

5. Accept Report on Anticipated Agenda Items and Progress Report on LAFCO Special Studies.

Recommend Action: Accept report

6. Approve Report on Activities of the California Association of Local Agency Formation Commissions.

Recommended Action: Accept report

Agenda Item #4 was pulled by Vice Chair Leffel for a question regarding itemization of charges. Executive Officer, Kate McKenna responded and advised the item would be corrected.

Commissioner Action:

Upon motion by Commissioner Poitras, seconded by Commissioner Leffel, Consent Items #2 -#6 were approved by a Roll Call Vote.

Motion Carried (Roll Call Vote)

AYES: Commissioner Root Askew (voting in the absence of Commissioner Alejo), Craig, Gourley, Oglesby, Poitras, Leffel and Lopez

NOES: None

ABSENT: Commissioner Alejo

ALTERNATES: Commissioners Snodgrass, Stephens, Velazquez (non-voting)

ABSTAIN: None

Public Hearing

7. Conducting Authority (“Protest) Proceedings to Consider any Written Protests Regarding an Approved Annexation to Monterey Peninsula Water Management District (LAFCO File No. 21-01).

Note: This Item does not affect the District’s proposed activation of latent powers.

Recommended Actions:

- (1) Receive a report from the Executive Officer;
- (2) Open the public hearing and receive any public comments;
- (3) Provided for any questions or follow-up discussion by the Commission;
- (4) Closed the public hearing, and
- (5) Move to approve a draft resolution (Attachment 1) ordering the annexation, if the Commission determines that insufficient written protests have been received to require an election or to terminate proceedings.

Executive Officer, Kate McKenna gave a report. Senior Analyst, Jonathan Brickmann gave the staff report.

There was a comment from a public member and from MPWMD GM, David Stoldt.

Commissioner Root Askew asked a question and Commissioner Snodgrass provided background comments.

Commissioner Action:

Commissioner Leffel made a motion, with a second by Commissioner Oglesby to adopt the resolution (Attachment 1) that formalizes and puts into effect the Commission’s December 6, 2021 decision to deny the District’s proposed activation of latent powers to provide and maintain potable water production and distribution for retail customers.

- (1) Received the Executive Officer’s report and the staff report from Senior Analyst, Jonathan Brickmann;
- (2) There were two (2) public comments;
- (3) Public hearing was closed;
- (4) There was a question from Commissioner Root Askew and comments from Commissioner Snodgrass
- (5) The Commission moved to approve a draft resolution (Attachment 1) ordering the annexation to Monterey Peninsula Water Management District (LAFCO File No. 21-01).

Motion Carried (Roll Call Vote):

AYES: Commissioners Root Askew (voting in the absence of Commissioner Alejo), Craig, Gourley, Oglesby Poitras, Leffel and Lopez

NOES: None

ABSENT: Commissioner Alejo

ALTERNATES: Commissioners Snodgrass, Stephens, Velazquez (non-voting)

ABSTAIN: None

Executive Officer’s Communications

8. Communications

- a) Possible Formation of Pajaro Valley Healthcare District
- b) Memoriam: Barbara Shipnuck

Executive Officer, Kate McKenna presented the report and answered questions. The report was for information only, including a memorial of Barbara Shipnuck, retired LAFCO Commissioner.

Commissioner Comments

There were no comments from the Commissioners.

Adjournment to the Next Meeting

The meeting was adjourned at 4:21 p.m. The next Special LAFCO Meeting is scheduled for Wednesday, February 2, 2022 at 10:00 p.m.