

**2024**

**Commissioners**

**Chair**

Matt Gourley  
*Public Member*

**Vice Chair**

Kimbley Craig  
*City Member*

Mary Adams

*County Member*  
*(pending swearing in)*

Wendy Root Askew

*County Member*

Mike Bikle

*Public Member, Alternate*

David Kong

*Special District Member, Alternate*

Mary Ann Leffel

*Special District Member*

Chris Lopez

*County Member, Alternate*  
*(pending swearing in)*

Ian Oglesby

*City Member*

Warren Poitras

*Special District Member*

Anna Velazquez

*City Member, Alternate*

**Counsel**

**Reed Gallogly**

*General Counsel*

**Executive Officer**

**Kate McKenna, AICP**

**132 W. Gabilan Street, #102**  
**Salinas, CA 93901**

*P. O. Box 1369*  
*Salinas, CA 93902*

*Voice: 831-754-5838*

[www.monterey.lafco.ca.gov](http://www.monterey.lafco.ca.gov)

**AGENDA**  
**LOCAL AGENCY FORMATION**  
**COMMISSION**  
**OF MONTEREY COUNTY**

**Regular Meeting**  
**Monday, January 22, 2024**  
**3:00 P.M.**

**Board of Supervisors Chambers**  
**First Floor**  
**Monterey County Government Center**  
**168 West Alisal Street,**  
**Salinas, California**

This meeting will be conducted in person at the Monterey County Government Center, Salinas. The Public may attend the meeting, participate by Zoom app, or view the meeting on LAFCO's YouTube channel.

## Instructions for Remote Public Participation

1. **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/98228893780>  
  
The meeting ID is: [982 2889 3780](https://montereycty.zoom.us/j/98228893780). There is no password. To make a public comment, please “Raise your Hand.” Please state your first and last name before addressing the Commission.
2. **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.
3. **To Participate by Phone:** Please call: +1 669 900 6833  
Enter the meeting ID: [982 2889 3780](https://montereycty.zoom.us/j/98228893780) 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. Please state your first and last name before addressing the Commission.
4. **To Make Public Comments Via Email:** Written comments can be emailed to the Clerk to the Commission at: [malukis@monterey.lafco.ca.gov](mailto:malukis@monterey.lafco.ca.gov). Please include the following Subject Line: “Public Comment – Agenda Item #\_\_”. Written comments must be received by noon on day of the meeting. All submitted comments will be provided to the Commission for consideration, compiled as part of the record, and may be read into the record.

PLEASE NOTE: If all Committee Members are present in person, public participation by Zoom is for convenience only and is not required by law. If the Zoom feed is lost for any reason, the meeting may be paused while a fix is attempted but the meeting may continue at the discretion of the Chairperson.

**AGENDA**  
**REGULAR COMMISSION MEETING**  
**Monday, January 22, 2024**

Call to Order

Roll Call

Pledge of Allegiance

General Public Comments

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

Special Business

1. [Resolution of Appreciation for Outgoing County Member Commissioner \(Regular\) – Supervisor Glenn Church.](#)  
Recommended Action: Receive a presentation by Chair Gourley and adopt a Resolution of Appreciation to Commissioner Glenn Church for his service on LAFCO.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
  
2. [Oath of Office for County Member Commissioners \(Regular\) Mary Adams and \(Alternate\) Chris Lopez.](#)  
Recommended Action: It is recommended that Chair Gourley administer the Oath of Office to Commissioners Mary Adams and Chris Lopez upon their appointments to LAFCO for terms ending on May 3, 2027.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
  
3. [Oath of Office for City Member Commissioner \(Alternate\) Anna Velazquez.](#)  
Recommended Action: It is recommended that Chair Gourley administer the Oath of Office to Commissioner Anna Velazquez upon her re-appointment to LAFCO for a term ending on May 1, 2028.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378)

Public Comments on Closed Session Item

Closed Session

The Commission Recesses for Closed Session Agenda Item

*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.*

4. [Pursuant to Government Code Section 54956.9 \(d\)\(1\), the Commission will confer with legal counsel regarding existing litigation: Monterey Peninsula Water Management District v. Local Agency Formation Commission of Monterey County; Commissioners of the Local Agency Formation Commission of Monterey County; and DOES 1 through 20, \(Monterey County Superior Court Case No. 22CV000925\).](#)  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378)

## 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

*All items on the Consent Agenda will be approved in one motion and there will be no discussion on individual items, unless a Commissioner or member of the public requests a specific item to be pulled from the Consent Agenda for separate discussion.*

5. [Approve Draft Minutes from the November 27, 2023 Special LAFCO Commission Meeting.](#)  
Recommended Action: Approve minutes.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
6. [Approve Draft Minutes from the December 4, 2023 Regular LAFCO Commission Meeting.](#)  
Recommended Action: Approve minutes.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
7. [Approve Draft Minutes from the January 11, 2024 Special LAFCO Commission Meeting.](#)  
Recommended Action: Approve minutes.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
8. [Accept the November 30, 2023 Draft Balance Sheet and Income Statement.](#)  
Recommended Action: Accept statements for information only.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
9. [Accept the December 31, 2023 Draft Balance Sheet and Income Statement.](#)  
Recommended Action: Accept the statements for information only.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
10. [Accept Report on Anticipated Agenda Items and Progress Report on LAFCO Special Studies.](#)  
Recommended Action: Accept report for information only.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
11. [Accept Report on Activities of the California Association of Local Agency Formation Commissions.](#)  
Recommended Action: Accept report for information only.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

### Old Business

12. [Consider Adoption of a Resolution Adding Section III \(Policy Implementation Guidelines for Agricultural Mitigation\) to the Commission's Adopted Policy for Preservation of Open-Space and Agricultural Lands.](#)

#### Recommended Actions:

1. Receive a report from staff and legal counsel;
2. Receive public comments;
3. Review and discuss draft Policy Implementation Guidelines for Agricultural Mitigation (Attachment 1, Exhibit A) prepared by staff and counsel following the November 27 and December 4, 2023 workshop sessions on LAFCO's policies and implementation practices for agricultural preservation and mitigation;
4. Provide any additional changes or refinements to the draft Guidelines; and

5. Adopt the Guidelines by authorizing the Commission Chair to sign a resolution (Attachment 1) amending the Commission's adopted 2010 Policy for Preservation of Open-Space and Agricultural Lands by adding a new Section III, Policy Implementation Guidelines for Agricultural Mitigation; or provide other direction to staff.

(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

13. [Receive a Training from General Counsel on Rosenberg's Rules of Order and Consider Proposed Amendments to the LAFCO Rules and Regulations "Bylaws" to: \(1\) Change the Commission's Parliamentary Procedures from Robert's Rules of Order to Rosenberg's Rules of Order, and \(2\) Add a Code of Conduct and Rules of Decorum \(Continued from the December 4, 2023 Regular LAFCO Meeting\).](#)

Recommended Actions:

1. Receive a report from the Executive Officer;
2. Receive a training from LAFCO General Counsel on the use of Rosenberg's Rules of Order;
3. Receive any public comments (Attachment 1);
4. Provide for questions or follow-up discussion by the Commission; and
5. Consider adoption of a resolution (Attachment 3) updating the LAFCO Rules and Regulations ("Bylaws") for the Orderly and Fair Conduct of Hearings.

(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

## New Business

14. [LAFCO Budget and Finance Committee Appointments](#)

Recommended Action: It is recommended that the Commission confirm the Chair's 2024 nominations for the LAFCO Budget and Finance Committee: Commissioners Mary Ann Leffel, Ian Oglesby and Chris Lopez.

(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

## Executive Officer's Communications

*The Executive Officer may make brief announcements about LAFCO activities, for information only.*

## Commissioner Comments

*Individual Commissioners may comment briefly on matters within the jurisdiction of LAFCO. No discussion or action is appropriate, other than referral to staff or setting a matter as a future agenda item.*

## Adjournment to the Next Meeting

The next regular LAFCO Meeting is scheduled for **Monday, February 26, 2024 at 3:00 p.m. at the Monterey County Government Center.**

*The Political Reform Act requires that a participant in a LAFCO of Monterey County proceeding who has a financial interest in a change of organization or reorganization proposal and who has made a campaign contribution of more than \$250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission's staff before the meeting.*

*Pursuant to Government Code Section 54957.5, public records that relate to open session agenda items that are distributed to a majority of the Commission less than seventy-two (72) hours prior to the meeting will be made available to the public on the LAFCO of Monterey County website at [www.monterey.lafco.ca.gov](http://www.monterey.lafco.ca.gov).*

***AMERICANS WITH DISABILITIES ACT (ADA):*** All regular and special meeting agendas and associated reports are available at [www.monterey.lafco.ca.gov](http://www.monterey.lafco.ca.gov). Any person with a disability under the ADA may receive a copy of the agenda or associated reports upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, to participate in a public meeting. Requests for copies of meeting documents and accommodations must be made with LAFCO of Monterey County staff at (831) 754-5838 at least three business days prior to the respective meeting.

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LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

LOCAL AGENCY FORMATION COMMISSION  
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KATE McKENNA, AICP  
Executive Officer

DATE:                      January 22, 2024  
TO:                              Chair and Members of the Formation Commission  
FROM:                      Kate McKenna, AICP, Executive Officer  
SUBJECT:                      Resolution of Appreciation – Glenn Church  
CEQA:                      Not a Project under California Environmental Quality Act Guidelines Section 15378.

**SUMMARY OF RECOMMENDATION:**

It is recommended that the Commission receive a presentation by Chair Gourley and adopt a Resolution.

**EXECUTIVE OFFICER’S REPORT:**

On January 9, 2024, the Monterey County Board of Supervisors approved changes in LAFCO representation for 2024 as recommended by incoming Board Chair Glenn Church. Supervisor Church stepped down from his seat on LAFCO as part of the changes. The Commission will act on a Resolution of Appreciation for Commissioner Church’s distinguished service in the past year as a County Member representative on the Local Agency Formation Commission of Monterey County.

The ceremonial Resolution has been delivered to Commissioner Church.

Respectfully Submitted,



Kate McKenna, AICP  
Executive Officer

LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

RESOLUTION 24-01 IN APPRECIATION OF  
*GLENN CHURCH*

FOR DISTINGUISHED SERVICE AS COUNTY COMMISSIONER

*WHEREAS*, Commissioner Glenn Church served with distinction as a County (Regular) Member to the Local Agency Formation Commission from January 2023 through December 2023 working to encourage the orderly growth of local government agencies, to preserve agricultural lands, to discourage urban sprawl, and to ensure efficient delivery of local government services; and

*WHEREAS*, the Commission expresses its sincere gratitude and appreciation to Commissioner Glenn Church for his significant contributions to the goals and ideals of the Commission in the consideration of Annexation and Sphere of Influence applications, Municipal Service Reviews, policies, procedures, work programs and budgets; and

*WHEREAS*, the Commission also desires to recognize Commissioner Glenn Church for specific contributions to LAFCO during his tenure, including approval of the 2023 Municipal Service Review and Sphere of Influence Study for Greenfield Area Public Agencies, approval of the City of Gonzales' Gloria Road Agricultural Cooler application, and his collaborative leadership contributions to developing updates to LAFCO's Agricultural Preservation and Mitigation policies and implementation guidelines.

*NOW, THEREFORE*, the Commission hereby expresses its appreciation to Commissioner Glenn Church for his dedicated service to the Local Agency Formation Commission of Monterey County, to his community and the people of Monterey County, and wishes him every success in his duties as Chair of the Monterey County Board of Supervisors in 2024.



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MATT GOURLEY  
LAFCO CHAIR

JANUARY 22, 2024  
SALINAS, CALIFORNIA

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KATE MCKENNA, AICP,  
EXECUTIVE OFFICER





LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

KATE McKENNA, AICP  
Executive Officer

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DATE: January 22, 2024  
TO: Chair and Members of the Formation Commission  
FROM: Kate McKenna, AICP, Executive Officer  
PREPARED BY: Safarina Maluki, Clerk to the Commission/Office Administrator  
SUBJECT: Oath of Office for County Member Commissioners  
CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378.

**SUMMARY OF RECOMMENDATION:**

It is recommended that the Commission Chair Gourley administer the Oath of Office to County Supervisors Mary Adams and Chris Lopez upon their appointments to LAFCO seats with terms ending on May 3, 2027.

**EXECUTIVE OFFICER'S REPORT:**

In accordance with Government Code Section 56325(a), the Commission shall consist of three Board of Supervisors: two regular members and one alternate member representing the County of Monterey. The County appointments are typically approved at the first meeting of the calendar year and are valid for the remainder of the calendar year unless modified by action of the Board of Supervisors.

Supervisor Mary Adams has served since January 2023 as the Alternate County Member Commissioner and was reassigned as a Regular County Member Commissioner at the January 9, 2024 Board of Supervisors meeting. Supervisor Chris Lopez was newly appointed to serve as the Alternate County Member Commissioner during the same meeting. Terms of office for these LAFCO seats will end on May 3, 2027.

Article 20, Section 3 of the California Constitution and Government Code Section 1360 requires the taking of an oath upon entering office or being re-appointed to office.

Chair Gourley will administer the oath to Commissioners Adams and Lopez, who will then take their seats on the Commission.

Respectfully Submitted,



Kate McKenna, AICP  
Executive Officer

Attachment: Oath of Office for Commissioners Adams and Lopez

Attachment 2.1

Oath of Office  
Supervisor Mary Adams

# LAFCO *of Monterey County*

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LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

## **Oath of Office**

**Commissioner Mary Adams**

Do you, Mary Adams, solemnly swear that you will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that you will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties upon which you are about to enter?

Attachment 2.2

Oath of Office  
Supervisor Chris Lopez

# LAFCO *of Monterey County*

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LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

## **Oath of Office**

**Commissioner Chris Lopez**

Do you, Chris Lopez, solemnly swear that you will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that you will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties upon which you are about to enter?

# LAFCO *of Monterey County*

## LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

KATE McKENNA, AICP  
Executive Officer

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DATE: January 22, 2024  
TO: Chair and Members of the Formation Commission  
FROM: Kate McKenna, AICP, Executive Officer  
SUBJECT: Oath of Office for City Member Commissioner (Alternate)  
CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378.

### SUMMARY OF RECOMMENDATION:

It is recommended that Chair Gourley administer the Oath of Office to Commissioner Anna Velazquez upon her re-appointment to LAFCO for a term that ends on May 1, 2028.

### EXECUTIVE OFFICER'S REPORT:

In accordance with State law, on January 5, 2024, the Monterey County City Selection Committee re-appointed City of Soledad Mayor Anna Velazquez to serve as a City Member Commissioner (Alternate) to LAFCO. Her current term of office expires in May 2024. Her second term will begin on May 6, 2024 and expire on May 1, 2028.

Article 20, Section 3 of the California Constitution and Government Code Section 1360 requires the taking of an oath upon entering office or being re-appointed to office. Chair Gourley will administer the oath to Commissioner Velazquez.

Respectfully Submitted,



Kate McKenna, AICP  
Executive Officer

Attachment: Oath of Office

cc: Valerie Ralph, Secretary to the City Selection Committee, County of Monterey

Attachment 3.1

Oath of Office  
Mayor Anna Velazquez

# LAFCO *of Monterey County*

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LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

## **Oath of Office**

**Commissioner Anna Velazquez**

Do you, Anna Velazquez, solemnly swear that you will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that you will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties upon which you are about to enter?



CLOSED SESSION

1. Pursuant to Government Code Section 54956.9(d)(1), the Commission will confer with legal counsel regarding existing litigation: *Monterey Peninsula Water Management District v. Local Agency Formation Commission of Monterey County; Commissioners of the Local Agency Formation Commission of Monterey County; and DOES 1 through 20*, (Monterey County Superior Court Case No. 22CV000925).

Attachment 4.1

Public Comment Letter  
Closed Session  
Re: MPWMD Latent Powers

January 14, 2024

Dear LAFCO Board and Staff:

Subject: Public Comment for Agenda Item #1, Closed Session,  
MPWMD "Latent Powers," January 22, 2024

I come before you as a concerned citizen with a desire to express my support for Monterey Peninsula Water Management District's situation vis-à-vis its application for recognition of its long-established, since June 6, 1977, founding under California Assembly Bill AB1329 wherein its "latent powers" had been stipulated. The Water District is authorized in Part 4, Sections 301 and 328 as follows: (a) "The district shall have the power to acquire public or private water systems necessary or proper to carry out the purpose of the law." Section 301 (d) provides the following: "To appropriate and acquire water and water rights and to import water." And, important to this situation, Section 301 stipulates that "The district may exercise the powers which are expressly granted by this law, together with such powers as are reasonably implied from such express powers and necessary and proper to carry out the objects and purposes of the district."

The reference to "latent powers" in this letter is intended to identify the "actual powers" embodied in the MPWMD authorizing statute's plain language, but which have become commonly referred to as "latent" as a result of the now court invalidated LAFCO decision from last year. Additionally, it is vital that LAFCO abide by the LAFCO governing law, Cortese-Knox-Hertzberg (CKH) Act that directs LAFCO to base its decisions on factors that benefit the public as a whole, and not based on special interests of appointing authorities. In this case, the public as a whole clearly includes the Measure J voters who overwhelmingly approved Measure J,

making MPWMD's application in total to be aligned with the CKH Act, meriting full approval.

From my perspective and understanding, I respectfully submit this urging that LAFCO, considering the recent Monterey Superior Court decision that the related LAFCO denial be set aside, that LAFCO re-consider its past decision in order to encompass the full parameters of this water position. My reasons are as follows:

1. The state statutes establishing the MPWMD and enabling its functioning as a bona fide water management system clearly set in writing that the district does have implied powers or latent powers to activate water distribution activities according to community water supply needs. The district began providing retail water distribution services in the 1990's, before the state legislature revised Community Services District Law statutes in 2005 via Chapter 249 and California Government Code Sections 61001-61250. This reorganization accords LAFCO, in Article 1.5, 61106 (a), authority to approve latent powers: "If a board of directors desires to exercise a latent power, the district shall first receive approval of the local agency formation commission." This new statute came approximately ten years after MPWMD activated its "latent powers" or "implied powers" per the original law establishing its existence. Therefore, these MPWMD so-called "latent powers" are in reality "actual powers" because they have been in full force operation as of the mid 1990's. Section 61002 (h) lists those "latent powers," but the operations of the MPWMD are not included in that list of services and facilities as far as I could see. Again, MPWMD is exercising its "actual powers" as lawfully delineated. Let us not allow semantics to obfuscate or confuse truth and facts.
2. Since the district had the authority per its foundational legal charter, it proceeded to activate its "implied powers" or "latent powers" due to community water needs, as provided for in the law. At that time, there was no requirement to apply to LAFCO for approval as approval was already an inherent legal stipulation in the establishing statutes enacted in June 1977. For this reason, MPWMD already had the approval to proceed. No requirement, to my knowledge, existed at that time to report to LAFCO.

MPWMD set a precedent by its activation, fully within the state legislature's legal stipulations. MPWMD acted in good faith. Why would MPWMD now be required to apply for approval for that which had already been lawfully approved and activated? Most baffling was the LAFCO denial and CalAm's false assertion that latent powers do not exist, followed by its threat of yet another lawsuit expense to charge to its ratepayers. Notwithstanding, one could conclude that CalAm is correct, because those so-called "latent powers" are indeed in fact "actual powers" – therefore they are not latent.

3. Since MPWMD was already a work in progress by the time the newly revised LAFCO governing statute was formulated and became law, it would seem logical, reasonable, legally substantiated that MPWMD's "latent powers" should be considered "grandfathered in" to recognize that MPWMD had prior legal approval within its foundational charter to expand its earlier operations to include retail water delivery services due to new escalating community needs.
4. It seems unfair to me that MPWMD must now go again to seek approval for a work it has been performing in an outstanding manner long before this requirement to apply first to LAFCO existed.
5. Since LAFCO approved the MPWMD application for a boundary expansion to its existing jurisdiction, adding 58 additional parcels, logic indicates that the "latent powers" to service those parcels would be automatically included. Why? Because once LAFCO had approved this jurisdiction boundary expansion, MPWMD immediately acquired permission to include those parcels as part of its already existing water service as provided in the original authorizing legislation. MPWMD is required by law to service all that fall within its boundaries, to include the new parcels. Given that MPWMD had responsibility after LAFCO approval of its jurisdictional boundaries, MPWMD also had legal authority to deliver water services to those parcels, thus expanding the scope of its water service that is covered under its original foundational charter statutes.
6. This means, I think, that the latent powers application made in tandem with the boundary expansion application was a coordination action to clarify and ensure no ambiguity pertaining to the MPWMD service area obligations to provide water service to these newly added parcels. Acknowledgement as approval seems to be the right course of action.

7. As part of the process, “latent powers” or correctly “actual powers” existence acknowledgement was sought due to the legal obligation to fulfill Measure J’s voter mandate that MPWMD has been tasked to honor under our constitution, the law of the land. Not only does MPWMD stand on the law in state statutes to undertake its proposed water distribution service, but it also incurred a responsibility to a higher law, the Constitution of the United States of America. The voters found that their present water service provider had not fulfilled its duty, having incurred a Cease-and-Desist Order to stop illegally over pumping the Carmel River, but instead it engaged in serious disruptions and obstructions to impede the development of any urgently needed new water supplies, refusing to sign a Water Purchase Agreement for Pure Water Monterey Expansion that cost the rate payers an additional \$250,000 to update a SEIR, and caused a two year delay in commencing infrastructure construction. The Cease-and-Desist Order (CDO) resulted in our water agencies having their hands tied behind their backs to fulfill another state mandate to provide affordable housing for the Peninsula’s workforce. Why? Because the CDO engendered a state moratorium on all new water meters, thereby creating a two-edged sword: state mandate to stop water pumping with a moratorium and a simultaneous state mandate to build new affordable housing having been precluded due to this levied Carmel River CDO. Like the proverbial paradox, and ethical dilemma, in French philosopher, Jean Buridan’s ‘Buridan’s Ass’, that portrays a donkey caught between two bales of hay, and not being able to eat of either one, died of starvation, our water systems were caught in a state-mandated catch-22 deadlock. CalAm caused water shortages, and did all it could to focus on shareholder profit while obstructing development of new water supplies being fulfilled. Our public water agencies, MPWMD, M1W, and MCWD are the heroic ones that succeeded in saving the Peninsula from CalAm water rationing threats with their nationally acclaimed water recycling and ASR (Aquifer Storage and Recovery) projects.
8. All the valid and easily provable legitimate grievances are expounded on in the MPWMD Resolution of Necessity with 83 Findings. The shocking dereliction of duty on the part of the present private for-profit, investor-owned water system is not to be taken lightly. Measure J is a direct result of CalAm’s unsustainable, ruthless exploitation of our water, our people, our environment.

