

2024

Commissioners

Chair

Matt Gourley
Public Member

Vice Chair

Kimbley Craig
City Member

Mary Adams
County Member

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

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

AGENDA
LOCAL AGENCY FORMATION
COMMISSION
OF MONTEREY COUNTY

Regular Meeting
Monday, February 26, 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/UCIF6pPx2hn3Ek94Wg0Ul7QA>.

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. 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, February 26, 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. [Oath of Office for City Member Commissioner \(Alternate\) Anna Velazquez. \(pg. 6\)](#)
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)

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. [Approve Draft Minutes from the January 22, 2024 Regular LAFCO Commission Meeting. \(pg. 9\)](#)
Recommended Action: Approve minutes. (CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
3. [Approve Draft Minutes from the February 8, 2024 Special LAFCO Commission Meeting. \(pg. 17\)](#)
Recommended Action: Approve minutes. (CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
4. [Accept Report on Anticipated Agenda Items and Progress Report on LAFCO Special Studies. \(pg. 20\)](#) Recommended Action: Accept report for information only. (CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).
5. [Accept Report on Activities of the California Association of Local Agency Formation Commissions and Authorize the Executive Officer to convey support for SB 1209 \(Cortese\), which would add language to State law to explicitly allow LAFCOs to require indemnification by applicants. \(pg. 24\)](#)
Recommended Actions:
 1. Accept report, and
 2. Authorize the Executive Officer to convey support for SB 1209 (Cortese). (CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378).

Old Business (Continued from the January 22, 2024 meeting)

6. [Adoption of a Resolution Amending the Commission's Adopted Policy for Preservation of Open-Space and Agricultural Lands\(pg. 37\)](#)

Recommended Actions:

1. Receive a report from staff and legal counsel;
2. Receive public comments;
3. Review and discuss revised draft Policy Implementation Guidelines for Agricultural Mitigation, and related policy refinements; and
4. Adopt the Guidelines and policy refinements.

(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.

7. [Communications\(pg. 58\)](#)
 - a. Proposed Sale of 132 W. Gabilan Street, Salinas.
 - b. Independent Special Districts Representative nomination and selection process.

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.

Public Comments on Closed Session Items

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.

8. [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, \(Monterey County Superior Court Case No. 22CV000925\). \(pg. 59\)](#)
(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).

Adjournment to the Next Meeting

The next regular LAFCO Meeting is scheduled for Monday, March 25, 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.

AMERICANS WITH DISABILITIES ACT (ADA): All regular and special meeting agendas and associated reports are available at 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.

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

DATE: February 26, 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 1.1

Oath of Office
Mayor Anna Velazquez

LAFCO *of Monterey County*

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?

2024

Commissioners

Chair

Matt Gourley
Public Member

Vice Chair

Kimbley Craig
City Member

Mary Adams

County Member

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

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

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

Scheduled for Adoption February 26, 2024

Monday, January 22, 2024

All Commissioners and public participated in the meeting on Monday, January 22, 2024 in person or by Zoom video conference.

Call to Order

The Local Agency Formation Commission was called to order by Chair Gourley at 3:03 p.m.

Roll Call

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

Members Absent (Excused Absence)

Commissioner Velazquez

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.

General Public Comments

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

There were public comments from Gwyn De Amaral and Leila Banijamali.

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).

Chair Gourley read the Resolution of Appreciation.

Commissioner Action:

Upon motion by Commissioner Craig, seconded by Commissioner Leffel, the Commission adopted the Resolution of Appreciation.

Motion Carried (Roll Call Vote);

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

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).

Chair Gourley administered the Oath of Office to Commissioners Adams and Lopez. The Commissioners took their seats on the dais.

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).

Item #3 was postponed to the next regular meeting as Commissioner Velazquez was absent.

At Chair Gourley's discretion, the Closed Session Agenda Item #4 was moved to the end of the Commission Meeting.

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. 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 (By Budget & Finance Committee): Approve the financial statements.
(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.

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

Commissioner Action:

Upon motion by Commissioner Leffel, seconded by Commissioner Craig, the Commission approved Consent Agenda Items #5 – #11 by a Roll Call Vote.

Motion Carried (Roll Call Vote):

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

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 I, 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 I) 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).

Executive Officer McKenna, Principal Analyst McBain, and General Counsel Gallogly provided introductory comments and answered Commissioner questions. Mr. Gallogly recommended modified wording for Subsection 4 (“Alternative Agricultural Mitigation Proposals”) of the draft Guidelines.