9. In conclusion, I urge LAFCO to acknowledge the existing law that authorized MPWMD's "latent powers" ("actual powers") that stands up to scrutiny. Please do not allow further financial or other harms to continue to anguish our communities. Marina alone has spent \$9 million in CalAm litigation costs, fighting for environmental justice and freedom from water theft and tyranny for more than a decade, money diverted from being used to support other critical community needs, a burden so unfair to a designated disadvantaged community. Neighbor AGLand Trust and other senior overlying water rights owners suffered much as well from CalAm's ill-advised actions. We need justice and truth to prevail. The facts tell the truth. Let this issue be resolved amicably and justly in favor of MPWMD. Surely the MPWMD's exceptional fortitude in the face of menacing and overwhelming obstacles make MPWMD stand out as a stellar role model of what a public agency should be. Its development, along with M1W and MCWD, of new water supplies is solid testimony to its inherent trustworthiness and engineering feats garnering national awards for its recycled water projects and financial awards for transparency and forthright reporting. By contrast, CalAm invaded a neighboring water supply jurisdiction without permit or water rights to start depleting the already critically over-drafted Salinas Valley Groundwater Basin aquifers, endangered by seawater intrusion, that CalAm's slant well operations exacerbated. Need one be reminded of the Carmel River and Seaside Basin CalAm-triggered water shortages and seriously declining endangered species, such as steelhead trout and red-legged frog, disasters? Or water surcharges based on non-accomplished CalAm projects? Going forward in our water saga, It is imperative that our water not be weaponized for political purposes or corporate profiteering. With the Monterey Peninsula having unsustainable water bills 50% higher than other comparable water systems, MPWMD, as a designated public agency, like Marina Coast Water District, will provide not-for-profit affordable water. Its recycled water projects and Seaside Basin aquifer restoration on-going endeavors, along with run-off capture plans, bode well for the state lifting its CDO moratorium, allowing new water hook-ups and affordable housing construction, thereby removing moratorium gridlock, just as Biblical David knocked out evil giant Goliath with one sling shot stone. MPWMD is unquestionably a proven pro-active, valiant, impressive problem-solving winner!

Thank you so much for your consideration. Truly, our survival is at risk as is the well-being of many ESHA. May God bless you and inspire you to act with righteousness to honor the constitutional rights of We the People.

Very respectfully,

/s/Margaret-Anne Coppernoll/s/

Margaret-Anne Coppernoll, Ph.D.

Email: [mcopperma@aol.com](mailto:mcopperma@aol.com)

Marina



LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

**2024**

**Commissioners**

**Chair**

Matt Gourley  
*Public Member*

**Vice Chair**

Kimbley Craig  
*City Member*

Mary Adams

*County Member, Alternate*

Wendy Root Askew

*County Member*

Mike Bikle

*Public Member, Alternate*

Glenn Church

*County Member*

David Kong

*Special District Member, Alternate*

Mary Ann Leffel

*Special District Member*

Ian Oglesby

*City Member*

Warren Poitras

*Special District Member*

Anna Velazquez

*City Member, Alternate*

**Counsel**

Reed Gallogly

*General Counsel*

**Executive Officer**

Kate McKenna, AICP

132 W. Gabilan Street, #102  
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Special Meeting *DRAFT MINUTES*  
LOCAL AGENCY FORMATION COMMISSION  
OF MONTEREY COUNTY

*Scheduled for Adoption January 22, 2024*

Monday, November 27, 2023  
Monterey Room – Second Floor  
Monterey County Government Center  
168 West Alisal Street  
Salinas, California

*All Commissioners and public participated in the meeting on Monday, November 27, 2023 in person or by Zoom video conference.*

**Call to Order**

The Local Agency Formation Commission was called to order by Chair Gourley at 2:00 p.m.

**Roll Call**

Commissioner Root Askew  
Commissioner Bikle  
Commissioner Church  
Commissioner Kong  
Commissioner Leffel  
Commissioner Oglesby  
Commissioner Poitras  
Commissioner Velazquez  
Vice Chair Craig  
Chair Gourley

Arrived at 2:10 p.m.

**Members Absent (Excused Absence)**

Commissioner Adams

**Staff Present**

Kate McKenna, AICP, Executive Officer  
Darren McBain, Principal Analyst  
Jonathan Brinkmann, Senior Analyst  
Safarina Maluki, Clerk to the Commission/Office Administrator

**Also Present**

Reed Gallogly, General Counsel

## Pledge of Allegiance

All Commissioners participated in the Pledge of Allegiance.

## New Business

1. Conduct Workshop Regarding LAFCO's Policies and Implementation Practices for Agricultural Preservation and Mitigation.

### Recommended Actions:

1. Receive a report from the Executive Officer;
2. Receive public comments;
3. Conduct a Commission workshop on LAFCO's policies and implementation practices for agricultural preservation and mitigation;
4. Consider
  - a. Affirming the Commission's adopted (2010) Policy for Preservation of Open-Space and Agricultural Lands; and
  - b. Providing direction on a draft Policy Implementation Guidelines document to guide how the existing Policy should be applied to future City annexations of farmland;
5. Direct staff to:
  - a. Bring back a refined Policy Implementation Guidelines document, reflecting outcomes of today's workshop discussion, to the January 22, 2024 regular meeting for consideration and adoption; or
  - b. If the Commission determines that more review and discussion of next steps is warranted after today's workshop, then continue this agenda item to the December 4, 2023 regular meeting; or
6. Provide other direction to staff.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

Executive Officer McKenna introduced the Commission Workshop. Chair Gourley welcomed Commissioners and members of the public and outlined the objectives and goals of the workshop.

Principal Analyst McBain presented the report.

There were comments from twenty (20) members of the public.

There was Commission discussion and comments on whether or not to affirm the existing (2010) policy for Preservation of Open Space and Agricultural Lands (4a). By general direction, the Commission deferred consideration of 2010 policy (4a) until first providing direction on draft Policy Implementation Guidelines (4b).

Commissioner Craig made the motion to move the agenda item to the next Regular Meeting on Monday, December 4, 2023, to allow the workshop to continue for another half hour. The motion was seconded by Chair Gourley.

Motion Carried (Voice Vote):

AYES:	Commissioners: Root Askew, Church, Leffel, Oglesby, Poitras, Vice Chair Craig, Chair Gourley
NOES:	Commissioners: None
ALTERNATES:	Commissioners: Bikle, Kong, Velazquez (Non-Voting)
ABSENT:	Commissioners: Adams
ABSTAIN:	Commissioners: None

Commissioner discussion continued.

The Commission provided general direction to General Counsel to research options (such as deferring mitigation to future phases) for the time of implementing agricultural mitigation requirements.

Chair Gourley polled the Commissioners about continuing the workshop to occur at the next LAFCO Commission Meeting on December 4 and to start immediately following the completion of the Regular Meeting agenda. All Commissioners were in agreement.

### Adjournment to the Next Meeting

Chair Gourley adjourned the special meeting/workshop at 4:59 pm.

The next Regular LAFCO Meeting is scheduled for Monday, December 4, 2023 at 3:00 p.m. at the Monterey County Government Center (168 W. Alisal Street).

*The Political Reform Act requires that a participant in a LAFCO of Monterey County proceeding who has a financial interest in a change of organization or reorganization proposal and who has made a campaign contribution of more than \$250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission's staff before the hearing.*

*Pursuant to Government Code Section 54957.5, public records that relate to open session agenda items that are distributed to a majority of the Commission less than seventy-two (72) hours prior to the meeting will be made available to the public on the LAFCO of Monterey County website at [www.monterey.lafco.ca.gov](http://www.monterey.lafco.ca.gov).*

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LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

**2024**

**Commissioners**

**Chair**

Matt Gourley  
*Public Member*

**Vice Chair**

Kimbley Craig  
*City Member*

Mary Adams

*County Member, Alternate*

Wendy Root Askew  
*County Member*

Mike Bikle

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*Regular Meeting DRAFT MINUTES*  
**LOCAL AGENCY FORMATION COMMISSION  
OF MONTEREY COUNTY**

*Scheduled for Adoption January 22, 2024*

Monday, December 4, 2023

Board of Supervisors Chambers

Monterey County Government Center

168 West Alisal Street

Salinas, California

*All Commissioners and public participated in the meeting on Monday, December 4, 2023 in person or by Zoom video conference.*

**Call to Order**

The Local Agency Formation Commission was called to order by Chair Gourley at 3:04 p.m.

**Roll Call**

Commissioner Adams Arrived at 3:06 p.m.

Commissioner Root Askew

Commissioner Bikle

Commissioner Church

Commissioner Kong

Commissioner Leffel

Commissioner Oglesby

Commissioner Poitras

Commissioner Velazquez

Arrived at 3:24 p.m.

Vice Chair Craig

Chair Gourley

**Members Absent (Excused Absence)**

None

**Staff Present**

Kate McKenna, AICP, Executive Officer

Darren McBain, Principal Analyst

Jonathan Brinkmann, Senior Analyst

Safarina Maluki, Clerk to the Commission/Office Administrator

### Also Present

Karen Campbell, CPA, Senior Audit Manager, Bianchi, Kasavan & Pope, LLP  
Reed Gallogly, General Counsel

### Pledge of Allegiance

All Commissioners participated in the Pledge of Allegiance.

### General Public Comments

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

There were no public comments.

### Closed Session

◆ Commissioner Oglesby recused himself from the Closed Session item for this meeting and all future meetings as a member of the Monterey Peninsula Water Management District Board of Directors.

◆ Commissioner Adams recused herself from the Closed Session item for this meeting and all future meetings as Chair of the Monterey Peninsula Water Management District Board of Directors.

### The Commission Recesses for Closed Session Agenda Item

*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.*

The Commission ADJOURNED to Closed Session at 3:05 p.m.

### Public Comments on Closed Session Item

1. Pursuant to Government Code Section 54956.9 (d)(1), the Commission will confer with legal counsel regarding existing litigation: Monterey Peninsula Water Management District v. Local Agency Formation Commission of Monterey County; Commissioners of the Local Agency Formation Commission of Monterey County; and DOES 1 through 20, (Monterey County Superior Court Case No. 22CV000925). (CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

There were no public comments on the Closed Session item.

### Reconvene on Public Agenda Items

The Commission RECONVENED to Open Session at 3:49 p.m.

### Roll Call

Commissioner Adams  
Commissioner Root Askew  
Commissioner Bikle  
Commissioner Church  
Commissioner Kong  
Commissioner Leffel  
Commissioner Oglesby  
Commissioner Poitras  
Commissioner Velazquez  
Vice Chair Craig  
Chair Gourley

## Read Out from Closed Session by LAFCO General Counsel

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

General Counsel Reed Gallogly advised that there were no reportable items.

## Consent Agenda

All items on the Consent Agenda will be approved in one motion and there will be no discussion on individual items, unless a Commissioner or member of the public requests a specific item to be pulled from the Consent Agenda for separate discussion.

2. Draft Minutes from the October 23, 2023 Regular LAFCO Commission Meeting.  
Recommended Action: Approve minutes.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
3. Approve Draft Notes from the November 8, 2023 Budget & Finance Committee Meeting.  
Recommended Action: Approve notes  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378)
4. Adopt the Year-End Financial Statements for the Fiscal Year ending June 30, 2023.  
Recommended Action (By Budget & Finance Committee): Adopt the official year- end financial statements for the period ending June 30, 2023.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378)
5. Adopt the Quarterly Financial Statements for Period Ending September 30, 2023.  
Recommended Action (By Budget & Finance Committee): Adopt the financial statements for the period that ended on September 30, 2023.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378)
6. Accept the October 31, 2023 Draft Balance Sheet and Income Statement..  
Recommended Action (By Budget and Finance Committee): Accept statements for information only.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
7. Approve Replenishment of the Litigation Reserve.  
Recommended Action (By Budget & Finance Committee): Authorize a balance sheet transfer of approximately \$193,000 from Account No. 3850 (Unreserved Fund) to Account No. 3800 (Reserve for Litigation) to replenish the Litigation Reserve to the target policy level of \$300,000.00  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
8. Accept Report on Anticipated Agenda Items and Progress Report on LAFCO Special Studies.  
Recommended Action: Accept report for information only.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

There were no public or Commissioner requests to pull items for separate discussion.

### Commissioner Action:

Upon motion by Commissioner Leffel, seconded by Commissioner Oglesby, the Commission approved Consent Agenda Items #2 - #8 by a voice vote.

Motion Carried: (Voice Vote)

AYES: Commissioners: Root Askew, Church, Leffel, Oglesby, Poitras, Vice Chair Craig,  
Chair Gourley  
NOES: Commissioners: None  
ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)  
ABSENT: Commissioners: None  
ABSTAIN: Commissioners: None

## Old Business

9. Consideration of the Draft 2023 Municipal Service Review and Sphere of Influence Study for Five Greenfield Area Public Agencies (Continued from the October 23, 2023 Regular LAFCO Meeting).

### Recommended Actions:

1. Receive a report from the Executive Officer;
2. Provide for questions or follow-up discussion by the Commission;
3. Consider the Public Review Draft 2023 *Municipal Service Review and Sphere of Influence Study* for the City of Greenfield, Greenfield Fire Protection District, Greenfield Memorial District, Greenfield Public Recreation District, and Greenfield Cemetery District (“Study,” Attachment 1); and
4. Consider and adopt a resolution (Attachment 2) to:
  - a. Find the action exempt from provisions of the California Environmental Quality Act; (CEQA) under Sections 15306 and 15061(b)(3) of the CEQA Guidelines)
  - b. Adopt the Study and make the recommended Municipal Service Review and Sphere of Influence determinations in accordance with Government Code sections 56430(a) and 562425(e);
  - c. Affirm the currently adopted spheres of influence of the City of Greenfield and four special districts, with no changes; and
  - d. Authorize the Executive Officer to proceed with identified corrective measures to address the Greenfield Memorial, Public Recreation, and Cemetery Districts’ non-compliance with state legal requirements and best practices.

(CEQA: Categorical Exemption, California Environmental Quality Act Guidelines Sections 15306 and 15061(b)(3)).

Executive Officer McKenna introduced the agenda item. Senior Analyst Brinkmann presented the report.

There were comments from two (2) members of the public.

There was Commissioner discussion.

### Commissioner Actions:

Commissioner Root Askew made the motion to adopt the resolution; adopt the 2023 Municipal Service Review and Sphere of Influence Study and Determinations for the Five Greenfield Area Public Agencies; find the action exempt from provisions of the California Environmental Quality Act (CEQA) under Sections 15306 and 15061 (b) (3) of the CEQA Guidelines; affirm the currently adopted spheres of influence of the City of Greenfield and four special districts, with no changes; and authorize the Executive Officer to proceed with identified corrective measures to address the Greenfield Memorial, Public Recreation and Cemetery Districts’ non-compliance with state legal requirements and best practices. The motion was seconded by Commissioner Leffel. Motion passed unanimously by voice vote.

Motion Carried: (Voice Vote)

AYES: Commissioners: Root Askew, Church, Leffel, Oglesby, Poitras, Vice Chair Craig,  
Chair Gourley

NOES: Commissioners: None

ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)

ABSENT: Commissioners: None

ABSTAIN: Commissioners: None

### New Business

10. Consideration of the Final Annual Audit Report for Fiscal Year Ending June 30, 2023.  
Recommended Actions (By the Budget & Finance Committee):

- (1) Receive the Executive Officer's Report;
  - (2) Receive a presentation from Ms. Karen Campbell, CPA, Senior Audit Manager, Bianchi, Kasavan & Pope, LLP;
  - (3) Receive any public comments;
  - (4) Provide for any questions for follow-up discussion by the Commission; and
  - (5) Adopt the final audit for the fiscal year ending June 30, 2023.
- (CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

Executive Officer McKenna introduced the agenda item. Ms. Karen Campbell, CPA and Senior Audit Manager with Bianchi, Kasavan & Pope presented the annual audit report.

There were no comments from the public.

There were comments from Commissioner Leffel.

Commissioner Actions:

Upon motion from Commissioner Leffel, seconded by Commissioner Root Askew, the Commission unanimously voted to adopt the final audit for the fiscal year ending June 30, 2023.

Motion Carried: (Voice Vote):

AYES: Commissioners: Root Askew, Church, Leffel, Oglesby, Poitras, Vice Chair Craig  
Chair Gourley

NOES: Commissioners: None

ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)

ABSENT: Commissioners: None

ABSTAIN: Commissioners: None

11. Consider Proposed Amendments to the LAFCO Rules and Regulations "Bylaws" to Change the Commission's Parliamentary Procedures from Robert's Rules of Order to Rosenberg's Rules of Order, and to Add a Code of Conduct and Rules of Decorum.

Recommended Actions:

1. Receive a report from the Executive Officer;
2. Receive any public comments;
3. Provide for questions or follow-up discussion by the Commission;



4. Consider adoption of a resolution (Attachment 1) updating the LAFCO Rules and Regulations (“Bylaws”) for the Orderly and Fair Conduct of Hearings; and
5. Consider receiving a training from LAFCO General Counsel on the use of Rosenberg’s Rules of Order at the January 24, 2024 Regular Commission meeting.  
(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

Executive Officer McKenna introduced the agenda item. Senior Analyst Brinkmann presented the report.

There were no comments from the public or Commissioners.

There were questions and comments from the Commissioners, answered by General Counsel and Staff. There was Commissioner discussion.

Upon a motion by Commissioner Leffel with a second from Commissioner Poitras, the Commission continued Agenda Item #11 to the Regular Meeting on January 22 to be voted on, after receiving training from General Counsel on the use of Rosenberg’s Rules of Order.

Motion Carried: (Voice Vote):

AYES: Commissioners: Root Askew, Church, Leffel, Oglesby, Poitras, Vice Chair Craig  
Chair Gourley  
NOES: Commissioners: None  
ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)  
ABSENT: Commissioners: None  
ABSTAIN: Commissioners: None

## Public Hearing

12. Consider a Proposed Castroville Community Services District Minor Sphere of Influence Amendment and Out-of-Agency Wastewater Service Extension for Existing Buildings on the West Side of Struve Road in the Moss Landing Area of Unincorporated Monterey County (Approximately 5.5-Acre Portion of APN: 413-012-014), LAFCO File 23-02.

### Recommended Actions:

- 1.) Receive a report from the Executive Officer;
- 2.) Open the public hearing and public comment period, receive any public comments and close the public hearing;
- 3.) Provide for questions or follow-up discussion by the Commission; and
- 4.) Consider a resolution approving Castroville Community Service District’s proposed minor sphere of influence amendment and out-of-agency wastewater service extension to the subject site.

(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

Executive Officer McKenna introduced the agenda item. Senior Analyst Brinkmann presented the report.

Eric Tynan, General Manager of Castroville Community Services District addressed the Commission.

There were no comments from the public.

Upon a motion by Commissioner Church, with a second from Commissioner Leffel, the Commission unanimously adopted a resolution approving the Castroville Community Service District's minor Sphere of Influence Amendment and out-of-agency wastewater service extension on the subject site.

Motion Carried: (Voice Vote):

AYES: Commissioners: Root Askew, Church, Leffel, Oglesby, Poitras, Vice Chair Craig  
Chair Gourley  
NOES: Commissioners: None  
ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)  
ABSENT: Commissioners: None  
ABSTAIN: Commissioners: None

### **Executive Officer's Communications**

*The Executive Officer may make brief announcements about LAFCO activities, for information only.*

There were no announcements from the Executive Officer.

### **Commissioner Comments**

*Individual Commissioners may comment briefly on matters within the jurisdiction of LAFCO. No discussion or action is appropriate, other than referral to staff or setting a matter as a future agenda item.*

There were no Commissioner comments.

### **Continued from November 27, 2023: Commission Workshop on LAFCO's Policies and Implementation Practices for Agricultural Preservation and Mitigation**

#### **13. Conduct Workshop Regarding LAFCO's Policies and Implementation Practices for Agricultural Preservation and Mitigation.**

##### **Recommended Actions:**

1. Receive any updated or new information from LAFCO staff and legal counsel;
2. Receive public comments;
3. Resume the discussion from the November 27, 2023 Commission workshop on LAFCO's policies and implementation practices for agricultural preservation and mitigation;
4. At the conclusion of the discussion, consider
  - a. Affirming the Commission's adopted (2010) Policy for Preservation of Open-Space and Agricultural Lands; **and**
  - b. Providing direction on a draft Policy Implementation Guidelines document to guide how the existing Policy should be applied to future City annexations of farmland;
5. Direct staff to bring back a refined Policy Implementation Guidelines document, reflecting outcomes of today's workshop discussion, to the January 22, 2024 regular meeting for consideration and adoption; or
6. Provide other direction to staff.

(CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

Executive Officer McKenna introduced the agenda item. Principal Analyst McBain provided a recap of the previous November 27 workshop session and briefly reviewed the recommended objective of developing a set of written Policy Implementation Guidelines to guide future implementation of the Commission's adopted 2010 Policy for Preservation of Open-Space and Agricultural Lands .

General Counsel Gallogly provided discussion of the policy implementation options presented under Discussion Areas #1 through 4 in Attachment 2 to the November 27 Executive Officer's report. Executive Officer McKenna provided additional comments.

There were comments from twelve (12) members of the public.

Commissioner discussion of the individual policy implementation Discussion Areas 1-4 ensued.

### **#1 – Timing of implementing agricultural mitigation requirements**

Motion #1

Commissioner Leffel made a motion that the Commission move forward with a phased process of implementing agricultural mitigation requirements. Commissioner Craig seconded the motion.

Motion Carried: (Voice Vote):

AYES: Commissioners: Root Askew, Church Leffel, Oglesby, Poitras, Vice Chair Craig, Chair Gourley

NOES: Commissioners: None

ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)

ABSENT: Commissioners: None

ABSTAIN: Commissioners: None

Commissioner discussion continued.

Motion #2

Commissioner Leffel motioned that an approved annexation proposal is 100 acres or less, it would be recorded as one single action. If it is 101 acres or more, the approved annexation would be recorded in increments of at least 25% . Motion seconded by Commissioner Craig.

Motion Carried: (Voice Vote):

AYES: Commissioners: Root Askew, Church, Leffel, Oglesby, Poitras, Vice Chair Craig, Chair Gourley

NOES: Commissioners: None

ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)

ABSENT: Commissioners: None

ABSTAIN: Commissioners: None

Following additional discussion, the Commission made the motion more definitive and restated the motion with clearer language.

Motion #2 Restated:

Commissioner Leffel restated the motion that if an approved annexation proposal is 100 acres or less, then the entire approval would be recorded as one single action with appropriate agricultural mitigation in compliance with LAFCO's procedures. Approved annexations greater than 100 acres

may be incrementally phased in with no more than four (4) subsequent recordation actions, with each increment including at least 25% of the originally approved annexation acreage. Commissioner Craig seconded the motion.

Motion Carried: (Roll Call Vote):

AYES: Commissioners: Leffel, Oglesby, Poitras, Vice Chair Craig, Chair Gourley  
NOES: Commissioners: Root Askew, Church  
ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)  
ABSENT: Commissioners: None  
ABSTAIN: Commissioners: None

## **#2 – Methods for implementing agricultural mitigation requirements**

### **#2a – How mitigation should be provided (i.e., types of mitigation)**

There were Commissioner questions, answered by staff.

Commissioner Root Askew made a motion for staff to develop more specific guidance for how mitigation should be provided, including provisions for how in-lieu fees can be structured to avoid a loss in value between the time in-lieu fees are determined and when the fees are actually paid. The motion is consistent with Option C as shown in Attachment 2 but with the third bullet omitted and with the overriding consideration that conservation easements are generally preferred. Commissioner Church seconded the motion.

Motion Carried: (Roll Call Vote):

AYES: Commissioners: Root Askew, Church, Leffel, Oglesby, Poitras, Vice Chair Craig  
Chair Gourley  
NOES: Commissioners: None  
ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)  
ABSENT: Commissioners: None  
ABSTAIN: Commissioners: None

### **#2b – Where mitigation lands (conservation easement receiver sites) should be provided**

There was Commissioner discussion.

Commissioner Leffel motioned that agricultural mitigation lands are to be located in the same community in which the annexation is proposed, but the mitigation land could be extended to other areas with comparable (“like-for-like”) soils within Monterey County if no suitable mitigation lands can be located in the same community after a good-faith effort. Commissioner Craig seconded the motion.

Motion Carried: (Roll Call Vote):

AYES: Commissioners: Root Askew, Church, Leffel, Oglesby, Poitras, Vice Chair Craig  
Chair Gourley  
NOES: Commissioners: None  
ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)  
ABSENT: Commissioners: None  
ABSTAIN: Commissioners: None

## #2c – How much agricultural mitigation should be provided (ratio and criteria)

There was Commissioner discussion.

Commissioner Leffel motioned that agricultural mitigation should be provided at a 1-to-1 ratio – meaning one acre of mitigation provided for each acre of applicable farmland being annexed – and should occur on lands with equivalent or higher farmland mapping designations – i.e. “like-for-like or better” with regard to mapping designations. The motion was seconded by Commissioner Poitras.

Motion Carried: (Roll Call Vote):

AYES: Commissioners: Leffel, Oglesby, Poitras, Vice Chair Craig, Chair Gourley  
NOES: Commissioners: Root Askew, Church  
ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)  
ABSENT: Commissioners: None  
ABSTAIN: Commissioners: None

## #3 – Potential exceptions from mitigation requirements

There was Commissioner discussion.

Commissioner Leffel motioned that the Commission establish specific exceptions and ask staff and counsel to come back with further analysis and discussion of the possibility of excepting annexation proposals with specific types of planned land uses. Potential exceptions to be evaluated by staff and counsel include 100% affordable housing, agricultural-related facilities, and schools. The motion was seconded by Commissioner Oglesby.

Motion Carried: (Roll Call Vote):

AYES: Commissioners: Leffel, Oglesby, Poitras, Vice Chair Craig, Chair Gourley  
NOES: Commissioners: Root Askew, Church  
ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)  
ABSENT: Commissioners: None  
ABSTAIN: Commissioners: None

## #4 – Lands subject to agricultural mitigation requirements

Commissioners held discussion and asked questions of staff.

Commissioner Church made a motion that agricultural mitigation should be provided for lands being annexed that are designated as either Prime Farmland or Farmland of Statewide Importance on the State of California Department of Conservation’s Important Farmlands Maps as of the date of the Commission’s adoption of LAFCO’s agricultural mitigation implementation guidelines. Mitigation should also be provided for any lands that are changed (added) to one of these categories on future versions of the maps. Chair Gourley seconded the motion.

Motion Carried: (Roll Call Vote):

AYES: Commissioners: Root Askew, Church, Oglesby, Chair Gourley  
NOES: Commissioners: Leffel, Poitras, Vice Chair Craig  
ALTERNATES: Commissioners: Adams, Bikle, Kong, Velazquez (Non-Voting)  
ABSENT: Commissioners: None  
ABSTAIN: Commissioners: None

## Adjournment to the Next Meeting

Chair Gourley adjourned the meeting at 7:16 p.m.

A Special Closed Session Meeting is scheduled for Thursday, January 11, 2024 at 1:00 p.m. at the Monterey County Government Center (168 W. Alisal Street).

The Regular LAFCO Meeting will be held on Monday, January 22, 2024 at 3:00 p.m. at the Monterey County Government Center (168 W. Alisal Street).

*The Political Reform Act requires that a participant in a LAFCO of Monterey County proceeding who has a financial interest in a change of organization or reorganization proposal and who has made a campaign contribution of more than \$250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission's staff before the hearing.*

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**2024**

**Commissioners**

**Chair**

Matt Gourley  
*Public Member*

**Vice Chair**

Kimbley Craig  
*City Member*

Mary Adams

*County Member, Alternate*

Wendy Root Askew

*County Member*

Mike Bikle

*Public Member, Alternate*

Glenn Church

*County Member*

David Kong

*Special District Member, Alternate*

Mary Ann Leffel

*Special District Member*

Ian Oglesby

*City Member*

Warren Poitras

*Special District Member*

Anna Velazquez

*City Member, Alternate*

**Counsel**

Reed Gallogly

*General Counsel*

**Executive Officer**

Kate McKenna, AICP

132 W. Gabilan Street, #102  
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**Special Meeting *DRAFT MINUTES***  
**LOCAL AGENCY FORMATION COMMISSION**  
**OF MONTEREY COUNTY**

*Scheduled for Adoption January 22, 2024*

Thursday, January 11, 2024  
Board of Supervisors Chambers  
Monterey County Government Center  
168 West Alisal Street  
Salinas, California

*All Commissioners and public participated in the meeting on Thursday, January, 11, 2024 in person or by Zoom video conference.*

**Call to Order**

The Local Agency Formation Commission was called to order by Chair Gourley at 1:01 p.m.

**Roll Call**

Commissioner Adams                   ♦Recused  
Commissioner Root Askew  
Commissioner Kong  
Commissioner Leffel  
Commissioner Oglesby               ♦Recused  
Commissioner Poitras  
Commissioner Velazquez  
Vice Chair Craig  
Chair Gourley

**Members Absent (Excused Absence)**

Commissioner Bikle

**Staff Present**

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

**Also Present**

Reed Gallogly, General Counsel

## Pledge of Allegiance

All Commissioners participated in the Pledge of Allegiance.

## General Public Comments

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

Executive Officer McKenna advised the Commission of appointment changes as confirmed by the Board of Supervisors on January 9<sup>th</sup>.

## Closed Session

◆ Commissioner Oglesby recused himself from the Closed Session item for this meeting and all future meetings as a member of the Monterey Peninsula Water Management District Board of Directors.

◆ Commissioner Adams recused herself from the Closed Session item for this meeting and all future meetings as Chair of the Monterey Peninsula Water Management District Board of Directors.

## The Commission Recesses for Closed Session Agenda Item

*Closed Session may be held at the conclusion of the Commission's Special Meeting 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.*

The Commission ADJOURNED to Closed Session at 1:04 p.m.

## Public Comments on Closed Session Item

1. Pursuant to Government Code Section 54956.9 (d)(1), the Commission will confer with legal counsel regarding existing litigation: Monterey Peninsula Water Management District v. Local Agency Formation Commission of Monterey County; Commissioners of the Local Agency Formation Commission of Monterey County; and DOES 1 through 20, (Monterey County Superior Court Case No. 22CV000925). (CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

There were no public comments on the Closed Session item.

## Reconvene on Public Agenda Item

The Commission RECONVENED to Open Session at 2:03 p.m.

## Roll Call

Commissioner Root Askew  
Commissioner Kong  
Commissioner Leffel  
Commissioner Poitras  
Commissioner Velazquez  
Vice Chair Craig  
Chair Gourley

## Read Out from Closed Session by LAFCO General Counsel

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

General Counsel Reed Gallogly advised that there were no reportable items.



## Adjournment to the Next Meeting

Chair Gourley adjourned the meeting at 2:04 p.m.

The next regular LAFCO Meeting is scheduled for **Monday, January 22, 2024 at 3:00 p.m. at the Monterey County Government Center.**

*The Political Reform Act requires that a participant in a LAFCO of Monterey County proceeding who has a financial interest in a change of organization or reorganization proposal and who has made a campaign contribution of more than \$250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission's staff before the meeting.*

*Pursuant to Government Code Section 54957.5, public records that relate to open session agenda items that are distributed to a majority of the Commission less than seventy-two (72) hours prior to the meeting will be made available to the public on the LAFCO of Monterey County website at [www.monterey.lafco.ca.gov](http://www.monterey.lafco.ca.gov).*

***AMERICANS WITH DISABILITIES ACT (ADA):*** All regular and special meeting agendas and associated reports are available at [www.monterey.lafco.ca.gov](http://www.monterey.lafco.ca.gov). Any person with a disability under the ADA may receive a copy of the agenda or associated reports upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, to participate in a public meeting. Requests for copies of meeting documents and accommodations shall be made with LAFCO of Monterey County staff at (831) 754-5838 at least three business days prior to the respective meeting.

# LAFCO *of Monterey County*

## LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

LOCAL AGENCY FORMATION COMMISSION  
P.O. Box 1369  
Salinas, CA 93902  
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KATE McKENNA, AICP  
Executive Officer

DATE: January 22, 2024  
TO: Chair and Members of the Formation Commission  
FROM: Kate McKenna, AICP, Executive Officer  
SUBJECT: November 2023 Draft Balance Sheet and Income Statement  
CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378.

### SUMMARY OF RECOMMENDATION:

Accept the November 2023 statements for information only.

### EXECUTIVE OFFICER'S REPORT:

Attached are the November 30, 2023 draft balance sheet and income statement. Prepared monthly by CliftonLarsonAllen, LLP, these statements reflect overall revenue and expenditures that are normal for this period.

Respectfully Submitted,



Kate McKenna, AICP  
Executive Officer

### Attachments:

- 8.1 Draft Balance Sheet as of November 30, 2023 prepared by CliftonLarsonAllen, LLP.
- 8.2 Draft Income Statement through November 30, 2023, prepared by CliftonLarsonAllen, LLP.

**LAFCO of Monterey County**  
**Balance Sheet**  
As of November 30, 2023

Attachment 8.1

01/12/24  
Accrual Basis

	Nov 30, 23
<b>ASSETS</b>	
<b>Current Assets</b>	
Checking/Savings	
1100 · Petty Cash	300.00
1007 · Wells Fargo Checking	112,725.38
1010 · Cash Co. Treasury	
1012 · Designated Cash Litigation Resv	107,269.64
1013 · Designated Cash - Accrued Leave	91,066.71
1014 · Designated Cash-Post Retirement	75,064.00
1015 · Designated Cash-Contingency	276,614.00
1020 · Restricted Cash-FORA Litigation	348,524.28
1010 · Cash Co. Treasury - Other	994,090.26
Total 1010 · Cash Co. Treasury	1,892,628.89
Total Checking/Savings	2,005,654.27
Accounts Receivable	
1236 · A/R Fiscal Year Ending 6/2024	417.00
Total Accounts Receivable	417.00
Other Current Assets	
1400 · Prepaid Insurance	7,796.61
1405 · Prepaid Expenses	5,246.53
Total Other Current Assets	13,043.14
Total Current Assets	2,019,114.41
Fixed Assets	
1500 · Equipment	2,185.00
1525 · Computer Equipment	15,099.37
1530 · Office Furniture	40,517.62
1550 · Accumulated Depreciation	-54,947.69
Total Fixed Assets	2,854.30
Other Assets	
1800 · Deferred Outflows-PERS Contrib.	59,328.29
1805 · Deferred Outflows-Actuarial	243,400.87
1810 · Deferred Outflows-OPEB Contrib	1,800.00
1815 · Deferred Outflow-OPEB Actuarial	5,754.00
1900 · Operating Right of Use Asset	142,258.93
Total Other Assets	452,542.09
<b>TOTAL ASSETS</b>	<b>2,474,510.80</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
Accounts Payable	
2000 · Accounts Payable	11,263.74
Total Accounts Payable	11,263.74
Credit Cards	
WFB Visa X2064 (Kate)	1,549.46
Total Credit Cards	1,549.46

LAFCO of Monterey County  
Balance Sheet  
As of November 30, 2023

	Nov 30, 23
Other Current Liabilities	
2220 · Accrued Leave	91,066.71
2410 · Post Retirement (GASB 75)	75,064.00
2200 · Payroll Liabilities	168.00
2380 · Dissolution of FORA Legal Liab.	348,524.28
2381 · Dissolution of FORA Admin Liab.	54,006.50
2601 · Current Portion Lease Obligat.	26,357.52
Total Other Current Liabilities	595,187.01
Total Current Liabilities	608,000.21
Long Term Liabilities	
2400 · Net Pension Liability/(Asset)	57,558.59
2500 · Deferred Inflow-GAB68 Actuarial	40,784.66
2505 · Deferred Inflows-OPEB Actuarial	56,930.00
2600 · Operating Lease Liability	116,731.46
Total Long Term Liabilities	272,004.71
Total Liabilities	880,004.92
Equity	
3700 · Invested in Capital Assets	2,854.30
3710 · Encumbered Funds	70,749.02
3800 · Reserve for Litigation	107,269.64
3810 · Reserve for Contingency	276,614.00
3850 · Unreserved Fund	672,032.07
Net Income	464,986.85
Total Equity	1,594,505.88
TOTAL LIABILITIES & EQUITY	2,474,510.80

DRAFT

**LAFCO of Monterey County**  
**Profit & Loss**  
**July through November 2023**

Attachment 8.2

01/12/24  
 Accrual Basis

	Jul - Nov 23
<b>Ordinary Income/Expense</b>	
<b>Income</b>	
4000 · Fees	
4005 · Project	29,874.04
<b>Total 4000 · Fees</b>	29,874.04
4205 · County Contributions	363,784.00
4210 · City Contributions	363,783.99
4220 · District Contributions	363,785.00
4249 · FORA Admin Revenue	342.00
4300 · Interest	44.74
<b>Total Income</b>	1,121,613.77
<b>Expense</b>	
7300 · Depreciation	1,597.00
6000 · Employee Salaries	
6002 · Regular Earnings	241,270.87
6004 · FORA Admin Earnings	87.86
<b>Total 6000 · Employee Salaries</b>	241,358.73
6100 · Employee Benefits	
6013 · Post Retirement Healthcare	755.00
6010 · Accrued Leave	10,647.39
6007 · Management Expense Allowance	
6011 · Management Car Allowance	2,000.00
6007 · Management Expense Allowance - Other	250.00
<b>Total 6007 · Management Expense Allowance</b>	2,250.00
6102 · Worker's Compensation Insurance	1,150.12
6101 · Payroll Expenses	3,642.33
6103 · Employee Memberships	374.00
6104 · Deferred Comp Plan Contribution	14,964.29
6105 · PERS Retirement	180,469.24
6110 · PERS Health	
6111 · Med ER Non-Ele	3,020.00
6112 · Med ER Pre Tax	41,828.45
6110 · PERS Health - Other	170.81
<b>Total 6110 · PERS Health</b>	45,019.26
6130 · Insurance	
6139 · STD	460.30
6131 · LIFE	626.00
6132 · ADD	41.05
6133 · Dental	3,839.50
6134 · Vision	619.00
6135 · LTD	1,990.45
<b>Total 6130 · Insurance</b>	7,576.30
7294 · Accrued Leave Reserve	0.00
6100 · Employee Benefits - Other	700.00
<b>Total 6100 · Employee Benefits</b>	267,547.93

01/12/24  
Accrual Basis

LAFCO of Monterey County  
Profit & Loss  
July through November 2023

	Jul - Nov 23
7000 · Postage and Shipping	2,041.10
7010 · Books and Periodical	238.00
7030 · Copy Machine	2,494.17
7060 · Office Supplies	2,103.13
7080 · Computer Hardware/Peripherals	644.65
7085 · Computer Support Svc Fixed Cost	7,062.50
7090 · Computer Support Svc Variable	160.00
7100 · Computer Software	319.97
7105 · Meeting Broadcast Services	1,800.00
7110 · Property and Gen Liability Ins	3,491.35
7140 · Travel	2,450.82
7150 · Training, Conferences & Wrkshps	10,719.64
7160 · Vehicle Mileage	110.43
7170 · Rental of Buildings	14,255.05
7200 · Telephone Communications	1,871.22
7242 · Outside Prof Svc-Accounting	27,000.00
7242 A · Gen Admin Svcs & HR Assistance	2,000.00
7248 · Outside Prof Svc-Annual Audit	20,000.00
7245 · General Legal Services	9,032.80
7250 · Miscellaneous Office Expense	510.58
7260 · Legal Notices	1,477.75
7280 · LAFCO Memberships	8,124.00
7290 · Litigation Reserve	28,216.10
<b>Total Expense</b>	<b>656,626.92</b>
<b>Net Ordinary Income</b>	<b>464,986.85</b>
<b>Net Income</b>	<b>464,986.85</b>

**DRAFT**

# LAFCO *of Monterey County*

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## LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

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KATE MCKENNA, AICP  
Executive Officer

DATE: January 22, 2024

TO: Chair and Members of the Formation Commission

FROM: Kate McKenna, AICP, Executive Officer

SUBJECT: **December 2023 Draft Balance Sheet and Income Statement**

CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378.

### SUMMARY OF RECOMMENDATION:

Accept the December 2023 statements for information only.

### EXECUTIVE OFFICER'S REPORT:

Attached are the December 31, 2023 draft balance sheet and income statement. Prepared monthly by CliftonLarsonAllen, LLP, these statements reflect overall revenue and expenditures that are normal for this period.

Respectfully Submitted,



Kate McKenna, AICP  
Executive Officer

### Attachments:

- 9.1 Draft Balance Sheet as of December 31, 2023, prepared by CliftonLarsonAllen, LLP.
- 9.2 Draft Income Statement through December 2023, prepared by CliftonLarsonAllen, LLP.

LAFCO of Monterey County

Attachment 9.1

Balance Sheet

As of December 31, 2023

01/12/24

Accrual Basis

	Dec 31, 23
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
1100 · Petty Cash	300.00
1007 · Wells Fargo Checking	177,748.61
1010 · Cash Co. Treasury	
1012 · Designated Cash Litigation Resv	99,361.74
1013 · Designated Cash - Accrued Leave	94,982.78
1014 · Designated Cash-Post Retirement	75,064.00
1015 · Designated Cash-Contingency	276,614.00
1020 · Resticted Cash-FORA Litigation	348,524.28
1010 · Cash Co. Treasury - Other	848,119.09
Total 1010 · Cash Co. Treasury	1,742,665.89
Total Checking/Savings	1,920,714.50
Accounts Receivable	
1236 · A/R Fiscal Year Ending 6/2024	380.00
Total Accounts Receivable	380.00
Other Current Assets	
1400 · Prepaid Insurance	6,899.28
1405 · Prepaid Expenses	5,675.42
Total Other Current Assets	12,574.70
<b>Total Current Assets</b>	<b>1,933,669.20</b>
Fixed Assets	
1500 · Equipment	2,185.00
1525 · Computer Equipment	15,099.37
1530 · Office Furniture	40,517.62
1550 · Accumulated Depreciation	-55,266.69
Total Fixed Assets	2,535.30
Other Assets	
1800 · Deferred Outflows-PERS Contrib.	59,328.29
1805 · Deferred Outflows-Actuarial	243,400.87
1810 · Deferred Outflows-OPEB Contrib	1,800.00
1815 · Deferred Outflow-OPEB Actuarial	5,754.00
1900 · Operating Right of Use Asset	139,900.38
Total Other Assets	450,183.54
<b>TOTAL ASSETS</b>	<b>2,386,388.04</b>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
2000 · Accounts Payable	10,008.30
Total Accounts Payable	10,008.30
Other Current Liabilities	
2220 · Accrued Leave	94,982.78
2410 · Post Retirement (GASB 75)	75,064.00
2200 · Payroll Liabilities	168.00
2380 · Dissolution of FORA Legal Liab.	348,524.28
2381 · Dissolution of FORA Admin Liab.	54,006.50
2601 · Current Portion Lease Obligat.	26,357.52
Total Other Current Liabilities	599,103.08
Total Current Liabilities	609,111.38



01/12/24  
Accrual Basis

LAFCO of Monterey County  
Balance Sheet  
As of December 31, 2023

	Dec 31, 23
Long Term Liabilities	
2400 · Net Pension Liability/(Asset)	57,558.59
2500 · Deferred Inflow-GAB68 Actuarial	40,784.66
2505 · Deferred Inflows-OPEB Actuarial	56,930.00
2600 · Operating Lease Liability	114,538.92
	<hr/>
Total Long Term Liabilities	269,812.17
	<hr/>
Total Liabilities	878,923.55
Equity	
3700 · Invested in Capital Assets	2,535.30
3710 · Encumbered Funds	70,749.02
3800 · Reserve for Litigation	292,361.74
3810 · Reserve for Contingency	276,614.00
3850 · Unreserved Fund	487,258.97
Net Income	377,945.46
	<hr/>
Total Equity	1,507,464.49
	<hr/>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>2,386,388.04</b>
	<hr/> <hr/>

**DRAFT**

**LAFCO of Monterey County**  
**Profit & Loss**  
**July through December 2023**

Attachment 9.2

01/12/24  
 Accrual Basis

	Jul - Dec 23
<b>Ordinary Income/Expense</b>	
<b>Income</b>	
4000 · Fees	
4005 · Project	29,874.04
<b>Total 4000 · Fees</b>	<b>29,874.04</b>
4205 · County Contributions	363,784.00
4210 · City Contributions	363,783.99
4220 · District Contributions	363,785.00
4249 · FORA Admin Revenue	342.00
4300 · Interest	46.23
<b>Total Income</b>	<b>1,121,615.26</b>
<b>Expense</b>	
7300 · Depreciation	1,916.00
6000 · Employee Salaries	
6002 · Regular Earnings	285,650.55
6004 · FORA Admin Earnings	146.44
<b>Total 6000 · Employee Salaries</b>	<b>285,796.99</b>
6100 · Employee Benefits	
6013 · Post Retirement Healthcare	906.00
6010 · Accrued Leave	14,563.46
6007 · Management Expense Allowance	
6011 · Management Car Allowance	2,400.00
6007 · Management Expense Allowance - Other	300.00
<b>Total 6007 · Management Expense Allowance</b>	<b>2,700.00</b>
6102 · Worker's Compensation Insurance	1,349.18
6101 · Payroll Expenses	4,313.21
6103 · Employee Memberships	374.00
6104 · Deferred Comp Plan Contribution	17,719.47
6105 · PERS Retirement	185,639.50
6110 · PERS Health	
6111 · Med ER Non-Ele	3,624.00
6112 · Med ER Pre Tax	50,194.14
6110 · PERS Health - Other	204.76
<b>Total 6110 · PERS Health</b>	<b>54,022.90</b>
6130 · Insurance	
6139 · STD	552.36
6131 · LIFE	751.20
6132 · ADD	49.26
6133 · Dental	4,607.40
6134 · Vision	742.80
6135 · LTD	2,388.54
<b>Total 6130 · Insurance</b>	<b>9,091.56</b>
7294 · Accrued Leave Reserve	0.00
6100 · Employee Benefits - Other	700.00
<b>Total 6100 · Employee Benefits</b>	<b>291,379.28</b>

01/12/24  
Accrual Basis

LAFCO of Monterey County  
Profit & Loss  
July through December 2023

	Jul - Dec 23
7000 · Postage and Shipping	3,051.85
7010 · Books and Periodical	238.00
7030 · Copy Machine	2,912.70
7060 · Office Supplies	2,515.64
7080 · Computer Hardware/Peripherals	644.65
7085 · Computer Support Svc Fixed Cost	7,062.50
7090 · Computer Support Svc Variable	160.00
7100 · Computer Software	319.97
7105 · Meeting Broadcast Services	1,800.00
7110 · Property and Gen Liability Ins	4,189.62
7140 · Travel	2,651.25
7150 · Training, Conferences & Wrkshps	10,719.64
7160 · Vehicle Mileage	164.14
7170 · Rental of Buildings	17,106.06
7200 · Telephone Communications	2,229.58
7242 · Outside Prof Svc-Accounting	27,000.00
7242 A · Gen Admin Svcs & HR Assistance	2,000.00
7248 · Outside Prof Svc-Annual Audit	20,000.00
7245 · General Legal Services	13,575.60
7250 · Miscellaneous Office Expense	510.58
7260 · Legal Notices	1,477.75
7280 · LAFCO Memberships	8,124.00
7290 · Litigation Reserve	36,124.00
Total Expense	743,669.80
Net Ordinary Income	377,945.46
Net Income	377,945.46



LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

KATE McKENNA, AICP  
Executive Officer

LOCAL AGENCY FORMATION COMMISSION  
P.O. Box 1369 132 W. Gabilan Street, Suite 102  
Salinas, CA 93902 Salinas, CA 93901  
Telephone (831) 754-5838 [www.monterey.lafco.ca.gov](http://www.monterey.lafco.ca.gov)

DATE: January 22, 2024  
TO: Chair and Members of the Formation Commission  
FROM: Kate McKenna, AICP, Executive Officer  
PREPARED BY: Jonathan Brinkmann, Senior Analyst  
SUBJECT: Anticipated Future Agenda Items and Progress Report on Special Studies  
CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378.

SUMMARY OF RECOMMENDATION:

Accept report for information only.