There were comments from seven members of the public. Commissioners discussed the draft Policy Implementation Guidelines and potential clarifications and revisions to the Guidelines.

Motion #1:

Commissioner Root Askew made a motion to adopt the Guidelines as circulated in the meeting packet, with no additional modifications. Chair Gourley seconded.

Motion failed (Roll Call Vote):

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

Commission discussion of the draft Guidelines and the adopted Policy continued, with input from staff and counsel.

Vice Chair Craig and Commissioner Leffel recommended revisions and clarifications regarding:

- Wording in the adopted 2010 Policy that refers to the opinion of the executive officer in evaluating a proposal and the Commission’s authority to approve or deny proposals
- Creating an appeal process for application incompleteness determinations by the executive officer,
- Farmland mapping designations as they relate to the CEQA process,

- Time limitations on recordation of the initial and subsequent certificates of completion for approved annexations,
- Removal of “no less than” from the wording establishing a 1-to-1 agricultural mitigation ratio,
- Requirements for good-faith efforts to secure conservation easements, and
- In-lieu fee payment procedures and use of those payments to acquire conservation easements exclusively in Monterey County.

Commissioners discussed how Guidelines Subsection 4, and particularly the modified wording pertaining to future land uses of public benefit might affect agricultural mitigation requirements.

Motion #2:

Commissioner Leffel made a motion to adopt Subsection 4 of the draft Guidelines (“Alternative Agricultural Mitigation Proposals”) with modified wording as recommended by General Counsel Gallogly during the meeting, with this subsection to return to the next meeting with the rest of the Guidelines. Vice Chair Craig seconded.

Motion carried (Roll Call Vote):

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

There was a brief discussion on how to move forward with the draft Guidelines and the Policy.

Motion #3:

Commissioner Adams moved to direct staff to prepare a revised set of amendments to the Policy reflecting the Commission’s discussion, and bring the revised draft back to the next meeting. Commissioner Leffel seconded the motion.

Motion Carried (Roll Call Vote):

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

Commissioners Adams and Oglesby left the meeting at 5:00 p.m.

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 Oder 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).

Executive Officer McKenna presented the report.

General Counsel Gallogly presented a slideshow training on Rosenberg's Rules of Order.

There were no public comments.

General Counsel Gallogly answered Commissioner questions.

Commissioner Action:

Upon motion by Commissioner Leffel, seconded by Commissioner Poitras, the Commission adopted Amendments to the LAFCO Rules & 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
3. Adopt a Resolution updating the LAFCO Rules and Regulations ("Bylaws") for the Orderly and Fair Conduct of Hearings.

Motion Carried (Roll Call Vote):

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

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 McKenna presented report.

Commissioner Action:

Upon motion by Commissioner Kong, seconded by Commissioner Craig, Commissioners Leffel, Lopez and Oglesby were unanimously nominated to the 2024 Budget & Finance Committee by Roll Call Vote.

Motion Carried (Roll Call Vote):

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

Public Comments on Closed Session Item

There were no comments from the public.

Closed Session

◆ Commissioner Oglesby is recused 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 is recused 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 Items

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

The Commission ADJOURNED to Closed Session at 5:20 p.m.

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

Vice Chair Craig RECONVENED the Commission to Open Session at 5:28 p.m. and advised that there were no reportable items.

Executive Officer's Communications

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

None.

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.

Adjournment to the Next Meeting

Vice Chair Craig adjourned the meeting at 5:29 p.m.

The next Regular LAFCO Meeting scheduled for Monday, February 26, 2024 at 3:00 p.m. at the Monterey County Government Center (168 W. Alisal Street, Salinas).

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.

AMERICANS WITH DISABILITIES ACT (ADA): All regular and special meeting agendas and associated reports are available at 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.

DRAFT

2024

Commissioners

Chair

Matt Gourley
Public Member

Vice Chair

Kimbley Craig
City Member

Mary Adams

County Member

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

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

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

Scheduled for Adoption February 26, 2024

Thursday, February 8, 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, February 8, 2024 in person or by Zoom video conference.

Call to Order

The Local Agency Formation Commission was called to order by Chair Gourley at 9:03 a.m.

Roll Call

Commissioner Bikle

Commissioner Kong

Commissioner Leffel

Commissioner Poitras

Commissioner Velazquez

Arrived at 9:06 a.m.

Vice Chair Craig

Chair Gourley

Members Absent (Excused Absence)

Commissioner Adams

Commissioner Root Askew

Commissioner Lopez

Commissioner Oglesby

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.

There were no public comments.

Closed Session

◆ Commissioner Oglesby is recused 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 is recused 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 9:05 a.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).

Reconvene on Public Agenda Item

The Commission RECONVENED to Open Session at 9:37 a.m.

Roll Call

Commissioner Bikle
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 the Commission gave direction to pursue an appeal in the captioned matter. The details regarding that will be forthcoming, but the vote was taken and direction given.

Adjournment to the Next Meeting

Chair Gourley adjourned the meeting at 9:38 a.m.

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.

AMERICANS WITH DISABILITIES ACT (ADA): All regular and special meeting agendas and associated reports are available at 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.

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

DATE: February 26, 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. It is organized by applications on file, potential applications under discussion, and LAFCO-initiated studies.

Part I: Items Currently on File and In Progress

- 1. **City of Greenfield** – Annexation proposal with two separately owned parcels – an existing elementary school site and a vacant parcel in escrow for sale to the City – on Apple Avenue west of the existing city limits. The application status is incomplete.

This application has been on file since 2017, in part due to the need for a property tax transfer agreement with the County. The intended use of the vacant parcel has changed from residential to a public use. The City is to be congratulated for completing the property purchase this month and in securing a State grant and local funds to construct a community center showplace. City and LAFCO staff are coordinating to update, complete and bring the application to a hearing this Spring.

- 2. **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.
- 3. **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 1,300-acre area placed in the City's sphere in 2014. 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.

On February 2, 2024, the City of Gonzales released a draft environmental impact report for the Vista Lucia project (Fanoe-owned lands of approximately 770 acres) for public review and comments. Staff will prepare a comment letter on the Vista Lucia draft EIR for the Commission's review in March. The City anticipates submitting an annexation application for the Vista Lucia project later in 2024.

The City is also working on a specific plan and an EIR for the Puente del Monte project (Jackson and Rianda-owned lands, approximately 547 acres). There is currently no anticipated timeline for receiving an annexation application for this site.

- 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 February 2024 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 Marina:** Annexation of California State University Monterey Bay (CSUMB) East Campus housing areas (Schoonover and Frederick Park neighborhoods between Reservation Road and Imjin Road), and detachment from Monterey County Regional Fire District. Current status is pre-application.

Both CSUMB housing areas are in Marina’s sphere of influence and have a combined population of about 3,000. Among other considerations, LAFCO’s review will include the proposal’s potential effect on fire and emergency medical service delivery models and related revenues to the affected agencies. Initial discussions with the parties occurred in 2019 and recently restarted in February 2024. There is currently no specific schedule for the City to submit an application.

6. **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 2023, 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 getting underway in March 2024. 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 strategies for the Soledad Community Health Care District’s 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,

A handwritten signature in blue ink that reads "Kate McKenna". The signature is written in a cursive style with a large, stylized initial "K".

Kate McKenna, AICP
Executive Officer

LOCAL AGENCY FORMATION COMMISSION OF MONTEREY COUNTY

KATE McKENNA, AICP
Executive Officer

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

DATE: February 26, 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 RECOMMENDATIONS:

1. Accept the CALAFCO report, and
2. Authorize the Executive Officer to convey support for SB 1209 (Cortese) (Attachment 1), which would add language to State law to explicitly allow LAFCOs to require indemnification by applicants.

EXECUTIVE OFFICER'S REPORT:

California Senate Bill 1209

Supervisor/Commissioner Wendy Root Askew serves on the CALAFCO Board as a Coastal Region representative. In January 2023, the CALAFCO Board approved a legislative proposal that would seek to add language into statute allowing LAFCOs to require indemnification by applicants. This proposal followed a 2021 San Luis Obispo court case decision in which the appellate court ruled against LAFCO with respect to indemnification. The court opined that LAFCOs function only under and within the authorities expressly given them by the legislature and, consequently, determined that LAFCO has no statutory authority to require an indemnity agreement as a condition of a LAFCO application. The purpose of the bill is to provide LAFCOs with explicit statutory authority to require indemnification by applicants.

Although the proposed bill did not proceed in 2023, in early 2024, CALAFCO received news that Senator Cortese agreed to carry a bill (SB 1209, Attachment 1). CALAFCO expects to request letters of support from individual LAFCOs as the bill proceeds through both houses and a decision by the Governor. Staff recommends that the Commission authorize the Executive Officer to convey the Commission's support for the bill throughout the legislative process.