EXECUTIVE OFFICER’S REPORT:

Following are current work priorities and a partial list of items that the Commission may consider in coming months or years. It is organized by applications on file, potential applications under discussion, and LAFCO-initiated studies.

**Part 1: Items Currently on File and In Progress**

1. **Fort Ord Reuse Authority Dissolution:** The Fort Ord Reuse Authority (FORA) ceased operations after June 2020. LAFCO had statutory authority to oversee the FORA dissolution and holds administrative and legal funds for that purpose. The County of Monterey is wrapping up FORA-related administrative tasks and anticipates providing a status report to the Board of Supervisors by May 2024. By June 30, 2024, staff anticipates a LAFCO agenda item to consider a dissolution resolution that would also authorize a return of FORA-related funds to former FORA jurisdictions.

2. **Mission Soledad Rural Fire Protection District:** Sphere amendment and annexation of Paraiso Springs Resort (portion). Application status is incomplete.

The County approved the Paraiso Springs project in November 2019, and a portion of the site needs to be annexed to the local fire district to comply with a County condition of approval. LAFCO received the District’s application in 2022 and determined that the application is incomplete. After an inactive period, the District has re-engaged with LAFCO staff to resolve items in the completeness letter.

**Part 2: Potential Agenda Items under Discussion**

1. **City of Gonzales (pre-application):**

a) Vista Lucia and Puente del Monte projects: Annexation of some or all of an approximately 1,350-acre area placed in the City’s sphere in 2014, plus potentially an adjacent 50-acre parcel. The City of Gonzales is currently completing an administrative draft Specific Plan and EIR for the Vista Lucia project (Fanoe-owned lands of approximately 770 acres). The City similarly is working on a specific

plan and an EIR for the Puente del Monte project (Jackson and Rianda-owned lands comprising approximately 547 acres).

In total, the two projects together would represent a large expansion of the City, approximately doubling the existing City size. The scope of such an expansion raises issues relevant to LAFCO's review. LAFCO will comment on the project's draft EIR when it becomes available. The City anticipates submitting a LAFCO annexation application for the Vista Lucia project in 2024.

- b) D'Arrigo Brothers farmworker housing: The property owners are proposing a 137-unit farmworker housing project designed to accommodate up to 1,096 agricultural employees. A possible site on Fanoe Rd north of Johnson Canyon Road is adjacent to the city limits and within the City's designated sphere of influence. Provision of city water and sewer services to this unincorporated site would require the Commission's approval of either an annexation to the City or an out-of-agency service extension. The property owners may be considering an alternative site that is already in the City limits and would not require any new LAFCO approvals. Staff participated in an initial meeting of City and County staff in September 2023 and a follow-up meeting in December.

- 2. **Monterey Peninsula Airport District:** Detachment from the City of parcels owned by the Monterey Peninsula Airport District. Status is pre-application.

Most Airport District-owned parcels are in the unincorporated County. Several outlying parcels along Highway 68 are in the City of Monterey. The District is interested in detaching these parcels from the City to eliminate a split in underlying city-county jurisdictions as the airport develops new facilities according to its master plan. LAFCO staff are participating in coordination meetings with Airport, City, and County representatives, most recently in January 2024.

- 3. **Marina Coast Water District:** Potential annexation of MCWD's Armstrong Ranch property (north of the Marina Municipal Airport) and sphere of influence amendment/annexation of portions of the Bureau of Land Management (BLM) Fort Ord National Monument and Fort Ord Dunes State Park near existing MCWD boundaries. Status is pre-application.

In 2010, MCWD acquired approximately 231 acres of Armstrong Ranch land, located north of the City of Marina and south of the Monterey One Water facilities. The Armstrong Ranch property is within MCWD's existing sphere of influence. MCWD seeks to annex this property since it currently maintains water-augmentation infrastructure for its Regional Urban Water Augmentation Project and Monterey One Water's Pure Water Monterey Project on this property. MCWD currently maintains existing water infrastructure within the BLM Fort Ord National Monument, and water and wastewater infrastructure within Fort Ord Dunes State Park.

Staff met with MCWD representatives in September 2023 and is working with them to refine the scope of the proposal area.

- 4. **City of Salinas:** Target Area "K" (proposed Ferrasci Business Center project) sphere amendment and annexation of approximately 140 acres at the northeast corner of Harrison Road and Russell Road. Status is pre-application.

The site, just north of Salinas and designated as Target Area K in the City's approved Economic Development General Plan Element, is planned for business park, retail, and mixed-use (commercial and residential) development. Informal pre-application discussions have been underway with County staff, City staff and property owners since January 2020, most recently in May 2023. In June 2023, LAFCO staff provided comments on the City's Notice of Preparation of a Draft Environmental Impact Report as a CEQA Responsible Agency.

5. **City of Soledad:** Hacienda Apartments farmworker housing: Initial discussions regarding a potential out-of-agency service extension to provide City wastewater and/or water services to an existing apartment complex. Status is pre-application.

Hacienda Apartments is an existing 24-unit farmworker housing apartment complex located approximately three miles northwest of Soledad in unincorporated Monterey County. The apartment complex is currently served by a failing septic system and a water system that exceeds the maximum contaminant level for nitrates. In August, the Soledad City Council received a presentation from consultants regarding their work on Hacienda Apartments' water system's needs assessment, and the identified preferred feasible option for a water system consolidation.

The City Council expressed concerns about the condition of the property and ensuring that the City was made whole in terms of costs. The County of Monterey would need to complete a significant amount of work for potential City extension of services to move forward. Since the apartments to be served are in the County's jurisdiction, the County will need to take the lead. As a result, the City has no plans to move forward with an out-of-agency extension of services application to LAFCO until the County prepares the necessary documents. Staff participated in an initial meeting of City, County, Central Coast Water Board, and Rural Community Assistance Corporation (RCAC) staff in May 2023.

### Part 3: Other LAFCO-Initiated Studies

An MSR/SOI study for Soledad area special districts is underway. The study will focus on the Soledad Cemetery District's challenges with transparency, accountability, and compliance with state legal requirements; the Soledad-Mission Recreation District's financial, operational, and governance challenges; and the Soledad Community Health Care District's existing services and potential strategies to address financial challenges to maintain and expand the delivery of vital services to a growing community.

Staff is also initiating an MSR/SOI study for the seven Monterey Peninsula cities, which began with a coordination meeting with City of Marina in October 2023.

An MSR/SOI study for the City of Gonzales will be prepared in 2024 to coincide with that City's anticipated Vista Lucia annexation application (see pages 1 and 2 of this report). The timing will depend upon when we receive the application with information needed for the study.

Respectfully Submitted,



Kate McKenna, AICP  
Executive Officer

LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

KATE McKENNA, AICP  
Executive Officer

LOCAL AGENCY FORMATION COMMISSION  
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DATE: January 22, 2024  
TO: Chair and Members of the Formation Commission  
FROM: Kate McKenna, AICP, Executive Officer  
PREPARED BY: Jonathan Brinkmann, Senior Analyst  
SUBJECT: Report on Activities of the California Association of Local Agency Formation Commissions (CALAFCO)  
CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378.

**SUMMARY OF RECOMMENDATION:**

Accept this report for information only.

**EXECUTIVE OFFICER'S REPORT:**

**CALAFCO Board Meeting**

Supervisor/Commissioner Wendy Root Askew serves on the CALAFCO Board as a Coastal Region representative. She and Executive Officer Kate McKenna attended the CALAFCO Board's regular meeting on January 5. Agenda items included: Annual Board Member appointments to CALAFCO Committees, planning a CALAFCO Staff Workshop in April in Pleasanton, and planning a professional development course (CALAFCO U) for 2024.

**Annual Conference**

Commissioners are invited to tentatively calendar the CALAFCO Annual Conference for October 16-18, 2024 at the Tenaya Lodge in Yosemite. Conference details and attendance authorization will be discussed by the Commission in coming months.

**New Laws in 2024 and Legislative Committee Update**

Consistent with LAFCO's Annual Work Program, staff reviewed recent legislation passed into law and taking effect in 2024. Staff found that these new laws will not require updates to LAFCO's local policies and procedures.

Commissioner Root Askew serves on the CALAFCO Legislative Committee and is supported by LAFCO staff. The CALAFCO Legislative Committee met on January 12 to receive a training on the State legislative process, to discuss the 2024 Omnibus Bill, to review legislation affecting LAFCOs, and to review tracked legislation. The Committee discussed several proposed bills from 2023 focused on amending the Brown Act to permit legislative bodies to increase options to hold virtual/teleconference meetings. These bills included AB 817 (Pacheco), AB 1379 (Papan), and SB 537 (Becker).

In Sacramento this month, committees will hear and report to the Floor on bills introduced in 2023, with a deadline of January 31 for each house to pass bills introduced in their respective houses in 2023. February 16 is the last day to introduce bills. Staff will continue to monitor and report on legislation affecting LAFCO in coordination with CALAFCO.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Kate McKenna". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kate McKenna, AICP  
Executive Officer



# LAFCO *of Monterey County*

## LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

LOCAL AGENCY FORMATION COMMISSION  
P.O. Box 1369 132 W. Gabilan Street, Suite 102  
Salinas, CA 93902 Salinas, CA 93901  
Telephone (831) 754-5838 [www.monterey.lafco.ca.gov](http://www.monterey.lafco.ca.gov)

KATE McKENNA, AICP  
Executive Officer

DATE: January 22, 2024  
TO: Chair and Members of the Formation Commission  
FROM: Kate McKenna, AICP, Executive Officer  
PREPARED BY: Darren McBain, Principal Analyst  
SUBJECT: Adoption of a Resolution Adding Section III (Policy Implementation Guidelines for Agricultural Mitigation) to the Commission's Adopted Policy for Preservation of Open-Space and Agricultural Lands  
CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378

### SUMMARY OF RECOMMENDATIONS:

1. Receive a report from staff and legal counsel;
2. Receive public comments;
3. Review and discuss draft Policy Implementation Guidelines for Agricultural Mitigation (Attachment 1, Exhibit A) prepared by staff and counsel following the November 27 and December 4, 2023 workshop sessions on LAFCO's policies and implementation practices for agricultural preservation and mitigation;
4. Provide any additional changes or refinements to the draft Guidelines; and
5. Adopt the Guidelines by authorizing the Commission Chair to sign a resolution (Attachment 1) amending the Commission's adopted 2010 Policy for Preservation of Open-Space and Agricultural Lands by adding a new Section III, Policy Implementation Guidelines for Agricultural Mitigation; or provide other direction to staff.

### EXECUTIVE OFFICER'S REPORT:

#### Draft Guidelines

Staff and counsel have developed a set of draft Policy Implementation Guidelines regarding agricultural mitigation requirements for city annexations of farmland. The draft Guidelines are based on direction provided by the Commission on December 4, 2023 as part of a workshop on LAFCO's policies and implementation practices for agricultural preservation and mitigation, which had been continued from the November 27 special meeting.

The Commission adopted the current Policy for Preservation of Open-Space and Agricultural Lands (Part E of Monterey LAFCO's adopted policies for spheres of influence and boundary changes) in 2010. The purpose of these Guidelines is to augment the Policy, and assist in implement the Policy's objectives, by providing specific written guidance on how City annexation proposals and their related CEQA documents should address and mitigate impacts to farmland.

The Guidelines are proposed to be added as a new Section III of the adopted Policy, as shown in Exhibit A to Attachment 1. The proposed draft Guidelines are shown in tracked-changes format in Attachment 2. No changes to the existing Sections I or II of the adopted Policy are proposed.

The recommended new Section III begins with a statement of purpose and a brief restatement of LAFCO's role under CEQA, followed by the draft Guidelines. The Guidelines are organized as four main sections:

1. Lands that are subject to agricultural mitigation requirements<sup>1</sup>
2. Timing of implementation
3. Methods of implementation
4. Alternative agricultural mitigation proposals (*previously discussed as potential exceptions from mitigation requirements*)

The draft Guidelines closely follow the clear direction that the Commission provided to staff on December 4 for items 1-3, above. The one area needing additional research by legal counsel following the December 4 meeting pertains to #4, above, and whether it would be practical and legally defensible for LAFCO to make exceptions from agricultural mitigation requirements for specific types of land uses. Counsel has studied this issue further and is recommending Guideline language as shown in new Section 4. The recommended language provides that the Commission may accept lesser or different mitigation on a case-by-case basis when there is certainty that a proposed land use such as – but not limited to – deed-restricted affordable housing will be developed following annexation. Staff and counsel will be able to provide additional discussion of this issue as part of the January 22 meeting.

Following review and discussion at the January 22 meeting, along with any additions or refinements that the Commission may direct at that time, staff recommends that the Commission adopt the draft resolution adding Section III – Policy Implementation Guidelines to LAFCO's adopted 2010 Policy.

### Correspondence Received

As of this writing, LAFCO has received the following correspondence subsequent to the December 4 meeting. Staff and counsel will touch on some of the points outlined below in discussion as part of the January 22 meeting.

- **Mike Novo letter** dated December 29, 2023

Summary of letter: Excepting non-agricultural land uses from agricultural mitigation requirements would be out of conformance with CEQA requirements.

- **Hardt Mason Law memorandum** dated January 9, 2024

Summary of memo:

1. Large annexations should have the option of being recorded in more than four increments.
2. A good-faith effort to locate suitable conservation easements should not be a prerequisite for being able to satisfy mitigation requirements by paying in-lieu fees. But if it is required, then the good-faith effort should be reviewed by the full Commission or a committee, not by the LAFCO Executive Officer. LAFCO should establish values (specific dollar amounts) for in-lieu fee payment, and then update those dollar amounts periodically. LAFCO should collect any in-lieu fees and decide on how best to distribute them to one or more land trusts. LAFCO should consider adding the option of alternative means of agricultural mitigation.
3. Allowing exceptions from mitigation requirements may detract from achieving an overall 1-to-1 mitigation ratio, but there are other needs to balance. Exceptions, e.g., for affordable housing, exist in some municipalities and are not disallowed by law. The Commission should give itself flexibility in applying exceptions. Both large and small annexations should be eligible for exceptions.
4. Tying LAFCO's agricultural mitigation standards to the farmland designations in effect as of a specific date could conflict with the CEQA clearance documentation for a future annexation proposal, and may be unfair to property owners who decide to discontinue farming.

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<sup>1</sup> This section (previously Discussion Area #4 in the workshop materials) is recommended to be Section I because it is a threshold question that determines whether or not the subsequent sections apply to a given annexation proposal.

## Public Outreach

Staff provided notification of the November 27 workshop to a wide audience that included City and County representatives, property owners, developers, nonprofit groups, the agricultural industry, and others. Many of those who were contacted attended the November 27 workshop or its December 4 continuation. Staff has provided the January 22 meeting agenda and this report by email to all known interested parties for whom staff has contact information.

## California Environmental Quality Act (CEQA)

This action is exempt under the California Environmental Quality Act Guidelines, which provides that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Adoption of agricultural mitigation guidelines which interpret and guide implementation of LAFCO's previously-adopted Policy for Open-Space and Agricultural Lands for purposes of future annexation proposals is not a project under Guideline 15378 and is therefore exempt.

## Recommendation

Staff recommends that the Commission:

- Receive a report from staff and counsel;
- Receive public input;
- Review and discuss the attached draft Guidelines, and provide specific direction during the meeting on any additional changes or refinements; and
- Authorize the Commission Chair to sign the attached draft resolution amending the Commission's adopted 2010 Policy by adding a new Section III, Policy Implementation Guidelines for Agricultural Mitigation.

For any new changes or refinements that the Commission directs as part of the January 22 meeting, staff will review the precise final wording with the Chair prior to signature. The intention of staff's recommendation is for Commission direction provided in the January 22 meeting to be specific such that any final adjustments to the resolution's wording after the meeting will be minimal. The Guidelines would take effect upon signing of the resolution.

## Alternative Actions

In lieu of these recommended actions, the Commission may opt to direct staff to develop a revised draft set of Guidelines based on today's meeting outcomes and bring the revised draft back as part of the February 26 regular meeting, or provide other direction to staff.

Respectfully Submitted,



Kate McKenna, AICP  
Executive Officer

CC: Known interested parties, as discussed above

## Attachments:

1. Draft resolution, with proposed addition of Section III – Policy Implementation Guidelines to LAFCO's adopted Policy for Preservation of Open-Space and Agricultural Lands (Exhibit A)
2. Tracked-changes version: Proposed addition of Section III – Policy Implementation Guidelines
3. Mike Novo letter dated December 29, 2023
4. Hardt Mason Law memorandum dated January 9, 2024

Note: The meeting packets for the November 27 initial workshop session and the December 4 continued workshop are available on LAFCO's website, under the "Agendas & Minutes" pull-down tab:

[www.co.monterey.ca.us/government/government-links/lafco/past-agendas-minutes](http://www.co.monterey.ca.us/government/government-links/lafco/past-agendas-minutes)

# ATTACHMENT 12.1

## Draft resolution adding new Section III (Policy Implementation Guidelines for agricultural mitigation) to LAFCO's adopted 2010 Policy for Preservation of Open-Space and Agricultural Lands

For Exhibit A to the resolution, please note:

- The 2010 Open Space and Agricultural Policy is “Part E” of Monterey LAFCO's full set of adopted policies and procedures for spheres of influence and boundary changes. Part E starts on Page 37 of the policy manual, hence the page numbering as shown.
- No changes to the existing Sections I or II are proposed.
- The draft proposed new Section III (Policy Implementation Guidelines) starts on Page 39 of the policy manual.
- Following adoption, staff will adjust the policy manual's table of contents and page numbering to reflect addition of Section III.

THE LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

RESOLUTION NO. 24 – xx

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION  
AMENDING LAFCO'S POLICY FOR PRESERVATION OF OPEN-SPACE AND  
AGRICULTURAL LANDS BY ADDING POLICY IMPLEMENTATION GUIDELINES  
REGARDING AGRICULTURAL MITIGATION ACTIONS  
FOR CITY ANNEXATIONS OF FARMLAND

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code section 56000 et seq.) contains provisions granting LAFCOs the authority to consider and provide for the preservation of open space and agricultural lands; and

WHEREAS, a LAFCO is specifically charged in some instances with protecting open space and agricultural land; and

WHEREAS, a LAFCO is charged with considering specific circumstances affecting open space or agricultural land when making a decision; and

WHEREAS, while a LAFCO has considerable authority to provide for the preservation of open space and agricultural land, it may not directly regulate land use; and

WHEREAS, the Commission adopted a Policy on Preservation of Open Space and Agricultural Lands on January 25, 2010; and

WHEREAS, the Commission wishes to augment the existing Policy with Policy Implementation Guidelines to provide guidance on how impacts to farmland should be addressed and mitigated in City annexation applications and their related CEQA documents; and

WHEREAS, LAFCO scheduled a workshop on agricultural preservation and mitigation, with opportunities for public comment, at a noticed special meeting on November 27, 2023 and provided notification to a wide range of interested parties; and

WHEREAS, on November 27, 2023 the Commissioners reviewed and discussed the adopted Policy, a set of staff-prepared options for the Commission to consider as part of developing a set of Policy Implementation Guidelines, recommendations submitted by Salinas Valley City representatives, correspondence from property owners, and other related information; and

WHEREAS, the Commission continued the workshop to the regular December 4, 2023 meeting to allow for additional review and discussions among the Commission; and

WHEREAS, as part of the December 4, 2023 meeting, the Commission provided direction to staff on specific agricultural mitigation-related provisions to be developed by staff into a draft set of Policy Implementation Guidelines for the Commission's consideration at the January 22, 2024 regular meeting; and

WHEREAS, staff has prepared draft Guidelines based on the Commission's direction provided at the December 4, 2023 meeting, and has publicly circulated the draft Guidelines as part of the meeting packet for January 22, 2024; and

WHEREAS, on January 22, 2024 the Commission reviewed the draft Guidelines and determined them to be consistent with the direction previously provided to staff and with the objective of providing guidance on how the adopted (2010) Policy should be applied to determine mitigation requirements for city annexations of farmland.

NOW, THEREFORE, the Local Agency Formation Commission of Monterey County does HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. This action is exempt under the California Environmental Quality Act Guidelines, which provides that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Adoption of agricultural mitigation guidelines which interpret and guide implementation of LAFCO's previously-adopted Policy for Open-Space and Agricultural Lands for purposes of future annexation proposals is not a project under Guideline 15378 and is therefore exempt.

Section 3. The Commission adopts this resolution amending the adopted Policy on Preservation of Open-Space and Agricultural Lands by adding a new Section III, "Policy Implementation Guidelines: Agricultural Mitigation Actions for City Annexations of Farmland" (Exhibit A).

UPON MOTION of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution is adopted this 22<sup>nd</sup> day of January, 2024 by the following vote:

AYES:	Commissioners:
NOES:	Commissioners:
ABSENT:	Commissioners:
ALTERNATIVES:	Commissioners:
ABSTAIN:	Commissioners:

By: \_\_\_\_\_  
Matt Gourley, Chair  
Local Agency Formation Commission of Monterey County

ATTEST: I certify that the within instrument is a true and complete copy of the original resolution of said Commission on file within this office.

Witness my hand this 22nd day of January, 2024

By: \_\_\_\_\_  
Kate McKenna, AICP, Executive Officer

## PART E. PRESERVATION OF OPEN-SPACE AND AGRICULTURAL LANDS<sup>19</sup>

### I. INTRODUCTION

Significant debate exists concerning the authority of a local agency formation commission to adopt policies, rules, regulations, guidelines, or conditions regarding the establishment of “agricultural buffers” or other methods to address the preservation of open space and agricultural lands. The Cortese – Knox – Hertzberg Local Government Reorganization Act (the “Act”), California Government Code section 56000, et seq., is replete with provisions that grant to a local agency formation commission the authority to consider and provide for the preservation of open space and agricultural lands. “Among the purposes of a [local agency formation commission] are discouraging urban sprawl [and] preserving open-space and prime agricultural lands, . . . ” Section 56301. Furthermore, “[i]t is the intent of the Legislature that each commission, . . . , shall establish written policies and procedures and exercise its powers pursuant to this part in a manner . . . that encourages and provides planned, well-ordered, efficient urban development patterns *with appropriate consideration of preserving open-space and agricultural lands* within those patterns.” Section 56300 (a) (emphasis added). The Legislature has also declared that the preservation of open-space and prime agricultural lands is a “state interest” to be balanced against the promotion of orderly development. Section 56001.

A local agency formation commission 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. Section 56375.3 (b)(5). A local agency formation commission may not approve a change to a Sphere of Influence where the affected territory is subject to a farmland security zone or Williamson Act contract, unless certain conditions exist. Sections 56426 and 56426.5.

In other situations, a local agency formation commission is charged with considering specific circumstances affecting open space or agricultural land when making a decision. For example, when considering a proposal that could reasonably be expected to lead to the conversion of open space lands to non-open space uses, a local agency formation commission must consider guiding such conversion away from prime agricultural land towards non-prime lands. Section 56377s (a) and 56668 (d). In addition, a local agency formation commission should encourage the conversion of open space lands within the jurisdiction or Sphere of Influence of a local agency before approving any proposal that would lead to such conversion outside the jurisdiction or Sphere of Influence of that agency. Sections 56377 (b) and 56668 (d). Finally, a

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<sup>19</sup> Part E of the Policies and Procedures was first adopted on January 25, 2010 and was amended to add Section III (Policy Implementation Guidelines for Agricultural Mitigation) on January 22, 2024. This Part replaces the “Agricultural Lands Preservation Policy” adopted on November 27, 1979 (Resolution 79-30).

local agency formation commission must consider the “effect of [a] proposal on maintaining the physical and economic integrity of agricultural lands,... ” Section 56668 (e).

While a local agency formation commission has considerable authority to provide for the preservation of open space and agricultural land, it may not directly regulate land use: “A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.” Section 56375. A local agency formation commission may, however, require that property sought to be annexed be rezoned, although it may not specify how it shall be rezoned. *Id.*

In order to implement the intent and purposes of the Act with respect to the preservation of open-space and agricultural lands, the Local Agency Formation Commission of Monterey County (“LAFCO”) adopts the following policy.

## II. POLICY

It is the policy of LAFCO that, consistent with section 56300 (a) of the Act, applications or proposals for a change in organization or reorganization, or for the establishment or any change to a Sphere of Influence or urban service area (hereinafter, “Proposal” or “Proposals”), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns. To implement this policy, it is the further policy of LAFCO that:

1. A Proposal must discuss how it balances the state interest in the preservation of open space and prime agricultural lands against the need for orderly development. (Government Code section 56001.) Proposals that fail to discuss this balance, in the opinion of the executive officer, will be deemed incomplete. Proposals may be denied if they fail to demonstrate to the satisfaction of LAFCO that the need for orderly development is balanced against the preservation of open space and prime agricultural lands.
2. A Proposal must discuss its effect on maintaining the physical and economic integrity of agricultural lands. (Government Code section 56668 (a).) Proposals that fail to discuss their effect, in the opinion of the executive officer, will be deemed incomplete. Proposals may be denied if they fail to demonstrate to the satisfaction of LAFCO that the physical and economic integrity of agricultural lands is maintained.
3. A Proposal 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. (Government Code section 56377.) Proposals that fail to discuss potential conversion, in the opinion of the executive officer, will be deemed incomplete. Proposals may be denied if they fail to demonstrate to the satisfaction of LAFCO that: a)



they guide development or use of land for other than open-space uses away from existing prime agricultural lands in open-space use and toward areas containing nonprime agricultural lands (Government Code section 56377 (a)); and b) development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the Sphere of Influence of a local agency will occur prior to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing Sphere of Influence of the local agency (Government Code section 56377 (b)).

4. A Proposal must, if applicable, provide for pre-zoning (Government Code section 56375 (a)), and must demonstrate that it is consistent with the General Plans and Specific Plans of the existing local agency and any immediately adjacent local agency (Government Code sections 56375 (a) and 56668 (g)). Proposals may be denied if they are not consistent with such plans, or, if not pre-zoned, if the Proposal does not demonstrate to the satisfaction of LAFCO that the existing development entitlements are consistent with the local agency's plans.

To further these policies, it is the position of LAFCO that agricultural buffers provide an important means to preserve open-space and agricultural lands and preserve the integrity of planned, well-ordered, efficient urban development patterns. Such buffers may be permanent, temporary, or rolling, and may take many forms; easements, dedications, appropriate zoning, streets, or parks, for example. How agricultural buffers are used to further the state policy of preserving open-space and agricultural lands within patterns of planned, well-ordered, efficient urban development is left to the discretion of each local agency; however, Proposals will be judged on how state-wide policies under the Act, and LAFCO adopted policies, with respect to the preservation of open-space and agricultural lands are furthered. Agreements between neighboring local agencies with regard to the preservation of open-space and agricultural lands are encouraged, and such agreements may be incorporated by LAFCO into a Proposal as a condition of approval, or may be required as a condition precedent to approval.

**→ III. POLICY IMPLEMENTATION GUIDELINES: Agricultural Mitigation Actions for City Annexations of Farmland** *(Recommended for adoption by the Commission on January 22, 2024)*

To achieve the intention of the adopted policy's directives, the Commission has developed the following Policy Implementation Guidelines. The intention of the Guidelines is to provide guidance – particularly to Cities, property owners, and preparers of environmental documents pursuant to the California Environmental Quality Act (CEQA) – on how impacts to farmland should be addressed in City annexation applications and their related CEQA documents.

**A brief restatement of LAFCO's role under CEQA**

CEQA requires consideration of a project's potential impacts to agricultural resources and related mitigation measures, along with other types of environmental impacts. For annexation proposals, the applicant City is typically the CEQA lead agency – i.e., the public agency that has the primary

responsibility for carrying out or approving the development project for which annexation is requested. LAFCO typically serves as a CEQA responsible agency, meaning a public agency with discretionary authority over some aspects of a project for which a CEQA document is being prepared – the City boundary change, in LAFCO’s case. (*State CEQA Guidelines Section 15381.*)

A responsible agency complies with CEQA by considering the environmental impact report or negative declaration prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved. As a responsible agency, LAFCO will continue to consult with Cities and other lead agencies to assist them in preparing adequate environmental documents for a project, and provide comments on their draft CEQA documents. Following consultation, comments, and revisions, the lead agency prepares a final document. As a responsible agency, LAFCO is charged with exercising its independent discretion to determine whether or not a City’s final EIR or negative declaration adequately addresses agricultural impacts and mitigation such that LAFCO can rely on the City’s document’s analysis and conclusions when considering an annexation. LAFCO may reject a legally insufficient environmental document that does not adequately address agricultural mitigation. (*CEQA Guidelines Section 15096 [a] to [e]*).

### **Agricultural Mitigation Guidelines**

#### **1. Lands that are subject to agricultural mitigation requirements**

Agricultural mitigation should be provided for lands being annexed that are designated as either Prime Farmland, Farmland of Statewide or Local Importance, or Unique Farmland in the most recent complete set of Important Farmland data published by the State of California Department of Conservation as of January 22, 2024 (the State’s 2018 dataset).

If lands currently designated as such are later changed by the State to a lower, non-farmland designation (for example, because the lands are fallowed for a period of time), then CEQA documents being prepared to support an annexation proposal should continue to evaluate the development of those lands as a potentially significant impact to agricultural resources that warrants mitigation.

In addition, any lands that the Department of Conservation designates as Prime Farmland, Farmland of Statewide or Local Importance, or Unique Farmland on post-2018 Important Farmland data updates – i.e., lands that the DOC adds to one of these categories in the future, will also be subject to agricultural mitigation requirements.

#### **2. Timing of implementation**

Proposals for annexation of farmlands to a city are required by law to identify and propose specific agricultural mitigation actions – for example, direct acquisition of permanent conservation easements and/or payment of in-lieu fees – prior to the public hearing on the proposed annexation.

For annexation proposals that include fewer than 100 acres of farmland subject to mitigation requirements as provided in these Guidelines, project proponents are expected to carry out all such agricultural mitigation actions prior to LAFCO’s recordation of a certificate of completion for the annexation.

For proposals involving more than 100 acres of farmland subject to mitigation, applicants may propose a phased approach, wherein LAFCO records a certificate of completion effectuating an annexation for an initial part, phase, or portion (up to 100 acres) of the overall approved annexation area after appropriate agricultural mitigation actions corresponding to that acreage have been completed pursuant to these Guidelines, along with any other terms and conditions. LAFCO would then record subsequent certificates of completion for the remaining parts, phases, or portions of the overall acreage, in up to four phases with each phase including at least 25% of the remaining acreage approved for annexation, after corresponding agricultural mitigation actions for each phase have been carried out in accordance with these Guidelines to the satisfaction of the LAFCO Executive Officer, along with any other terms and conditions identified in the Commission’s original approval resolution. Recordation of the initial and subsequent certificates of completion is subject to time limitations as determined by the Commission.

### **3. Methods of Implementation**

**A. Mitigation ratio and criteria:** Agricultural mitigation should be provided at no less than a 1-to-1 ratio – meaning one acre of mitigation provided for each acre of applicable farmland being annexed – and should occur on lands with equivalent or higher farmland mapping designations – i.e., “like-for-like or better” with regard to mapping designations.

**B. Conservation easements (preferred mitigation type):** Dedication of permanent conservation easements on specific sites is generally preferable to payment of in-lieu fees to fund the future purchase of conservation easements at a later date on sites not yet identified.

To the extent practicable, conservation easement receiver sites should be located in close proximity to the community where the proposed annexation and the resulting loss/conversion of farmland are occurring. However, if an applicant has made a good-faith effort – as described below – to identify suitable conservation easement sites in the nearby vicinity to the satisfaction of either the Commission or the Executive Officer if applicable in accordance with Section 2 above, and no such sites are available, then the applicant may identify and propose conservation easement sites on equivalent lands elsewhere in Monterey County, and/or proceed to payment of mitigation in-lieu fees.

“Good-faith effort” means an applicant has: 1) Consulted with a qualified conservation entity to have that entity hold conservation easements to satisfy the applicant’s mitigation requirements under these Guidelines; 2) Diligently attempted to identify suitable potential conservation easement receiver sites; and 3) Has made one or more bona fide offer for suitable conservation easements at fair market value on suitable available sites, but no property owner has accepted the applicant’s offer.

**C. In-lieu fee payment:** If in-lieu fee payment is being proposed, LAFCO may require applicants to document having made a good-faith effort to secure conservation easements, as outlined above. The payment of an in-lieu fee shall be subject to the following provisions:

1. The amount of the in-lieu fee shall be determined by using the appraised fair market value of acquiring a conservation easement on the land being converted. The value of the conservation easement shall be determined by an independent real property appraiser with experience valuing conservation easements for the California Department of Conservation Sustainable Agricultural Lands Conservation Program (SALC) or a similar program.
2. The appraisal determining an appropriate in-lieu fee amount, and payment of the in-lieu fees to a qualified conservation entity, shall be completed within 90 days prior to recordation of a Certificate of Completion for an annexation. If the Commission's approval of an annexation proposal involves phased recordation of more than one Certificate of Completion in accordance with Section 2, above, then any proposed in-lieu fees shall be determined at the time of recording a Certificate of Completion for each individual phase. Determining and paying in-lieu fees shall occur within 90 days prior to each incremental recordation.
3. In addition to the in-lieu fee, applicants may be required to pay to the conservation entity an amount sufficient to cover the costs of managing and administering a conservation easement, and estimated transaction costs associated with acquiring the easement.
4. In-lieu fees may be used to satisfy the entire mitigation requirement for an applicant, or a portion.

**D. Qualified conservation entity:** Dedication of conservation easements, or payment of in-lieu fees, should be to qualified conservation entity (land trust) that is a nonprofit 501(c)(3) corporation eligible to hold a conservation easement, hold a deed restriction, or collect in-lieu fees under California law, and with conserving and protecting agriculture land as one of its primary purposes.

**4. Alternative agricultural mitigation proposals:**

Agricultural mitigation should generally occur for all Prime Farmland or Farmland of Statewide/Local Importance, or Unique Farmland, within the area being annexed. However, the Commission retains the independent discretion to accept, on a case-by-case basis, an annexation – or portions thereof – that has a lesser or different agricultural mitigation for annexation purposes to the extent that such exceptions would be consistent with a project's required mitigation measures under the California Environmental Quality Act, as determined by the CEQA lead agency (typically the applicant City).

Examples of projects that may qualify for alternative agricultural mitigation include, but are not limited to, those proposals, or areas of a proposal, that provide certainty with respect to the proposed future uses, such as deed-restricted affordable, inclusionary, and/or agricultural housing.

While alternative mitigation may be accepted by the Commission, the Commission's intent remains for agricultural mitigation to be provided in a ratio as close as possible to the 1:1 overall goal as identified in these Guidelines.

## ATTACHMENT 12.2

Tracked-changes version of proposed amendment adding Section III (Policy Implementation Guidelines for agricultural mitigation) to LAFCO's adopted 2010 Policy for Preservation of Open-Space and Agricultural Lands

## PART E. PRESERVATION OF OPEN-SPACE AND AGRICULTURAL LANDS<sup>19</sup>

### I. INTRODUCTION

Significant debate exists concerning the authority of a local agency formation commission to adopt policies, rules, regulations, guidelines, or conditions regarding the establishment of “agricultural buffers” or other methods to address the preservation of open space and agricultural lands. The Cortese – Knox – Hertzberg Local Government Reorganization Act (the “Act”), California Government Code section 56000, et seq., is replete with provisions that grant to a local agency formation commission the authority to consider and provide for the preservation of open space and agricultural lands. “Among the purposes of a [local agency formation commission] are discouraging urban sprawl [and] preserving open-space and prime agricultural lands, . . . ” Section 56301. Furthermore, “[i]t is the intent of the Legislature that each commission, . . . , shall establish written policies and procedures and exercise its powers pursuant to this part in a manner . . . that encourages and provides planned, well-ordered, efficient urban development patterns *with appropriate consideration of preserving open-space and agricultural lands* within those patterns.” Section 56300 (a) (emphasis added). The Legislature has also declared that the preservation of open-space and prime agricultural lands is a “state interest” to be balanced against the promotion of orderly development. Section 56001.

A local agency formation commission 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. Section 56375.3 (b)(5). A local agency formation commission may not approve a change to a Sphere of Influence where the affected territory is subject to a farmland security zone or Williamson Act contract, unless certain conditions exist. Sections 56426 and 56426.5.

In other situations, a local agency formation commission is charged with considering specific circumstances affecting open space or agricultural land when making a decision. For example, when considering a proposal that could reasonably be expected to lead to the conversion of open space lands to non-open space uses, a local agency formation commission must consider guiding such conversion away from prime agricultural land towards non-prime lands. Section 56377s (a) and 56668 (d). In addition, a local agency formation commission should encourage the conversion of open space lands within the jurisdiction or Sphere of Influence of a local agency before approving any proposal that would lead to such conversion outside the jurisdiction or Sphere of Influence of that agency. Sections 56377 (b) and 56668 (d). Finally, a

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<sup>19</sup> Part E of the Policies and Procedures was first adopted on January 25, 2010 and was amended to add Section III (Policy Implementation Guidelines for Agricultural Mitigation) on January 22, 2024. This Part replaces the “Agricultural Lands Preservation Policy” adopted on November 27, 1979 (Resolution 79-30).

local agency formation commission must consider the “effect of [a] proposal on maintaining the physical and economic integrity of agricultural lands,... ” Section 56668 (e).

While a local agency formation commission has considerable authority to provide for the preservation of open space and agricultural land, it may not directly regulate land use: “A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.” Section 56375. A local agency formation commission may, however, require that property sought to be annexed be rezoned, although it may not specify how it shall be rezoned. *Id.*

In order to implement the intent and purposes of the Act with respect to the preservation of open-space and agricultural lands, the Local Agency Formation Commission of Monterey County (“LAFCO”) adopts the following policy.

## II. POLICY

It is the policy of LAFCO that, consistent with section 56300 (a) of the Act, applications or proposals for a change in organization or reorganization, or for the establishment or any change to a Sphere of Influence or urban service area (hereinafter, “Proposal” or “Proposals”), shall provide for planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns. To implement this policy, it is the further policy of LAFCO that:

1. A Proposal must discuss how it balances the state interest in the preservation of open space and prime agricultural lands against the need for orderly development. (Government Code section 56001.) Proposals that fail to discuss this balance, in the opinion of the executive officer, will be deemed incomplete. Proposals may be denied if they fail to demonstrate to the satisfaction of LAFCO that the need for orderly development is balanced against the preservation of open space and prime agricultural lands.
2. A Proposal must discuss its effect on maintaining the physical and economic integrity of agricultural lands. (Government Code section 56668 (a).) Proposals that fail to discuss their effect, in the opinion of the executive officer, will be deemed incomplete. Proposals may be denied if they fail to demonstrate to the satisfaction of LAFCO that the physical and economic integrity of agricultural lands is maintained.
3. A Proposal 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. (Government Code section 56377.) Proposals that fail to discuss potential conversion, in the opinion of the executive officer, will be deemed incomplete. Proposals may be denied if they fail to demonstrate to the satisfaction of LAFCO that: a)

they guide development or use of land for other than open-space uses away from existing prime agricultural lands in open-space use and toward areas containing nonprime agricultural lands (Government Code section 56377 (a)); and b) development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the Sphere of Influence of a local agency will occur prior to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing Sphere of Influence of the local agency (Government Code section 56377 (b)).

4. A Proposal must, if applicable, provide for pre-zoning (Government Code section 56375 (a)), and must demonstrate that it is consistent with the General Plans and Specific Plans of the existing local agency and any immediately adjacent local agency (Government Code sections 56375 (a) and 56668 (g)). Proposals may be denied if they are not consistent with such plans, or, if not pre-zoned, if the Proposal does not demonstrate to the satisfaction of LAFCO that the existing development entitlements are consistent with the local agency's plans.

To further these policies, it is the position of LAFCO that agricultural buffers provide an important means to preserve open-space and agricultural lands and preserve the integrity of planned, well-ordered, efficient urban development patterns. Such buffers may be permanent, temporary, or rolling, and may take many forms; easements, dedications, appropriate zoning, streets, or parks, for example. How agricultural buffers are used to further the state policy of preserving open-space and agricultural lands within patterns of planned, well-ordered, efficient urban development is left to the discretion of each local agency; however, Proposals will be judged on how state-wide policies under the Act, and LAFCO adopted policies, with respect to the preservation of open-space and agricultural lands are furthered. Agreements between neighboring local agencies with regard to the preservation of open-space and agricultural lands are encouraged, and such agreements may be incorporated by LAFCO into a Proposal as a condition of approval, or may be required as a condition precedent to approval.

### **III. POLICY IMPLEMENTATION GUIDELINES: Agricultural Mitigation Actions for City Annexations of Farmland** *(Recommended for adoption by the Commission on January 22, 2024)*

To achieve the intention of the adopted policy's directives, the Commission has developed the following Policy Implementation Guidelines. The intention of the Guidelines is to provide guidance – particularly to Cities, property owners, and preparers of environmental documents pursuant to the California Environmental Quality Act (CEQA) – on how impacts to farmland should be addressed in City annexation applications and their related CEQA documents.

#### **A brief restatement of LAFCO's role under CEQA**

CEQA requires consideration of a project's potential impacts to agricultural resources and related mitigation measures, along with other types of environmental impacts. For annexation proposals, the applicant City is typically the CEQA lead agency – i.e., the public agency that has the primary



responsibility for carrying out or approving the development project for which annexation is requested. LAFCO typically serves as a CEQA responsible agency, meaning a public agency with discretionary authority over some aspects of a project for which a CEQA document is being prepared – the City boundary change, in LAFCO’s case. (State CEQA Guidelines Section 15381.)

A responsible agency complies with CEQA by considering the environmental impact report or negative declaration prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved. As a responsible agency, LAFCO will continue to consult with Cities and other lead agencies to assist them in preparing adequate environmental documents for a project, and provide comments on their draft CEQA documents. Following consultation, comments, and revisions, the lead agency prepares a final document. As a responsible agency, LAFCO is charged with exercising its independent discretion to determine whether or not a City’s final EIR or negative declaration adequately addresses agricultural impacts and mitigation such that LAFCO can rely on the City’s document’s analysis and conclusions when considering an annexation. LAFCO may reject a legally insufficient environmental document that does not adequately address agricultural mitigation. (CEQA Guidelines Section 15096 [a] to [e]).

### **Agricultural Mitigation Guidelines**

#### **1. Lands that are subject to agricultural mitigation requirements**

Agricultural mitigation should be provided for lands being annexed that are designated as either Prime Farmland, Farmland of Statewide or Local Importance, or Unique Farmland in the most recent complete set of Important Farmland data published by the State of California Department of Conservation as of January 22, 2024 (the State’s 2018 dataset).

If lands currently designated as such are later changed by the State to a lower, non-farmland designation (for example, because the lands are fallowed for a period of time), then CEQA documents being prepared to support an annexation proposal should continue to evaluate the development of those lands as a potentially significant impact to agricultural resources that warrants mitigation.

In addition, any lands that the Department of Conservation designates as Prime Farmland, Farmland of Statewide or Local Importance, or Unique Farmland on post-2018 Important Farmland data updates – i.e., lands that the DOC adds to one of these categories in the future, will also be subject to agricultural mitigation requirements.

#### **2. Timing of implementation**

Proposals for annexation of farmlands to a city are required by law to identify and propose specific agricultural mitigation actions – for example, direct acquisition of permanent conservation easements and/or payment of in-lieu fees – prior to the public hearing on the proposed annexation.

For annexation proposals that include fewer than 100 acres of farmland subject to mitigation requirements as provided in these Guidelines, project proponents are expected to carry out all such agricultural mitigation actions prior to LAFCO’s recordation of a certificate of completion for the annexation.

For proposals involving more than 100 acres of farmland subject to mitigation, applicants may propose a phased approach, wherein LAFCO records a certificate of completion effectuating an annexation for an initial part, phase, or portion (up to 100 acres) of the overall approved annexation area after appropriate agricultural mitigation actions corresponding to that acreage have been completed pursuant to these Guidelines, along with any other terms and conditions. LAFCO would then record subsequent certificates of completion for the remaining parts, phases, or portions of the overall acreage, in up to four phases with each phase including at least 25% of the remaining acreage approved for annexation, after corresponding agricultural mitigation actions for each phase have been carried out in accordance with these Guidelines to the satisfaction of the LAFCO Executive Officer, along with any other terms and conditions identified in the Commission’s original approval resolution. Recordation of the initial and subsequent certificates of completion is subject to time limitations as determined by the Commission.

### **3. Methods of Implementation**

**A. Mitigation ratio and criteria:** Agricultural mitigation should be provided at no less than a 1-to-1 ratio – meaning one acre of mitigation provided for each acre of applicable farmland being annexed – and should occur on lands with equivalent or higher farmland mapping designations – i.e., “like-for-like or better” with regard to mapping designations.

**B. Conservation easements (preferred mitigation type):** Dedication of permanent conservation easements on specific sites is generally preferable to payment of in-lieu fees to fund the future purchase of conservation easements at a later date on sites not yet identified.

To the extent practicable, conservation easement receiver sites should be located in close proximity to the community where the proposed annexation and the resulting loss/conversion of farmland are occurring. However, if an applicant has made a good-faith effort – as described below – to identify suitable conservation easement sites in the nearby vicinity to the satisfaction of either the Commission or the Executive Officer if applicable in accordance with Section 2 above, and no such sites are available, then the applicant may identify and propose conservation easement sites on equivalent lands elsewhere in Monterey County, and/or proceed to payment of mitigation in-lieu fees.

“Good-faith effort” means an applicant has: 1) Consulted with a qualified conservation entity to have that entity hold conservation easements to satisfy the applicant’s mitigation requirements under these Guidelines; 2) Diligently attempted to identify suitable potential conservation easement receiver sites; and 3) Has made one or more bona fide offer for suitable conservation easements at fair market value on suitable available sites, but no property owner has accepted the applicant’s offer.

**C. In-lieu fee payment:** If in-lieu fee payment is being proposed, LAFCO may require applicants to document having made a good-faith effort to secure conservation easements, as outlined above. The payment of an in-lieu fee shall be subject to the following provisions:

1. The amount of the in-lieu fee shall be determined by using the appraised fair market value of acquiring a conservation easement on the land being converted. The value of the conservation easement shall be determined by an independent real property appraiser with experience valuing conservation easements for the California Department of Conservation Sustainable Agricultural Lands Conservation Program (SALC) or a similar program.
2. The appraisal determining an appropriate in-lieu fee amount, and payment of the in-lieu fees to a qualified conservation entity, shall be completed within 90 days prior to recordation of a Certificate of Completion for an annexation. If the Commission's approval of an annexation proposal involves phased recordation of more than one Certificate of Completion in accordance with Section 2, above, then any proposed in-lieu fees shall be determined at the time of recording a Certificate of Completion for each individual phase. Determining and paying in-lieu fees shall occur within 90 days prior to each incremental recordation.
3. In addition to the in-lieu fee, applicants may be required to pay to the conservation entity an amount sufficient to cover the costs of managing and administering a conservation easement, and estimated transaction costs associated with acquiring the easement.
4. In-lieu fees may be used to satisfy the entire mitigation requirement for an applicant, or a portion.