Quarterly Report

The CALAFCO Quarterly Report is attached for information (Attachment 2). The report provides updates on the following topics: CALAFCO Board meetings held in December 2023 and January 2024, CALAFCO Board Committee assignments for 2024, CALAFCO's new brand, a 2023 legislation review, and the successes of the 2023 Annual Conference in Monterey.

Respectfully Submitted,



Kate McKenna, AICP
Executive Officer

Attachments:

1. SB 1209 (Cortese) text
2. CALAFCO Quarterly Newsletter, January 2024

SENATE BILL**No. 1209**

Introduced by Senator CorteseFebruary 15, 2024

An act to add Section 56383.5 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1209, as introduced, Cortese. Local agency formation commission: indemnification.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. The act continues in existence in each county a local agency formation commission (LAFCO) that consists of members appointed, as specified, and oversees those changes of organization and reorganization. The act authorizes a LAFCO to, among other things, review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, as specified.

This bill would authorize a LAFCO to require, as a condition for, among other things, processing a change of organization or reorganization, that the applicant agrees to defend, indemnify, and hold harmless the LAFCO, its agents, officers, and employees from and against any claim, action, or proceeding, as specified, arising from or relating to the action or determination by the LAFCO.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56383.5 is added to the Government
2 Code, to read:
3 56383.5. The commission may require, as a condition for
4 processing a change of organization or reorganization, a sphere
5 amendment or a sphere update, or any other action or determination
6 requested from the commission, that the applicant agrees to defend,
7 indemnify, and hold harmless the commission, its agents, officers,
8 and employees from any claim, action, or proceeding against the
9 commission, its agents, officers, or employees arising from or
10 relating to the action or determination by the commission.

O

FROM THE BOARD CHAIR

**Dear Board of Directors and esteemed
LAFCO members,**

I am honored by your invitation to serve as the Chair of the CALAFCO Board for 2024. I sincerely appreciate your trust and confidence in me, and I look forward to working with you to advance our organization's mission and vision.

As the Chair of the Board, I will strive to uphold the highest standards of leadership, integrity, and accountability. I will also seek to foster a culture of collaboration, innovation, and excellence among our board members, staff, and stakeholders. I believe that together, we can overcome any challenges and seize any opportunities that may arise in our dynamic environment.

I am excited about the prospects of our organization and the potential impact we can have on our communities and beyond. I am eager to hear your ideas, insights, and feedback on improving our performance and achieving our goals. I invite you to



contact me anytime with your suggestions, concerns, or questions.

Thank you once again for this incredible opportunity. I am grateful to Bill Connelly and would like to thank him for his leadership in 2023. I wish you all a productive and prosperous year ahead.

Sincerely,

Margie Mohler, Chair

Watch for our New Look

www.calafco.org

BOARD BRIEF

Retirements and other circumstances saw five members cycle off the Board after the October elections. Our profoundest thanks go to Southern region reps Jo MacKenzie (San Diego) and Mike Kelley (Imperial), Coastal Region rep Shane Stark (Santa Barbara), Northern region rep Debra Lake (Humboldt), and Central Region rep Daniel Parra (Fresno) for the time and expertise that they devoted to CALAFCO—some of them for many years. We are confident that we will see many of you in future endeavors.

In their place, we were also honored to install the five new members. Southern Region: Kimberly Cox (San Bernardino) and Yxstian Gutierrez (Riverside); Coastal Region: Kenneth Leary (Napa); Northern Region: Gordon Mangel (Nevada); and Central Region: Tamara Wallace (El Dorado). We look forward to the many contributions that we know our new Board members will make to CALAFCO. Welcome aboard, everyone!