**D. Qualified conservation entity:** Dedication of conservation easements, or payment of in-lieu fees, should be to qualified conservation entity (land trust) that is a nonprofit 501(c)(3) corporation eligible to hold a conservation easement, hold a deed restriction, or collect in-lieu fees under California law, and with conserving and protecting agriculture land as one of its primary purposes.

**4. Alternative agricultural mitigation proposals:**

Agricultural mitigation should generally occur for all Prime Farmland or Farmland of Statewide/Local Importance, or Unique Farmland, within the area being annexed. However, the Commission retains the independent discretion to accept, on a case-by-case basis, an annexation – or portions thereof – that has a lesser or different agricultural mitigation for annexation purposes to the extent that such exceptions would be consistent with a project's required mitigation measures under the California Environmental Quality Act, as determined by the CEQA lead agency (typically the applicant City).

Examples of projects that may qualify for alternative agricultural mitigation include, but are not limited to, those proposals, or areas of a proposal, that provide certainty with respect to the proposed future uses, such as deed-restricted affordable, inclusionary, and/or agricultural housing.

While alternative mitigation may be accepted by the Commission, the Commission's intent remains for agricultural mitigation to be provided in a ratio as close as possible to the 1:1 overall goal as identified in these Guidelines.

## ATTACHMENT 12.3

Mike Novo letter dated December 29, 2023

December 29, 2023

Chair Matt Gourley and Commissioners  
Local Agency Formation Commission of Monterey County  
132 West Gabilan Street, Suite 102  
Salinas, CA 93901

**Subject: LAFCO and Agricultural Land Mitigation**

Via email: [mckennak@monterey.lafco.ca.gov](mailto:mckennak@monterey.lafco.ca.gov) and [McBainD@monterey.lafco.ca.gov](mailto:McBainD@monterey.lafco.ca.gov)

Dear Chair and Commissioners:

I am writing this letter speaking for myself, not any organization. At the LAFCO workshops on November 27 and December 4, 2023, related to agricultural mitigation, comments related to exemptions from agricultural mitigation were raised by the public and Commissioners. Cities of the Salinas Valley have been pushing for exemptions from the requirement to mitigate for converting agricultural lands to other uses. Exemptions are problematic as I explain below. This letter first presents my experience with the California Environmental Quality Act (CEQA), then provides a background on CEQA related to the law's requirements related to conversion of agricultural land, then discusses exemptions from mitigating for the conversion of agricultural land, and concludes with a summary. You will note that the section on exemptions is short as it is very clear what is required by CEQA.

CEQA Experience

I have a lot of experience in the California Environmental Quality Act (CEQA) and want to provide the LAFCO Commissioners with an explanation as to what is allowed. I have written well over a hundred Initial Studies. I have also worked on perhaps two dozen EIRs (or more) as a Lead Agency planner, and many, many more consulting with staff, agency consultants, as well as project applicants and their attorneys. Since 1986, I have been a member of the Association of Environmental Professionals (AEP), which is a non-profit professional organization that provides education and technical information related to the California Environmental Quality Act to CEQA practitioners, state and local agencies, and the state legislators. As part of that AEP involvement, I have been on their Legislative Committee that provides advice to the State and legislature related to proposed changes to the CEQA Statute or CEQA Guidelines. I have taught and facilitated all-day CEQA Workshops that qualify attorneys and planners for continuing education credits, as well as spoke to law school and university classes regarding the California Environmental Quality Act.

CEQA Background

The California Environmental Quality Act requires mitigation for any potentially Significant Impact. All feasible mitigation must be provided, even when an impact is determined Significant and Unavoidable. An impact cannot be categorized and dismissed as Significant without also requiring mitigation where feasible mitigation exists.

The conversion of “Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural uses” is a Threshold of Significance established in CEQA Guidelines Appendix G, Section II. This type of conversion has consistently been recognized by CEQA Lead Agencies throughout the state as a Significant Impact on the environment, which position has been supported through court decisions and case law. Small areas being converted might be considered “less than significant;” however, LAFCO tends to deal with this issue in the context of annexations, which are rarely if ever small.

The key language here is conversion to “non-agricultural uses.” Any such conversion is a Significant Impact under CEQA. Case law and the CEQA Guidelines, as well as common practice by implementing Lead Agencies, support the determination that the conversion of agricultural land is a Significant and Unavoidable Impact (*Masonite Corporation v. County of Mendocino* 215 Cal. App. 4<sup>th</sup> 230). Such impacts require a Statement of Overriding Considerations to approve a project, but as importantly, all feasible mitigation measures to lessen the impact must be applied. Under CEQA, LAFCO is typically a Responsible Agency when it comes to annexations and has authority, and responsibility, under the law (CEQA Guidelines Sections 15040 through 15043). As demonstrated by your staff in staff reports for your recent workshops, LAFCO has consistently required mitigation for the conversion of agricultural land, in compliance with its CEQA responsibilities. That mitigation has been completed as part of the annexation process and is clearly feasible. The Cities’ recent testimony at your workshops reinforces that they also consider mitigation feasible and necessary, so I won’t go into a discussion on feasibility.

The conversion of agricultural land may not be broken into phases in a CEQA document/analysis in a manner that results in each phase being considered “less than significant” and, therefore, no mitigation is required. This is considered as piecemealing by the courts and is not proper. The law requires that the Lead Agency analyze, and the Responsible Agency review, “the whole of the action” (CEQA Guidelines Section 15003(h)), which would include the total impact for all phases of an annexation.

In addition, CEQA requires that you consider the Cumulative Impact of “...two or more individual effects, which when considered together, are cumulative or which compound or increase other environmental impacts.” Even a small project that has a “less than significant” impact alone may have a Significant Cumulative Impact when considered with the impact from other “past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time” (CEQA Guidelines Section 15355).

### Exemptions

As I stated above, the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural uses is a Threshold of Significance established in CEQA Guidelines Appendix G, Section II. That means that conversion to non-agricultural uses is a Significant Impact. The only exemption provided under the plain language of the CEQA Guidelines is where agricultural uses are changed to other agricultural uses. While conversion to other uses that are desired by an agency or the public are important, such as for affordable



housing, that desire does not supersede the requirement for requiring all feasible mitigation. A determination of feasibility must be made on a project-by-project basis, not in policy documents or by ordinance. An ordinance addressing agricultural mitigation may describe what uses can be considered as agricultural uses, but it would be improper to identify some of the uses being suggested by some cities for exemptions. There are other ways to reduce mitigation costs for public interest projects.

#### Summary

I have worked with developers for over 30 years, and they have always asked for certainty so they know what to expect in the development process. Exempting uses from mitigation that are not agricultural uses does not provide certainty and puts both the cities and developers at risk. A Lead Agency that allows an exemption from mitigation for converting to non-agricultural uses is at risk of having their CEQA determination challenged in court. Such action adds significant cost and delays to the entitlement process. Since the language of the CEQA Guidelines is plain and straightforward, providing improper exemptions from required mitigation for the conversion of agricultural land is likely to cause the Lead Agency to lose in court and recirculate their CEQA document, adding costs and delays. That whole process does not provide developers with certainty and is not in conformance with CEQA requirements.

As a planner, I also have tried to follow the rule of keeping things simple, when possible. A simple 1:1 mitigation without exemptions is easy to understand and implement and provides certainty to developers and the community.

The Local Agency Formation Commission must act to require appropriate mitigation, as a Responsible Agency under the California Environmental Quality Act. That includes careful consideration of any proposed exemptions from mitigating the conversion of agricultural land with each application that is submitted.

Sincerely,



Mike Novo, AICP

## ATTACHMENT 12.4

Hardt Mason Law memorandum  
dated January 9, 2024



# Memorandum

**To:** Glenn Pace, David Pace, James Pace  
**From:** Katharine Hardt-Mason  
**Date:** January 9, 2024  
**Re:** Monterey County LAFCo Proposed Agricultural Mitigation Policy

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Per our conversation, following is a list of those items which you may want to comment on relating to the Monterey County LAFCo's ("LAFCo") proposed agricultural mitigation policy, as discussed at the public workshop on Monday, December 4<sup>th</sup>.

Summary of Proposed Agricultural Mitigation Policy (the "Policy"):

All property proposed for annexation into a city's limits shall be subject to agricultural mitigation at a ratio of 1:1, one acre of mitigation for every one acre of Prime Agricultural Land and/or Land of Statewide Importance as set forth on the 2016 Farmland Maps converted from agricultural purposes to other uses, subject to certain exceptions: affordable housing, agricultural and food related facilities, and schools. Agricultural mitigation options are either the acquisition of conservation easements on like kind land in the County or the payment of in-lieu fees after the applicant demonstrates a good faith effort to obtain conservation easements. Property approved for annexation in excess of 100 acres will be entitled to phased issuance and recording of Certificates of Completion in increments of not less than 25% of the total acreage of the property approved for annexation upon complete implementation of agricultural mitigation (either acquisition of conservation easements or payment of the in-lieu fees) for the property identified in each request for a Certificate of Completion.

The foregoing is a compilation of the decisions/votes taken by the Commissioners based on Discussion Areas #1 through Discussion Areas #4 included with the Agenda packet provided to the Commissioners for the November 27, 2023, LAFCo meeting. The following recommendations are broken down into the four Discussion Areas.

**Discussion Area #1**

100+ Acre Phased Issuance of Certificates of Completion

Based on Commissioner Leffel's recommendation, the Commissioners elected to approve the phased Certificate of Completion approach for any property in excess of 100 acres provided

property in excess of 100 acres would be approved for the Certificate of Completion approach only if not less than 25% of the total property were included in any request for a Certificate of Completion. While it makes sense to limit application of the policy to larger parcels, the Commissioners should reconsider the 25% of the total property requirement.

The Commissioners' collective concern was the possibility of too many requests for Certificates of Completion for property in excess of 100 acres. While the 25% requirement makes sense for smaller parcels in excess of 100 acres, for significantly larger parcels, the 25% requirement still creates a significant burden on the applicant/property owner given most builders acquire approximately 25 to 50 acres of property at a time. For example, the Vista Lucia project is approximately 770 acres. If each request for a Certificate of Annexation must consist of 25% of the total acreage, this would require 192.5 acres be included in each request. Based on the 25% requirement, if Vista Lucia elected to mitigate the agricultural impacts by payment of the proposed in-lieu fee and assuming an appraised value of \$70,000 per acre with a 20% easement value of the appraised value, Vista Lucia would have to pay \$2,695,000 (192.5 acres multiplied by \$70,000 per acre multiplied by the easement value of 20%) with each request for a Certificate of Annexation. If on the other and, Vista Lucia has the option of electing to request a Certificate of Annexation for each 100 acres, and assuming the same appraised and easement values, Vista Lucia would have to pay \$1,400,000 (100 acres multiplied by \$70,000 per acre multiplied by the easement value of 20%) with each request for a Certificate of Annexation. While the option of proceeding with a phased approach is better than having to pay the in-lieu fees for the entire project at one time, the 25% requirement will still create a significant burden on the project given there is no revenue at the time the in-lieu fee must be paid.

Rather than a 25% per phase requirement, the Commissioners should consider the option of allowing the lesser of either 25% or no less than 100 acres at a time per each request for a Certificate of Completion. This provides applicants/property owners the ability to develop at a reasonable rate while not creating a significant burden on the sub-committee and Executive Officer in processing and recording each Certificate of Completion.

## **Discussion Area #2**

Agricultural Mitigation Options: Agricultural Conservation Easements; In-Lieu Fees;  
and Alternative Mitigation

The Commissioners approved inclusion of two agricultural mitigation options into the proposed Policy: the acquisition by the applicant/property owner of agricultural conservation easements within Monterey County or the payment of in-lieu fees after the applicant/property owner makes a "good faith effort" to obtain conservation easements. The Commissioners did not elect to allow the applicant/property owner to propose alternative means of agricultural mitigation.

The foregoing raises the following concerns:

1. "Good Faith Effort." If an applicant/property owner elects to pay in-lieu fees, the proposed Policy requires that the applicant/property owner prove that it has made a "good faith effort" to obtain conservation easements before the LAFCo administrator will accept payment of the in-lieu fees and issue the requested Certificate of Completion. As stated by Commissioner Leffel in the meeting, the challenge with the "good faith effort" is that it introduces a discretionary element into a process which, per County Counsel, needs to be ministerial.

In general, the legal definition of a "good faith effort" is "what a reasonable person would determine is a diligent and honest effort under the same set of facts or circumstances." *Troutt v. City of Lawrence*, 2008 U.S. Dist. LEXIS 61641 (S.D. Ind. Aug. 8, 2008). The problem with the use of this term is that it requires "a reasonable person" to make a determination as to what is a "diligent and honest effort." This type of discretion enables the person making the determination to use their judgement in concluding whether the effort made by the party responsible for the action has done so diligently and honestly, both of which are also subjective criteria.

As seen with what has happened with the Miramonte annexation, what one party has concluded, using reasonable judgement, as being a valid and an enforceable agricultural conservation easement, another party has concluded, using reasonable judgement, that the proposed agricultural conservation easement does not meet the subjective goals of the Commission when it elected to require the acquisition of agricultural conservation easements as mitigation for impacts to agriculture resulting from annexation of the Miramonte project into the City of Soledad's city limits. There is no blame to be placed in this dilemma, but it demonstrates the problem with using objective criteria to meet a requirement and for these reasons should be removed as a condition precedent to the option of paying in-lieu fees.

That said, if the Commissioners elect to maintain the requirement that the applicant/property owner engage in a good faith effort to obtain an agricultural conservation easement prior to being permitted to pay in-lieu fees, the Commissioners should consider adopting objective criteria by which an applicant/property owners could meet this requirement, approval of which should be made by a sub-committee comprised of no less than three (3) commissioners. With regards to the conditions, the Commissioners could for example require that the applicant/property owner deliver to LAFCo one or more letters executed by an owner/owners of farmland within Monterey County that is equivalent in size to the property for which a Certificate of Completion is being requested (which land is not subject to an existing agricultural easement), stating that the applicant/property owner offered to acquire an agricultural conservation easement at a value equivalent LAFCo's in-lieu fee (see below) for similar land and the owner/owners of the farmland rejected the same. Delivery of the letter(s) would constitute a good faith effort and require that the sub-committee direct the Executive Officer to issue and record the requested Certificate of Completion.

While the foregoing would resolve the issue of discretion, it serves no purpose other than to add an extra step in the process which is better served by the payment of in-lieu fees to be used for acquisition of conservation easements. Many applicants have no agricultural interests in the County and as such are at a disadvantage in locating farmland which might serve as mitigation. As stated during the last hearing on this issue, there are organizations within the County who actively engage in the acquisition of agricultural conservation easements. Rather than wasting the time of an applicant in performing this task, LAFCo should accept in-lieu fees, without a “good faith” condition, and work with those organizations to actively look for and be prepared to enter into agricultural conservation easements upon receipt of the in-lieu fees.

2. In-Lieu Fees. Aside from the issue of allowing for the payment of in-lieu fees only after a good faith effort has been made to obtain a conservation easement, the Commissioners will need to determine the amount of in-lieu fees for both Prime Agricultural Land and Land of Statewide Importance, as well as what if any escalator will be used in connection therewith, whether any administrative fee will be added, and who will be responsible for use of the in-lieu fees.

As the Commissioners know, there is a difference in the value of Prime Agricultural Land and Land of Statewide Importance. To determine those values, the Commissioners should consider obtaining multiple appraisals for similarly designated property within Monterey County. The conservation easement value, or percent of per acre property value, should be decided based on recommendations from multiple different land trusts, the cities, and other interested parties, and the administrative fee, if one is applied, should be limited to the average cost to administer conservation easements. Basing any of these values on the input of a single entity would create a presumption of preference and could deter other entities (i.e., land trusts) from engaging with LAFCo.

The values of the in-lieu fees should be adjusted annually or bi-annually based on either the change in the consumer price index or new appraisals. So as to be completely objective, the values should not be tied to any particular application for annexation, the value of the land being annexed is irrelevant to the value of a conservation easement, and should be published on LAFCo’s website.

Any qualified land trust should be permitted to request use of in-lieu fees being held by LAFCo and LAFCo should be required to contact no less than three (3) land trusts upon the payment of in-lieu fees by any applicant/property owner. All decisions regarding transfer of in-lieu fees to a qualified entity should be made by the full Commission or a committee of Commissioners tasked with implementation of agricultural mitigation tied to an annexation.

3. Alternative Mitigation. In addition to the foregoing, the Commissioners should consider adding the option of alternative means to mitigate agricultural impacts to the Policy. While conservation easements might be the goal at this time, over the years it might become more difficult to obtain conservation easements and even now, if the right proposal were to come along which directly benefits the agricultural community, it would be a loss to the agricultural community to refuse alternative agricultural mitigation options based on a preference for conservation easements. For example, if the University of California at Davis or Cal State University Monterey Bay were to request property within a development for the construction of a satellite campus focused on agricultural programs or a local community college requested long term funding for a new agricultural resources program, LAFCo should have the option of approving an applicant's/property owner's request to mitigate agricultural impacts resulting from the conversion of land by donating land for such purposes or agreeing to create and fund such a program.

### **Discussion Area #3**

Exemptions: Mitigation Ratio; Affordable Housing, Agriculture and Food Related Facilities, and Schools; Flexibility; and Small versus Large Property Annexations

The Commissioners approved and asked County Counsel to further research the inclusion of three areas of exemptions to the obligation to mitigate agricultural impacts resulting from conversion of agricultural land to other uses: affordable housing, agriculture and food related facilities, and schools. Some of the Commissioners seemed to be concerned with two things related to each of these exemptions. First, in approving exemptions, the applicant ends up with less than 1:1 mitigation. Second, these exemptions might not be legally permissible. In addition to the foregoing, the Commissioners should consider allowing for flexibility in application of exemptions, and removing any distinction between small and large property annexations.

1. Mitigation Ratio. With regards to the first issue, it is important to note that the mitigation is discretionary. As stated by Kate McKenna, there have been scenarios in which more mitigation was required and in some situations, no mitigation was required. State law does not set a minimum or maximum mitigation ratio. Although the 1:1 mitigation ratio is fairly standard, LAFCo's obligation is not to protect agricultural land at all costs, but rather to balance the state interest in protecting open space and prime agricultural land against the promotion of orderly development. In other words, at times, the interest in development outweighs the interest in preserving open space, Land of Statewide Importance, and Prime Agricultural Land and as such, exemptions to encourage development within certain spheres of public interest are appropriate.
2. Legality of Exemptions. As to there being a legal restriction on the inclusion of certain exemptions in an agricultural mitigation policy, please note that the California Land Trust Model Agricultural Mitigation Ordinance includes exemptions for (1) small parcels, (2) affordable housing, (3) public uses, and (4) habitat conservation. Similarly, the City of Woodland's agricultural mitigation policy exempts (a) affordable housing, and (b) public

facilities; the City of Davis' agricultural mitigation policy exempts (i) agricultural buffers, (ii) public uses, and (iii) small parcels; and the City of Gonzales' agricultural mitigation policy exempts (x) affordable housing, (y) land converted for public uses, and (z) city projects. To my knowledge, there has not been a legal ruling which precludes or even limits the use of these types of exemptions from agricultural mitigation requirements.

Please note that all of these policies include exemptions for "public uses" and/or "public facilities", not just schools. Although public schools rely on state funding, developer impact fees, and bond initiatives to acquire land and build schools, thereby reducing the funding available to pay for mitigation, the development of other public uses and public facilities also rely on the same sources and provide equal benefits to the community, and in some cases more essential benefits (sanitary sewer facilities, water tanks, etc.). If the municipalities responsible for developing these public uses and facilities are required to pay agricultural mitigation fees, they will likely increase development impact fees, which will be passed on to the homebuyer/renter, or increase user fees, which are the responsibility of the public at large. In other words, these uses, which are equally as important to orderly development as schools are to orderly development, will result in additional costs being passed on to the homebuyer/renter and will impact the larger existing community which uses these same resources. For these reasons, the Commissioners should consider expanding the "school" exemption to public uses and public facilities.

As to the question of how to define "affordable housing," the California Land Trust Model Agricultural Ordinance contains language referencing certain California code sections which define affordable housing. For communities that do not have a State approved Housing Element or agricultural mitigation policy which defines affordability, the Commissioners could choose to use California code for this purpose. For those cities with a state approved Housing Element or an agricultural mitigation policy, however, the Commissioners should consider using the cities' definition of affordable housing given the State has left it to the local communities to determine how to interpret and enforce their affordable housing policies. As stated by Commissioner Church, it is important to recognize that some cities, such as Gonzales, have adopted ordinances and plans which will lead to the construction of affordable housing by means other than a straight forward application of the California codes which define affordability.

3. Flexibility. In addition to the foregoing, the Commissioners may want to consider giving themselves some flexibility in dealing with exemptions by including a "catchall" provision which allows, at their discretion, for additional exemptions which serve a beneficial public purpose or recognize existing agricultural mitigation implemented by a city. For example, if an agricultural producer were to propose an after school program for migrant workers' children or a private hospital were to propose a clinic within a particular development, the Commissioners may determine that such uses are beneficial to the agricultural community or the public at large and want to exempt the agricultural mitigation requirement from

land developed with such uses, but without a “catchall” exemption to be used at their discretion, they would not be in a position to grant such an exception. By including discretionary language such as this, there is no guarantee that an exemption would be granted for a particular beneficial public purpose, but it gives the Commissioners flexibility in case a truly unique beneficial public purpose is presented.

Flexibility would also allow the Commissioners to consider agricultural mitigation which some of the cities have already implemented as a result of the Memoranda of Agreements entered into with the County. For example, during its negotiations with the County, the City of Gonzales agreed to direct all future growth in the city towards the east to avoid conversion of the better farmland to the west of city limits. The City also agreed to a “hard edge” of development to the west, preventing development beyond that edge. Additionally, there are already agricultural conservation easements on several of the properties adjacent to future City of Gonzales annexation areas. The City of Gonzales also requires agricultural buffers between all new development and properties that will remain in agricultural production. The Commissioners may want the option of reducing the amount of agricultural mitigation required in connection with proposed annexation given the agricultural mitigation already in place or required by a city pursuant to existing city policies or ordinances. Without a “catchall” provision, the Commissioners would not be in a position to consider those actions taken by the cities in furtherance of their obligations set forth in the Memoranda of Agreements.

4. Small versus Large Property Annexations. Finally, with regard to applying these exemptions to certain projects only, such as small development, because there is concern that cities could change uses following recordation of the Certificate of Completion for any particular phase, there are means to ensure that the exemptions identified in any application for a Certificate of Completion will not change. For example, the Commissioners could require that the application include an irrevocable offer of dedication to (i) either an affordable housing builder or the city for either affordable housing or public uses, such as a public park, or (ii) the school district for school uses. Similarly, a Development Agreement with the city or a school district could contain similar irrevocable provisions. To apply any of the exemptions to only parcels of a certain size creates inequity in not only the process, but in the ability to develop these uses and facilities. Cities and school districts would be discouraged from working with applicants/property owners who are developing larger parcels because they would not receive the same exemptions as applicants/property owners who are developing smaller parcels. Why should a 25 acre property which includes a 12 acre school site get an exemption for the school site, but a 150 acre property which includes a 12 acre school site not get an exemption for the school site? The same public benefit is being provided. Given the reasons for the proposed exemptions, there seems to be no valid reason for making a distinction between larger and smaller properties.