While the end and beginning of a year are typically full of holiday happenings, the CALAFCO Board was still hard at work. Actions taken during the December and January meetings included approval of the following items:

- CALAFCO 2024 Legislative Policies and Priorities. (Those were unchanged from 2023.)
- 2024 Board meeting schedule (see the Schedule of Events on page 9 for more information.)
- FY 2024-2025 Member dues (approved with a 3.1% CPI

(Continued on page 4)

BOARD MEMBERS

Margie Mohler, Chair
Acquanetta Warren, Vice Chair
Gay Jones, Treasurer
Black Inscore, Secretary
Bill Connelly
Kimberly Cox
Rodrigo Espinosa
Yxstian Gutierrez
Kenneth Leary
Gordon Mangel
Michael McGill
Derek McGregor
Anita Paque
Wendy Root Askew
Josh Susman
Tamara Wallace

CALAFCO Staff

René LaRoche, Exec. Director
Clark Alsop, Legal Counsel
Stephen Lucas, Exec. Officer
José Henriquez, Dep. Exec. Ofc.
Dawn Longoria, Dep. Exec. Ofc.
Gary Thompson, Dep. Exec. Ofc.
Jeni Tickler, Administrator



FROM THE EXECUTIVE DIRECTOR



Happy 2024!

It absolutely boggles my mind to be saying that because it seems like we just launched into 2023. Where *did* the year go?

As we bid farewell to 2023 and welcome the new year, I am filled with gratitude for the incredible community that is CALAFCO. Your enthusiasm, volunteerism, commitment, and support have made the past year truly remarkable.

We've developed a new brand and have some exciting plans in the pipeline – from our engaging events and enriching workshops, to a new website and staff photo contest – and all are designed to make the CALAFCO experience even more fantastic for our members. Stay tuned for updates and get ready to make this year the best one yet!

Of course, it wouldn't be a new year without a toast! So, here's to new beginnings, shared laughter (and lots of it), and the continued growth of our wonderful association. My wish for each of you is that the year ahead is filled with



accomplishments, health, happiness, and countless reasons to celebrate.

May we all embark on 2024 with boundless energy, fresh perspectives, and a shared spirit of collaboration, and may this year bring you nothing but joy, success, and memorable moments!

Here's to making the new year all that we want it to be!

Happy New Year!!

René LaRoche, Executive Director



BOARD COMMITTEE ASSIGNMENTS

The following Board member committee assignments were made on January 5, 2024:

AWARDS COMMITTEE:

Rodrigo Espinosa (Central), Blake Inscore (Northern), Kenneth Leary (Coastal), and Derek McGregor (Southern)

CONFERENCE COMMITTEE:

Kenneth Leary (Coastal), Gordon Mangel (Northern), Anita Paque (Central), and Acquanetta Warren (Southern)

ELECTIONS COMMITTEE:

Bill Connelly (Northern), Kimberly Cox (Southern), Kenneth Leary (Coastal), and Anita Paque (Central)

LEGISLATIVE COMMITTEE:

Bill Connelly (Northern), Yxstian Gutierrez (Southern), Gay Jones (Central), Mike McGill (Coastal), Derek McGregor (Southern), Margie Mohler, Anita Paque, Wendy Root Askew (Coastal), Josh Susman (Northern), and Tamara Wallace (Central)

AD HOC MODERNIZATION COMMITTEE:

Gordon Mangel (Northern), Margie Mohler (Coastal), Tamara Wallace (Central), Acquanetta Warren (Southern)

BOARD BRIEF, Continued from page 2

adjustment.)

- Amended CALAFCO Policy 4.5, pertaining to the Legislative Committee (Now defines a quorum as 7 of the Board and Staff voting members, requires the committee to disband within 15 minutes of the start time when no quorum exists, and has been reformatted for easier reading.)
- A new CALAFCO brand.
- Authorization to move association funds into higher yielding accounts.
- Appointment of members to committees.

Additional information for any Board item can be found in the agenda packets posted on the website, or by contacting the Executive Director.

NEW BRAND UNVEILED

NEW LOOK

It's here! It's here! After a process that started with our Strategic Planning in February, 2023, we are thrilled to share our revitalized CALAFCO brand! As our first ever professionally designed logo, this brand represents a significant milestone in our journey towards modernization and innovation under Phase I of our Strategic Plan.

Our new brand provides us with a **Refreshed Visual Identity** in a simple, modern design to better represent our professionalism, as well as **Enhanced Messaging** that builds on CALAFCO's new Mission Statement. We've also added a new tag line to better communicate the supportive position that CALAFCO plays for its members.

While operational enhancements have been happening, and continue to happen, behind the scenes, the new logo is our first public-facing change. As such, it also symbolizes our transition into a streamlined, more efficient, and modernized association.

The rebranding will soon be accompanied by a new website, which is currently under development. The new website is expected to complement our new brand with a similar modern aesthetic, while also providing us with the technological platform to take event



registrations, and administer dues and payments.