#### Discussion Area #4

Prime Agricultural Land or Land of Statewide Importance as set forth on the current Important Farmland Maps prepared by the Department of Conservation

The last action taken by the Commissioners was to approve use of the current Department of Conservation Important Farmland Maps for all annexations moving forward. The stated concern was the ability of a property owner to stop farming property which is classified as Land of Statewide Importance or Prime Agricultural Land for a period of time so as to remove the property from the Important Farmland Maps. The problem with setting the date of the Important Farmland Maps for all future annexations is CEQA requires the use of the most recent data in preparing environmental documents for any project. Although the Department of Conservation is generally several years behind in publishing updated Important Farmland Maps, if the Commissioners elects to require use of the current Important Farmland Maps (2016-2018), in the future, CEQA documentation for an annexation proposal will use the updated Important Farmland Maps, which could result in a discrepancy in the amount of agricultural land which needs to be mitigated in connection with an annexation request. LAFCo's own policies state that the Commission is required to comply with the terms of CEQA; the use of other than the current Important Farmland Maps as of the date of an application for annexation or the date used in the supporting environmental documentation appears to be contradictory to this policy.

Furthermore, setting a date by which all proposed property for annexation will be analyzed disregards changes to the environment which might mandate a change in use of farmland. Whether as a result of changes to groundwater availability or the result of a drought, or perhaps ownership of the farmland from one generation to the next, property owners may elect not to continue farming their property. A property owner should not be penalized for taking property out of production which is not being effectively used for agricultural uses or which the property owner no longer wishes to use for agricultural purposes. Property which is not Prime Farmland or Land of Statewide Importance for any reason should not be required to mitigate for the loss of agricultural land. To the contrary, that property might be the right place for development to occur given it cannot be used effectively for agricultural uses or the property owner no longer chooses to use it for agricultural purposes.



LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

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DATE: January 22, 2024  
TO: Chair and Members of the Formation Commission  
FROM: Kate McKenna, AICP, Executive Officer  
PREPARED BY: Jonathan Brinkmann, Senior Analyst  
SUBJECT: Receive a Training from General Counsel on Rosenberg’s Rules of Order and Consider Proposed Amendments to the LAFCO Rules and Regulations “Bylaws” to: (1) Change the Commission’s Parliamentary Procedures from Robert’s Rules of Order to Rosenberg’s Rules of Order, and (2) Add a Code of Conduct and Rules of Decorum (Continued from the December 4, 2023 Regular LAFCO Meeting).  
CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378

**SUMMARY OF RECOMMENDATIONS:**

It is recommended that the Commission:

1. Receive a report from the Executive Officer;
2. Receive a training from LAFCO General Counsel on the use of Rosenberg’s Rules of Order;
3. Receive any public comments;
4. Provide for questions or follow-up discussion by the Commission; and
5. Consider adoption of a resolution (Attachment 2) updating the LAFCO Rules and Regulations (“Bylaws”) for the Orderly and Fair Conduct of Hearings.

**EXECUTIVE OFFICER’S REPORT:**

Consistent with Commission direction given at the December 4, 2023 Commission meeting, the purpose of this item is to receive the requested training on the use of Rosenberg’s Rules of Order followed by consideration of proposed Bylaws amendments to support the Chair and Commission in maintaining order during meetings. LAFCO Chair Gourley has been consulted in the preparation of this agenda item.

**Training on Using Rosenberg’s Rules of Order**

Over the past several months, anonymous public participants through Zoom have attempted to disrupt a number of city council meetings on the Monterey Peninsula using hate speech. To support the Chair and Commission in maintaining order during meetings, and to address meeting disruptions if they arise, LAFCO General Counsel and staff recommend that the Commission first receive a training on the use of Rosenberg’s Rules of Order and then consider proposed amendments to the Bylaws. At the January 22 meeting, General Counsel will provide a brief presentation to facilitate the training on the use of Rosenberg’s Rules of Order. As additional background, Rosenberg’s Rules of Order (Revised 2011) are included under Attachment 1.

## Proposed Amendments to the LAFCO Bylaws

After completion of the training, General Counsel and staff recommend that the Commission consider adoption of a resolution (Attachment 2) amending LAFCO's Bylaws to: (1) change the Commission's parliamentary procedures from Robert's Rules of Order to Rosenberg's Rules of Order, and (2) add a Code of Conduct and Rules of Decorum under LAFCO's Bylaws.

Rosenberg's Rules of Order is a simplified version of Robert's Rules of Order, providing a more concise, understandable, and user-friendly structure. The intent of a Code of Conduct and Rules of Decorum is to establish uniform norms and procedures to conduct the Commission's business in an orderly and fair manner. Proposed changes to the Bylaws are shown in tracked changes under Attachment 3.

As an additional measure, Commission meetings now use the Zoom Webinar format, which provides enhanced meeting security features. LAFCO's meeting agendas have now been updated to include, under the 'Instructions for Remote Public Participation,' a request that members of the public state their first and last name before addressing the Commission. This update to LAFCO's meeting agendas is to encourage members of the public to engage with the Commission in a transparent manner.

Respectfully Submitted,



Kate McKenna, AICP  
Executive Officer

### Attachments:

1. Rosenberg's Rules of Order, Revised 2011
2. Draft Resolution Adopting an Update to the Bylaws for the Orderly and Fair Conduct of Hearings of LAFCO of Monterey County, including Exhibit A: Proposed Bylaws Update. (Clean Version)
3. Proposed Bylaws Update for the Orderly and Fair Conduct of Hearings of LAFCO of Monterey County. (Tracked Changes Version)

## ATTACHMENT 13.1

# Rosenberg's Rules of Order



# Rosenberg's Rules of Order

REVISED 2011

*Simple Rules of Parliamentary Procedure for the 21st Century*

*By Judge Dave Rosenberg*



## MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

## VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

### About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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### ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.



## TABLE OF CONTENTS

About the Author .....	ii
Introduction .....	2
Establishing a Quorum .....	2
The Role of the Chair.....	2
The Basic Format for an Agenda Item Discussion .....	2
Motions in General.....	3
The Three Basic Motions.....	3
Multiple Motions Before the Body.....	4
To Debate or Not to Debate.....	4
Majority and Super-Majority Votes .....	5
Counting Votes.....	5
The Motion to Reconsider.....	6
Courtesy and Decorum .....	7
Special Notes About Public Input .....	7



## INTRODUCTION

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The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

### Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

### The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

### The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:

**First**, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

**Second**, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

**Third**, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

**Fourth**, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

**Fifth**, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

**Sixth**, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

**Seventh**, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

**Eighth**, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

**Ninth**, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

**Tenth**, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

## Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move . . . ”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

## The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

**The basic motion.** The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”



**The motion to amend.** If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

**The substitute motion.** If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

### Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

**First**, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

**Second**, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

**Third**, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

### To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

**Motion to adjourn.** This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

**Motion to recess.** This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

**Motion to fix the time to adjourn.** This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

**Motion to table.** This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

**Motion to limit debate.** The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

**NOTE:** A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

## Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

**Motion to limit debate.** Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

**Motion to close nominations.** When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

**Motion to object to the consideration of a question.** Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

**Motion to suspend the rules.** This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

## Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in



California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would NOT count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you DO count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

#### *How does this work in practice?*

##### *Here are a few examples.*

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body DOES have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

## **The Motion to Reconsider**

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.

## Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

**Privilege.** The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

**Order.** The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

**Appeal.** If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

**Call for orders of the day.** This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

**Withdraw a motion.** During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

## Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

**Rule One:** Tell the public what the body will be doing.

**Rule Two:** Keep the public informed while the body is doing it.

**Rule Three:** When the body has acted, tell the public what the body did.



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ATTACHMENT 13.2

Resolution – Bylaws Update  
Clean Version

LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

RESOLUTION NO. 24-xx

ADOPTING AN UPDATE TO THE RULES AND REGULATIONS (“BYLAWS”) FOR THE ORDERLY AND FAIR CONDUCT OF HEARINGS OF THE LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

WHEREAS, each Local Agency Formation Commission is empowered pursuant to Government Code Section 56375 to adopt and to enforce its own rules and regulations for the orderly and fair conduct of hearings; and

WHEREAS, the Local Agency Formation Commission adopted Resolutions 02-09, 08-02, 11-15, 11-17, 20-15, 22-11, and 23-02 establishing Rules and Regulations for the Orderly and Fair Conduct of Hearings; and

WHEREAS, the Local Agency Formation Commission wishes to further update the Rules and Regulations for the Orderly and Fair Conduct of Hearings to change its parliamentary procedures from Robert’s Rules of Order to Rosenberg’s Rules of Order and to adopt a Code of Conduct; and

WHEREAS, the Local Agency Formation Commission has considered the proposed update at a public meeting on January 22, 2024.

NOW, THEREFORE, BE IT RESOLVED that the Local Agency Formation Commission of Monterey County finds that the proposed updates (Exhibit A) are not subject to environmental analysis because they constitute organizational and administrative activities of government that will not result in direct or indirect physical changes in the environment and are therefore not a “project” for purposes of CEQA.

BE IT FURTHER RESOLVED that the Local Agency Formation Commission of Monterey County adopts the attached update to the Rules and Regulations (“Bylaws”) for the Orderly and Fair Conduct of Hearings of the Local Agency Formation Commission of Monterey County (Exhibit A), and the update is effective immediately.

UPON MOTION of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution is adopted this 22nd day of January 2024 by the following vote:

- AYES: Commissioners:
- NOES: Commissioners:
- ABSENT: Commissioners:
- ALTERNATES: Commissioners:
- ABSTAIN: Commissioners:

By: \_\_\_\_\_  
Matt Gourley, Chair  
Local Agency Formation Commission of Monterey County

ATTEST: I certify that this resolution is a true and complete record of said Commission’s actions.

Witness my hand this 22nd day of January 2024.

By: \_\_\_\_\_  
Kate McKenna, AICP, Executive Officer

Exhibit A

**LAFCO** *of Monterey County*

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LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

RULES AND REGULATIONS (“BYLAWS”)

FOR THE ORDERLY AND FAIR CONDUCT OF HEARINGS

OF THE LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

January 22, 2024 Proposed Update – Clean Version  
Amended: 2002, 2008, 2011, 2020, 2022, and 2024

Section 1. GENERAL APPLICATION

The Local Agency Formation Commission of Monterey County hereby declares that its procedures, and the procedures of its standing committees, shall be governed by the California Open Meeting Law, also known as the “Ralph M. Brown Act” or “Brown Act” (California Government Code section 54950 *et seq.*), and the regulations hereinafter set forth together with such other administrative regulations as may from time to time be prescribed by the Commission or its Executive Officer. Should these regulations conflict with the requirements of the Brown Act, the provisions of the Brown Act shall control. For purposes of these rules and, unless otherwise specified, the term “Commissioner” shall refer to regular members of the Commission, and the term “Alternate” shall refer to alternate members.

Section 2. AUTHORITY

The conduct of the Local Agency Formation Commission of Monterey County is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code sections 56000 *et seq.*, as amended and hereinafter referred to as the “CKH Act.” The provisions of these bylaws are not intended to preempt state law. In the event of a conflict between the provisions set forth in these bylaws and those set forth in the CKH Act, the provisions of the CKH Act shall prevail.

Section 3. REGULAR MEETINGS

Regular meetings of the Commission shall be held on the fourth Monday of each month commencing at the hour of 3:00 p.m., or as may be otherwise determined as part of the adoption of the annual calendar. If such a meeting falls upon a legal holiday, the regular meeting shall be held on the preceding or succeeding Monday that does not fall on a holiday as set forth in the annual calendar. If no matters have been filed, no other matters remain from previous meetings, or there is otherwise no business to transact, the Chair may cancel the regular meeting, directing the Executive Officer to so notify the members of the Commission.

Section 4. AGENDAS OF REGULAR MEETINGS

At least 72 hours before a regular meeting, an agenda shall be posted at the Commission’s regular place of posting that contains a brief description of each item of business to be transacted or discussed at the



meeting. The agenda will include a period of time on the agenda to receive public comment on items within the jurisdiction of the Commission. The Commission will not make a final determination on any issue raised during the public comment period that is not included on the agenda. The Commission may refer the item to staff or schedule action for a future agenda.

#### Section 5. ITEMS NOT ON THE POSTED AGENDA

No action is to be taken on items not set forth on the posted agenda unless:

- a. By a majority vote the Commission determines that an emergency situation exists (emergency situation means work stoppage or other activity which severely impairs health, safety, or both, or a crippling disaster which severely impairs public health, safety, or both);
- b. By a determination of two-thirds of the Commissioners, or if less than two-thirds of the Commissioners are present then by unanimous vote of the Commissioners present, that the need to take action arose subsequent to the agenda being posted; or
- c. By the item being continued from a prior meeting held less than five days previously at which time the item was posted.

#### Section 6. SPECIAL MEETINGS

Special meetings may be ordered at any time by the Chair, or by a majority of Commissioners calling for such a meeting in writing. Notice of a special meeting must be delivered to each Commissioner personally, or by mail, and to each local newspaper of general circulation, and any radio or television stations requesting notice in writing. Such notice must be received at least 24 hours before the time of such special meeting as specified in the notice. The order shall specify the time, date, and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by the Commission. The call and notice shall be posted at least 24 hours prior to the special meeting at the Commission's regular place of posting. The written notice may be dispensed with as to any Commissioner who at or prior to the time the meeting convenes files with the Executive Officer a written waiver of notice. The waiver may be given by email. The written notice may also be dispensed with as to any Commissioner who is actually present at the meeting at the time it convenes.

#### Section 7. EMERGENCY MEETINGS

An emergency meeting may be held without compliance with the 24 hour notice or posting requirement as provided in Section 6 when an emergency situation exists, as defined in Section 5(a). The Executive Officer shall notify by phone at least one hour prior to such meeting any media which has requested notice of special meetings. Any action taken at the meeting shall be posted for a minimum of ten days in a public place as soon after the meeting as possible.

#### Section 8. ADJOURNED MEETINGS

The Commissioners may continue any item to another meeting specified in the order of continuance, may adjourn any meeting without specifying a new meeting date, and may adjourn any meeting to a time and place specified in the order of adjournment. Less than a quorum may so continue an item or adjourn a meeting. If all members are absent from any meeting, the clerk or secretary may so adjourn the meeting, and shall provide notice of any new meeting date and time as required by law.

#### Section 9. LOCATION OF MEETINGS

Unless otherwise particularly ordered by the Commission, all meetings shall be held in the Board of Supervisors Chambers, Monterey County Government Center, 168 West Alisal Street, First Floor, Salinas, California. Additionally, if consistent with state law, the Commission may by majority vote decide to

conduct its meetings virtually, or in a hybrid manner where certain Commissioners attend a meeting from a physical location while others attend virtually.

Section 10. COMPOSITION

The Commission shall consist of seven regular members and four alternate members (Government Code sections 56325 and 56332). All Commissioners must be residents of Monterey County.

Section II. SELECTION/APPOINTMENT OF MEMBERS

- A. County: The County Board of Supervisors shall appoint two regular Commissioners and one alternate Commissioner from the Board’s membership to serve on the Commission (Government Code section 56325).
- B. City: The City Selection Committee shall appoint two regular Commissioners and one alternate Commissioner to serve on the Commission, each of whom shall be a mayor or city council member from one of the County’s incorporated communities (Government Code section 56325). Such appointments shall be made in accordance with the procedure established by the City Selection Committee and described in the rules and regulations of that body.
- C. Special Districts: The Special Districts Selection Committee shall appoint two regular Commissioners and one alternate Commissioner from the special districts within the County (Government Code section 56332). Such appointments shall be made in accordance with the procedure established by the Special Districts Selection Committee and described in the rules and regulations of that body. The Independent Special Districts Selection Committee serves as the Special Districts Selection Committee and is comprised of one representative from each independent special district in Monterey County. The Independent Special Districts Selection Committee makes Special District Member appointments to LAFCO through elections in accordance with its Commissioner Selection Process and Criteria.
- D. Public Member: The public member and one alternate public member are appointed by a majority vote of the Commission in accordance with Government Code section 56325(d) and in the manner detailed in Section 14 of these bylaws.

Section 12. CHAIR AND CHAIR PRO TEMPORE

At its first meeting in the month of May, or in June if its May meeting is canceled, the Commission shall by majority vote, select from its regular members one to serve as Chair and one to serve as Chair Pro Tempore of the Commission until the following May. Any Chair or Chair Pro Tempore selected under the provisions of this section shall continue to act as Chair or Chair Pro Tempore until the selection of their successors.

Beginning in May 2020, the positions of Chair and Chair Pro Tempore will be rotated among Commissioners according to the following schedule, and then repeated:

	<u>Chair</u>	<u>Chair Pro Tempore</u>
Year 1	City Member	County Member
Year 2	County Member	Special District Member
Year 3	Special District Member	Public Member
Year 4	Public Member	City Member

The Chair shall be the parliamentarian of the Commission, upon consultation with the General Counsel, and shall have the powers, and perform the duties necessary, to preserve order and decorum, and to ensure the orderly discharge of the Commission's business.

In the event of a disruption or disturbance, the Chair is authorized, in consultation with General Counsel, to take all appropriate steps, including calling a recess, and to curtail behavior which substantially impairs the conduct of the meeting.

### Section 13. TEMPORARY CHAIR PRO TEMPORE

In the absence of the Chair or Chair Pro Tempore at any meeting, the Commissioners present and constituting a quorum may, by majority vote, select a Commissioner to serve as temporary Chair Pro Tempore to serve in the absence of the Chair or Chair Pro Tempore.

### Section 14. APPOINTMENT OF REGULAR AND ALTERNATE PUBLIC MEMBERS

Immediately upon the vacancy or tendered resignation of the Commission's regular or alternate public member, the Executive Officer shall prepare a press release and distribute it to the various newspapers circulated within the county and shall mail to each person on the LAFCO agenda distribution list, or other such interested persons requesting a copy, a notice of such vacancy. Said notice shall request that interested persons submit to the Executive Officer by a specified date a letter of interest and resume. Said letters of interest and resumes shall be provided to each regular and alternate city, district and county LAFCO Commissioner. The Commission shall review the qualifications of all interested persons by reviewing the submitted letters of interest and resumes and may determine to hold interview sessions with the most qualified applicants. The Commission may appoint an ad hoc committee to review applications, interview candidates, and present recommendations to the full Commission. Selection of the regular and alternate public member shall be subject to the affirmative vote of at least one of the Commissioners selected by each of the appointing authorities of the cities, the districts and the county. The Commission shall make such appointments by the confirmation of at least four votes of those Commissioners qualified to vote on the matter.

The Commission may appoint a person to any vacant public member position who is currently an officer or an employee of the County, or of any city or district with territory in the County, conditional upon receiving written verification that the person has resigned from the local agency position that causes the conflict of interest.

If the position of regular public member becomes vacant prior to the expiration of a term, the Commission may appoint the alternate public member to fill the unexpired term. If either position becomes vacant prior to the expiration of a term, the Commission may appoint a qualified candidate who has applied in the previous 12 months in response to a notice of vacancy for either position. These alternate application procedures can be implemented following a 21-day public notice of the vacancy.

### Section 15. ALTERNATE MEMBERS

In each member category, the alternate member shall serve and vote in place of a regular member who is absent or who disqualifies herself or himself from participating on a specific matter before the Commission at a regular/special Commission meeting or in closed session. Alternate members shall be entitled and encouraged to attend all meetings of the Commission, even if the regular member(s) is (are) present. Alternate members may attend and participate in closed session meetings of the Commission.

## Section 16. TERMS OF OFFICE

The terms of office of Commissioners and Alternates shall be four years unless otherwise prescribed by law. If a Commissioner leaves the Commission prior to the completion of his/her term, the appointment of his/her successor shall be for the remainder of the unexpired term of his/her predecessor.

## Section 17. COMPENSATION

Commissioners attending CALAFCO functions (e.g., conferences, workshops, executive board meetings) shall be compensated for the expenses associated with conference registration, accommodations, parking, mileage, and car rental. Commissioners shall not receive a LAFCO stipend for attending such functions.

## Section 18. COMMITTEES OF THE COMMISSION

The Commission may establish committees from time to time. The composition of committees should be at least two Commissioners, but no more than three Commissioners, and may include Alternates. The Commission may establish standing committees which have broad and continuing subject matter, such as the Budget & Finance Committee, or ad hoc committees which are formed for a specific purpose and a limited time, such as the Executive Officer Evaluation and Compensation Review Committee.

Committees may be appointed by any of the following methods:

- a. Nominations from the floor (open nominations) with viva voce election;
- b. Nominations by the chair (with confirmation by voice vote);
- c. Appointment by the chair; and
- d. Appointment by adoption of a motion naming members of a committee.

## Section 19. QUORUM

Four Commissioners, including any Alternate in attendance in the place and stead of any absent or disqualified Commissioner, shall constitute a quorum for the transaction of any business of the Commission. Any resolution or minute order shall be adopted by the affirmative votes of at least four Commissioners, including any such Alternate(s). In the absence of a quorum, the Executive Officer may adjourn the meeting to a stated time and place in accordance with Section 54955 of the Government Code.

## Section 20. MAJORITY

Actions of the Commission shall be by a majority vote of Commissioners present and voting on the issue. If a Commissioner is recused or prohibited from voting due to an actual or perceived conflict of interest under the California Political Reform Act (Government Code section 8700 *et seq.*) or Government Code section 1090 *et seq.*, the Commissioner shall leave the dais and the chambers, and his or her presence shall not be counted towards a quorum. If the recusal of a Commissioner on a certain item will upset the quorum, such item shall be trailed to the end of the meeting and continued to a future meeting when a quorum can be obtained. The presence of any Commissioner who otherwise abstains from voting shall be counted for purposes of determining a quorum, but the vote of such abstaining Commissioners shall not be counted either for or against a measure in determining whether a majority vote has been obtained.

## Section 21. MEETING PROCEDURE

All meetings of the Commission shall be open to the public. If a Commissioner appears after any public testimony or presentations have been given during a public hearing, such Commissioner shall abstain from voting unless the matter is continued to another meeting. If the public hearing is continued, the Commissioner may participate after reviewing all recordings and materials of the proceedings missed. Unless otherwise ordered by the Chair, the business shall be taken up for consideration and disposition in the following order:

- a. Roll Call
- b. Pledge of Allegiance
- c. Public Comment
- d. Closed Session
- e. Consent Agenda
- f. Continued Matters
- g. New Matters
- h. Other Matters
- i. Executive Officer's Report
- j. Commissioner Comments
- k. Adjournment

## Section 22. SUSPENSION OF REGULAR ORDER OF BUSINESS

The regular order of business may be suspended at the discretion of the Chair, unless a majority of the Commission is opposed thereto.

## Section 23. ROSENBERG'S RULES OF ORDER

Except as may otherwise specifically be provided in these regulations, all meetings of the Commission shall be conducted pursuant to Rosenberg's Rules of Order, revised.

## Section 24. CODE OF CONDUCT AND RULES OF DECORUM

Commissioners and staff will adhere to the following principles:

1. Treat each other and everyone with courtesy and refrain from inappropriate behavior and derogatory comments.
2. Provide fair and equal treatment for all persons.
3. Avoid making negative or offensive comments about Commissioners, staff, and members of the public.
4. Inform the Chair of the desire to speak and be acknowledged by the Chair before speaking.
5. Work together to preserve order and decorum during meetings.
6. Not delay or interrupt the proceedings or the peace of the Commission, nor disturb any Commissioner while speaking, by conversation or otherwise.

## Section 25. VOTING

Except upon demand of a Commissioner or voting Alternate, roll need not be called upon voting on a motion, order, or resolution. All members shall vote audibly either "aye" or "nay" as the case may be.

## Section 26. PUBLIC PARTICIPATION AT MEETINGS

- a. Each agenda of the Commission shall provide an opportunity for members of the public to address the Commissioners on any agenda item of interest to the public, before the Commissioners' consideration of the item. The Chair may limit the time allowed for each person to speak.
- b. Each agenda for regular meetings will include a regular time near the beginning of the agenda to receive public comment on items that are within the jurisdiction of the Commission but are not on the agenda. Directors are not required to respond to any issues raised during the public comment period and may not take any action on such issues other than to refer the item to Staff or schedule action for a future agenda.

## Section 27. HEARINGS

All hearings shall be conducted by the Chair in the manner provided by law. All hearings of the Commission will be considered open for public participation. When a proposal is being considered by the Commission, the public hearing will be considered open when the item is referred to on the agenda by the Chair. The sequence of events relating to a proposal shall be as follows:

- a. By reference to agenda, the Chair announces the proposal to be heard or considered.
- b. The Executive Officer will present the "Executive Officer's Report" to the Commission.
- c. The Executive Officer will present or summarize any additional messages or communications regarding the proposal.
- d. The Chair inquires if Commissioners have any questions of staff.
- e. The Chair asks if there are any proponents in the audience who wish to be heard.
- f. Following the proponents' remarks, the Chair asks for opponents to be heard.
- g. The Chair may permit a brief period for rebuttal from proponents following all opponents being heard.
- h. The Chair shall receive public comments.
- i. After the public has been heard, the Chair may entertain a motion to close the public hearing.
- j. Following the successful passage of the motion to close the public hearing, the discussion would be limited to the Commission level and culminates in an action to approve or deny the proposal by resolution adopted by a vote of the Commission.
- k. The Chair may alter the order specified above, if the Chair believes such change in the order would facilitate the hearing process.

## Section 28. RECORDS OF PROCEEDINGS

All proceedings of every meeting of the Commission shall be reported in writing and shall be permanently maintained in an appropriate Minute File. Minutes of the Commission meetings shall be presented to the Commission at its next regularly scheduled meeting and shall be approved by a majority of Commissioners present, but in no instance shall the affirmative vote be less than four. All orders of the Commission with reference to its final action upon any application or proposal resolutions will be maintained in full in the Minute File. The Executive Officer of the Commission shall keep a Resolution File in which all resolutions shall be entered in full. References in the Minute File to resolutions shall be made by number and name.

## Section 29. PROPONENT

As used herein the term "proponent" shall refer to any person, firm, private corporation, or any local agency making application to or filing any proposal with the Commission.

## Section 30. FORMS

In any proceeding with reference to which the Commission provides an established printed form, the application or proposal or other filing shall be made upon the particular form so provided. When any such printed form is so provided, all information and exhibits required by regularly adopted regulation of the Commission, except that upon finding good cause the Executive Officer may waive submission of certain of the information. In no instance shall waiver be given for submission of any information required by law. The Executive Officer may decline to receive any document or paper not complying with these regulations or the Commission may decline to proceed in the matter until such time as compliance is had with these regulations.

### Section 31. FILINGS REQUESTED

A proponent shall file an original and 15 copies of any application/petition form, map and legal description. When an application consists of a petition, only two copies of the signature pages need be submitted. All filing shall be made with the Executive Officer or such designated person.

### Section 32. ADDITIONAL STATEMENTS

Any application or proposal shall contain such data and information or maps or plats as may be required by any rule or regulation of the Commission, including Standards for the Evaluation of Proposals, and such additional data as may be required by the Executive Officer and which pertains to any of the matters or factors which may be considered by the Commission. Such additional statements, maps, plats and rezoning may be required and shall be furnished upon demand of the Executive Officer at any time either at the time of or subsequent to the initial filing of any application or proposal. The Executive Officer may decline to receive for filing any document or paper that does not comply with the requirements of this section. In the event any such additional data is required after an initial filing is made, further proceedings may be held in suspense pending the presentation of additional data.

### Section 33. IDENTIFICATION OF PROPOSAL

The Executive Officer shall establish a file for each application or proposal and shall establish a LAFCO file number and distinctive name or title for each proposal.

### Section 34. SUPERSESSION

These Rules and Regulations shall supersede any and all rules of procedure previously adopted by the Commission.

## ATTACHMENT 13.3

Bylaws ~ Update in tracked  
changes



# LAFCO *of Monterey County*

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## LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

### RULES AND REGULATIONS (“BYLAWS”)

#### FOR THE ORDERLY AND FAIR CONDUCT OF HEARINGS

#### OF THE LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

January 22, 2024 Proposed Update – Tracked Changes Version  
Amended: 2002, 2008, 2011, 2020, 2022, and 2023

#### Section 1. GENERAL APPLICATION

The Local Agency Formation Commission of Monterey County hereby declares that its procedures, and the procedures of its standing committees, shall be governed by the California Open Meeting Law, also known as the “Ralph M. Brown Act” or “Brown Act” (California Government Code section 54950 *et seq.*), and the regulations hereinafter set forth together with such other administrative regulations as may from time to time be prescribed by the Commission or its Executive Officer. Should these regulations conflict with the requirements of the Brown Act, the provisions of the Brown Act shall control. For purposes of these rules and, unless otherwise specified, the term “Commissioner” shall refer to regular members of the Commission, and the term “Alternate” shall refer to alternate members.

#### Section 2. AUTHORITY

The conduct of the Local Agency Formation Commission of Monterey County is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code sections 56000 *et seq.*, as amended and hereinafter referred to as the “CKH Act.” The provisions of these bylaws are not intended to preempt state law. In the event of a conflict between the provisions set forth in these bylaws and those set forth in the CKH Act, the provisions of the CKH Act shall prevail.

#### Section 3. REGULAR MEETINGS

Regular meetings of the Commission shall be held on the fourth Monday of each month commencing at the hour of 3:00 p.m., or as may be otherwise determined as part of the adoption of the annual calendar. If such a meeting falls upon a legal holiday, the regular meeting shall be held on the preceding or succeeding Monday that does not fall on a holiday as set forth in the annual calendar. If no matters have been filed, no other matters remain from previous meetings, or there is otherwise no business to transact, the Chair may cancel the regular meeting, directing the Executive Officer to so notify the members of the Commission.

#### Section 4. AGENDAS OF REGULAR MEETINGS

At least 72 hours before a regular meeting, an agenda shall be posted at the Commission's regular place of posting that contains a brief description of each item of business to be transacted or discussed at the meeting. The agenda will include a period of time on the agenda to receive public comment on items within the jurisdiction of the Commission. The Commission will not make a final determination on any issue raised during the public comment period that is not included on the agenda. The Commission may refer the item to staff or schedule action for a future agenda.

#### Section 5. ITEMS NOT ON THE POSTED AGENDA

No action is to be taken on items not set forth on the posted agenda unless:

- a. By a majority vote the Commission determines that an emergency situation exists (emergency situation means work stoppage or other activity which severely impairs health, safety, or both, or a crippling disaster which severely impairs public health, safety, or both);
- b. By a determination of two-thirds of the Commissioners, or if less than two-thirds of the Commissioners are present then by unanimous vote of the Commissioners present, that the need to take action arose subsequent to the agenda being posted; or
- c. By the item being continued from a prior meeting held less than five days previously at which time the item was posted.

#### Section 6. SPECIAL MEETINGS

Special meetings may be ordered at any time by the Chair, or by a majority of Commissioners calling for such a meeting in writing. Notice of a special meeting must be delivered to each Commissioner personally, or by mail, and to each local newspaper of general circulation, and any radio or television stations requesting notice in writing. Such notice must be received at least 24 hours before the time of such special meeting as specified in the notice. The order shall specify the time, date, and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by the Commission. The call and notice shall be posted at least 24 hours prior to the special meeting at the Commission's regular place of posting. The written notice may be dispensed with as to any Commissioner who at or prior to the time the meeting convenes files with the Executive Officer a written waiver of notice. The waiver may be given by email. The written notice may also be dispensed with as to any Commissioner who is actually present at the meeting at the time it convenes.

#### Section 7. EMERGENCY MEETINGS

An emergency meeting may be held without compliance with the 24 hour notice or posting requirement as provided in Section 6 when an emergency situation exists, as defined in Section 5(a). The Executive Officer shall notify by phone at least one hour prior to such meeting any media which has requested notice of special meetings. Any action taken at the meeting shall be posted for a minimum of ten days in a public place as soon after the meeting as possible.

#### Section 8. ADJOURNED MEETINGS

The Commissioners may continue any item to another meeting specified in the order of continuance, may adjourn any meeting without specifying a new meeting date, and may adjourn any meeting to a time and place specified in the order of adjournment. Less than a quorum may so continue an item or adjourn a meeting. If all members are absent from any meeting, the clerk or secretary may so adjourn the meeting, and shall provide notice of any new meeting date and time as required by law.

## Section 9. LOCATION OF MEETINGS

Unless otherwise particularly ordered by the Commission, all meetings shall be held in the Board of Supervisors Chambers, Monterey County Government Center, 168 West Alisal Street, First Floor, Salinas, California. Additionally, if consistent with state law, the Commission may by majority vote decide to conduct its meetings virtually, or in a hybrid manner where certain Commissioners attend a meeting from a physical location while others attend virtually.

## Section 10. COMPOSITION

The Commission shall consist of seven regular members and four alternate members (Government Code sections 56325 and 56332). All Commissioners must be residents of Monterey County.

## Section 11. SELECTION/APPOINTMENT OF MEMBERS

- A. County: The County Board of Supervisors shall appoint two regular Commissioners and one alternate Commissioner from the Board's membership to serve on the Commission (Government Code section 56325).
- B. City: The City Selection Committee shall appoint two regular Commissioners and one alternate Commissioner to serve on the Commission, each of whom shall be a mayor or city council member from one of the County's incorporated communities (Government Code section 56325). Such appointments shall be made in accordance with the procedure established by the City Selection Committee and described in the rules and regulations of that body.
- C. Special Districts: The Special Districts Selection Committee shall appoint two regular Commissioners and one alternate Commissioner from the special districts within the County (Government Code section 56332). Such appointments shall be made in accordance with the procedure established by the Special Districts Selection Committee and described in the rules and regulations of that body. The Independent Special Districts Selection Committee serves as the Special Districts Selection Committee and is comprised of one representative from each independent special district in Monterey County. The Independent Special Districts Selection Committee makes Special District Member appointments to LAFCO through elections in accordance with its Commissioner Selection Process and Criteria.
- D. Public Member: The public member and one alternate public member are appointed by a majority vote of the Commission in accordance with Government Code section 56325(d) and in the manner detailed in Section 14 of these bylaws.

## Section 12. CHAIR AND CHAIR PRO TEMPORE

At its first meeting in the month of May, or in June if its May meeting is canceled, the Commission shall by majority vote, select from its regular members one to serve as Chair and one to serve as Chair Pro Tempore of the Commission until the following May. Any Chair or Chair Pro Tempore selected under the provisions of this section shall continue to act as Chair or Chair Pro Tempore until the selection of their successors.

Beginning in May 2020, the positions of Chair and Chair Pro Tempore will be rotated among Commissioners according to the following schedule, and then repeated:

	<u>Chair</u>	<u>Chair Pro Tempore</u>
Year 1	City Member	County Member
Year 2	County Member	Special District Member
Year 3	Special District Member	Public Member
Year 4	Public Member	City Member

The Chair shall be the parliamentarian of the Commission, upon consultation with the General Counsel, and shall have the powers, and perform the duties necessary, to preserve order and decorum, and to ensure the orderly discharge of the Commission's business.

In the event of a disruption or disturbance, the Chair is authorized, in consultation with General Counsel, to take all appropriate steps, including calling a recess, and to curtail behavior which substantially impairs the conduct of the meeting.

### Section 13. TEMPORARY CHAIR PRO TEMPORE

In the absence of the Chair or Chair Pro Tempore at any meeting, the Commissioners present and constituting a quorum may, by majority vote, select a Commissioner to serve as temporary Chair Pro Tempore to serve in the absence of the Chair or Chair Pro Tempore.

### Section 14. APPOINTMENT OF REGULAR AND ALTERNATE PUBLIC MEMBERS

Immediately upon the vacancy or tendered resignation of the Commission's regular or alternate public member, the Executive Officer shall prepare a press release and distribute it to the various newspapers circulated within the county and shall mail to each person on the LAFCO agenda distribution list, or other such interested persons requesting a copy, a notice of such vacancy. Said notice shall request that interested persons submit to the Executive Officer by a specified date a letter of interest and resume. Said letters of interest and resumes shall be provided to each regular and alternate city, district and county LAFCO Commissioner. The Commission shall review the qualifications of all interested persons by reviewing the submitted letters of interest and resumes and may determine to hold interview sessions with the most qualified applicants. The Commission may appoint an ad hoc committee to review applications, interview candidates, and present recommendations to the full Commission. Selection of the regular and alternate public member shall be subject to the affirmative vote of at least one of the Commissioners selected by each of the appointing authorities of the cities, the districts and the county. The Commission shall make such appointments by the confirmation of at least four votes of those Commissioners qualified to vote on the matter.

The Commission may appoint a person to any vacant public member position who is currently an officer or an employee of the County, or of any city or district with territory in the County, conditional upon receiving written verification that the person has resigned from the local agency position that causes the conflict of interest.

If the position of regular public member becomes vacant prior to the expiration of a term, the Commission may appoint the alternate public member to fill the unexpired term. If either position becomes vacant prior to the expiration of a term, the Commission may appoint a qualified candidate who has applied in the previous 12 months in response to a notice of vacancy for either position. These alternate application procedures can be implemented following a 21-day public notice of the vacancy.

### Section 15. ALTERNATE MEMBERS

In each member category, the alternate member shall serve and vote in place of a regular member who is absent or who disqualifies herself or himself from participating on a specific matter before the Commission at a regular/special Commission meeting or in closed session. Alternate members shall be entitled and encouraged to attend all meetings of the Commission, even if the regular member(s) is (are) present. Alternate members may attend and participate in closed session meetings of the Commission.

### Section 16. TERMS OF OFFICE

The terms of office of Commissioners and Alternates shall be four years unless otherwise prescribed by law. If a Commissioner leaves the Commission prior to the completion of his/her term, the appointment of his/her successor shall be for the remainder of the unexpired term of his/her predecessor.

### Section 17. COMPENSATION

Commissioners attending CALAFCO functions (e.g., conferences, workshops, executive board meetings) shall be compensated for the expenses associated with conference registration, accommodations, parking, mileage, and car rental. Commissioners shall not receive a LAFCO stipend for attending such functions.

### Section 18. COMMITTEES OF THE COMMISSION

The Commission may establish committees from time to time. The composition of committees should be at least two Commissioners, but no more than three Commissioners, and may include Alternates. The Commission may establish standing committees which have broad and continuing subject matter, such as the Budget & Finance Committee, or ad hoc committees which are formed for a specific purpose and a limited time, such as the Executive Officer Evaluation and Compensation Review Committee.

Committees may be appointed by any of the following methods:

- a. Nominations from the floor (open nominations) with viva voce election;
- b. Nominations by the chair (with confirmation by voice vote);
- c. Appointment by the chair; and
- d. Appointment by adoption of a motion naming members of a committee.

### Section 19. QUORUM

Four Commissioners, including any Alternate in attendance in the place and stead of any absent or disqualified Commissioner, shall constitute a quorum for the transaction of any business of the Commission. Any resolution or minute order shall be adopted by the affirmative votes of at least four Commissioners, including any such Alternate(s). In the absence of a quorum, the Executive Officer may adjourn the meeting to a stated time and place in accordance with Section 54955 of the Government Code.

### Section 20. MAJORITY

Actions of the Commission shall be by a majority vote of Commissioners present and voting on the issue. If a Commissioner is recused or prohibited from voting due to an actual or perceived conflict of interest under the California Political Reform Act (Government Code section 8700 *et seq.*) or Government Code section 1090 *et seq.*, the Commissioner shall leave the dais and the chambers, and his or her presence shall

not be counted towards a quorum. If the recusal of a Commissioner on a certain item will upset the quorum, such item shall be trailed to the end of the meeting and continued to a future meeting when a quorum can be obtained. The presence of any Commissioner who otherwise abstains from voting shall be counted for purposes of determining a quorum, but the vote of such abstaining Commissioners shall not be counted either for or against a measure in determining whether a majority vote has been obtained.

## Section 21. MEETING PROCEDURE

All meetings of the Commission shall be open to the public. If a Commissioner appears after any public testimony or presentations have been given during a public hearing, such Commissioner shall abstain from voting unless the matter is continued to another meeting. If the public hearing is continued, the Commissioner may participate after reviewing all recordings and materials of the proceedings missed. Unless otherwise ordered by the Chair, the business shall be taken up for consideration and disposition in the following order:

- a. Roll Call
- b. Pledge of Allegiance
- c. Public Comment
- d. Closed Session
- e. Consent Agenda
- f. Continued Matters
- g. New Matters
- h. Other Matters
- i. Executive Officer's Report
- j. Commissioner Comments
- k. Adjournment

## Section 22. SUSPENSION OF REGULAR ORDER OF BUSINESS

The regular order of business may be suspended at the discretion of the Chair, unless a majority of the Commission is opposed thereto.

## Section 23. ROSENBERG ROBERT'S RULES OF ORDER

Except as may otherwise specifically be provided in these regulations, all meetings of the Commission shall be conducted pursuant to Rosenberg Robert's Rules of Order, revised. ~~The Chair shall be the parliamentarian of the Commission, upon consultation with the General Counsel.~~

## Section 24. CODE OF CONDUCT AND RULES OF DECORUM

Commissioners and staff will adhere to the following principles:

1. Treat each other and everyone with courtesy and refrain from inappropriate behavior and derogatory comments.
2. Provide fair and equal treatment for all persons.
3. Avoid making negative or offensive comments about Commissioners, staff, and members of the public.
4. Inform the Chair of the desire to speak and be acknowledged by the Chair before speaking.
5. Work together to preserve order and decorum during meetings.
6. Not delay or interrupt the proceedings or the peace of the Commission, nor disturb any Commissioner while speaking, by conversation or otherwise.

### Section 2524. VOTING

Except upon demand of a Commissioner or voting Alternate, roll need not be called upon voting on a motion, order, or resolution. All members shall vote audibly either “aye” or “nay” as the case may be.

### Section 2625. PUBLIC PARTICIPATION AT MEETINGS

a. Each agenda of the Commission shall provide an opportunity for members of the public to address the Commissioners on any agenda item of interest to the public, before the Commissioners’ consideration of the item. The Chair may limit the time allowed for each person to speak.

b. Each agenda for regular meetings will include a regular time near the beginning of the agenda to receive public comment on items that are within the jurisdiction of the Commission but are not on the agenda. Directors are not required to respond to any issues raised during the public comment period and may not take any action on such issues other than to refer the item to Staff or schedule action for a future agenda.

### Section 2726. HEARINGS

All hearings shall be conducted by the Chair in the manner provided by law. All hearings of the Commission will be considered open for public participation. When a proposal is being considered by the Commission, the public hearing will be considered open when the item is referred to on the agenda by the Chair. The sequence of events relating to a proposal shall be as follows:

- a. By reference to agenda, the Chair announces the proposal to be heard or considered.
- b. The Executive Officer will present the “Executive Officer’s Report” to the Commission.
- c. The Executive Officer will present or summarize any additional messages or communications regarding the proposal.
- d. The Chair inquires if Commissioners have any questions of staff.
- e. The Chair asks if there are any proponents in the audience who wish to be heard.
- f. Following the proponents’ remarks, the Chair asks for opponents to be heard.
- g. The Chair may permit a brief period for rebuttal from proponents following all opponents being heard.
- h. The Chair shall receive public comments.
- i. After the public has been heard, the Chair may entertain a motion to close the public hearing.
- j. Following the successful passage of the motion to close the public hearing, the discussion would be limited to the Commission level and culminates in an action to approve or deny the proposal by resolution adopted by a vote of the Commission.
- k. The Chair may alter the order specified above, if the Chair believes such change in the order would facilitate the hearing process.

### Section 2827. RECORDS OF PROCEEDINGS

All proceedings of every meeting of the Commission shall be reported in writing and shall be permanently maintained in an appropriate Minute File. Minutes of the Commission meetings shall be presented to the Commission at its next regularly scheduled meeting and shall be approved by a majority of Commissioners present, but in no instance shall the affirmative vote be less than four. All orders of the Commission with reference to its final action upon any application or proposal resolutions will be maintained in full in the Minute File. The Executive Officer of the Commission shall keep a Resolution



File in which all resolutions shall be entered in full. References in the Minute File to resolutions shall be made by number and name.

Section 2928. PROPONENT

As used herein the term “proponent” shall refer to any person, firm, private corporation, or any local agency making application to or filing any proposal with the Commission.

Section 3029. FORMS

In any proceeding with reference to which the Commission provides an established printed form, the application or proposal or other filing shall be made upon the particular form so provided. When any such printed form is so provided, all information and exhibits required by regularly adopted regulation of the Commission, except that upon finding good cause the Executive Officer may waive submission of certain of the information. In no instance shall waiver be given for submission of any information required by law. The Executive Officer may decline to receive any document or paper not complying with these regulations or the Commission may decline to proceed in the matter until such time as compliance is had with these regulations.

Section 3130. FILINGS REQUESTED

A proponent shall file an original and 15 copies of any application/petition form, map and legal description. When an application consists of a petition, only two copies of the signature pages need be submitted. All filing shall be made with the Executive Officer or such designated person.

Section 3231. ADDITIONAL STATEMENTS

Any application or proposal shall contain such data and information or maps or plats as may be required by any rule or regulation of the Commission, including Standards for the Evaluation of Proposals, and such additional data as may be required by the Executive Officer and which pertains to any of the matters or factors which may be considered by the Commission. Such additional statements, maps, plats and rezoning may be required and shall be furnished upon demand of the Executive Officer at any time either at the time of or subsequent to the initial filing of any application or proposal. The Executive Officer may decline to receive for filing any document or paper that does not comply with the requirements of this section. In the event any such additional data is required after an initial filing is made, further proceedings may be held in suspense pending the presentation of additional data.

Section 3332. IDENTIFICATION OF PROPOSAL

The Executive Officer shall establish a file for each application or proposal and shall establish a LAFCO file number and distinctive name or title for each proposal.

Section 3433. SUPERSESSION

These Rules and Regulations shall supersede any and all rules of procedure previously adopted by the Commission.



# LAFCO *of Monterey County*

## LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

KATE McKENNA, AICP  
Executive Officer

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DATE: January 22, 2024  
TO: Chair and Members of the Formation Commission  
FROM: Kate McKenna, AICP, Executive Officer  
PREPARED BY: Jonathan Brinkmann, Senior Analyst  
SUBJECT: LAFCO Budget and Finance Committee Appointments  
CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378

### SUMMARY OF RECOMMENDATIONS:

It is recommended that the Commission confirm the Chair's 2024 nominations for the LAFCO Budget and Finance Committee: Commissioners Mary Ann Leffel, Ian Oglesby, and Chris Lopez.

### EXECUTIVE OFFICER'S REPORT:

Pursuant to Section 18 of the LAFCO Bylaws, standing or ad hoc committees of the Commission may be established from time to time. At present, the Budget and Finance Committee is the only active standing committee of the Commission. Past practice of the Commission is to make appointments to the Budget and Finance Committee (Committee) through nominations by the Chair with confirmation by the Commission. This process is consistent with the LAFCO Bylaws. LAFCO Chair Gourley has been consulted in the preparation of this agenda item.

The Committee meets with the Executive Officer, staff, and financial consultants generally four times per year to examine LAFCO's finances and make recommendations to the full Commission on the use of funds available over the current and prospective fiscal years.

A Committee vacancy was created with the recent changes in County representation on LAFCO. The Committee position previously held by Supervisor Glenn Church is now vacant. Chair Gourley's 2024 Committee nominations are incoming County Member Commissioner Lopez and existing Committee members Special District Member Commissioner Leffel and City Member Commissioner Oglesby.

Respectfully Submitted,



Kate McKenna, AICP  
Executive Officer