As the hub for all CALAFCO information and resources, we look forward to enhanced website features that will serve up information with an intuitive and friendly user experience. Watch for that unveiling soon!

Of course, work of this magnitude does not occur in a vacuum. Thank you to the Board of Directors for their effort to develop the 2023-2026 Strategic Plan which outlined rebranding as an action item, as well as for the input they provided to develop the logo Design Brief that guided our consultant, Tara Bravo Mulally with CV Strategies.

Also, our sincere thanks to the EOs who took the polls which provided us with needed feedback.

Finally, special thanks to our Ad Hoc Rebranding Committee members who guided the development of this new brand through multiple meetings, discussions, and polls. Those members were Mike Kelley (Southern), Steve Lucas (Northern), Margie Mohler (Coastal), and Anita Paque (Central).



HAPPY TRAILS, JURG!!



The End of the year brought with it the retirement of long-time Imperial EO, Jurg Heuberger - a life change to which Jurg was looking forward! Displaying their characteristic solidarity, Southern Region EOs and staffers traveled to El Centro on December 13th where they wined and dined Jurg, and then hailed him the next day at his last LAFCO meeting. Respect takes many forms, and this display was certainly one of the sweetest! **Congratulations to Jurg on this new journey!**

Associate Member SPOTLIGHT

NEW GOLD ASSOCIATE!

Thank you to Planwest Partners for upgrading to a **Gold Membership!**

Planwest Partners provides contract LAFCO staffing services to multiple LAFCOs - and Collette is a regular presenter at workshops and conferences! Many thanks!

Also, **WELCOME** to our new Associate member, **David Scheurich!** David is Staff Chief of Cooperative Fire Protection for CAL FIRE. His primary activities include review and assistance in coordination of Cooperative Fire Protection agreements.



TRACKS AROUND THE STATE

Only one month into the year and we have two new EOs!

Congratulations to Paula Graf, who traded in the "Assistant" mantle to become the new Imperial LAFCO EO on January 1st.

And in Shasta, Krystle Heaney replaces George Williamson who happily stepped aside as EO. **Congratulations, Krystle!**

NEW LAWS

(Continued from page 6)

Governments to serve on the Coastal Commission.

AB 557 (Hart) Brown Act teleconferencing - Revises the rules for teleconferencing during a proclaimed emergency by removing the sunset date, removing references to social distancing, and extending the time between legislative findings of a continued emergency from the previous 30-day period to 45 days. Does not affect regular teleconferencing rules.



2023 CONFERENCE – MONTEREY



“The best conference, yet!”

We heard that refrain repeatedly from attendees during the October, 2023, Annual Conference. But, it’s hard NOT to get it right when you’ve got the location, weather, and volunteers that we had to help put it all together! Thank you to the 40 or so volunteers who had our backs to make everything happen from planning to execution! It definitely takes a village to provide for 270 attendees (nearly 23% higher than our previous high) but you all nailed it!

And, a special thank you to Director Wendy Root Askew, EO Kate McKenna, and the fabulous crew from Monterey LAFCO for providing SOOOO much assistance! You guys rock!

Award Winners

Of course, the much anticipated highlight of the event was the Achievement Awards that were presented at the Association Dinner on Thursday night. Congratulations to all of our winners!

OUTSTANDING VOLUNTEER: *Anita Paque (Calaveras)*

OUTSTANDING ASSOCIATE MEMBER: *Colantuono, Highsmith & Whatley*

OUTSTANDING COMMISSIONER: *Richard Bettencourt (San Benito)*

OUTSTANDING LAFCO PROFESSIONAL: (two-way tie)

Andrea Ozdy (Ventura), and José Henriquez (Sacramento)

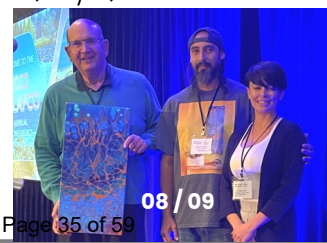
MIKE GOTCH EXCELLENCE IN PUBLIC SERVICE AWARDS,

- **AGRICULTURE CATEGORY:** *Napa LAFCO*

- **INNOVATION CATEGORY:** *Tom Cooley (Plumas)*

LIFETIME ACHIEVEMENT AWARD: *Dawn Mittleman Longoria (Napa)*

And, a special congratulations to *Commissioner Fred Sheriff* from *Tulare LAFCO* who won the evening’s door prize - a spectacular painting donated by Anwar Fonseca. Congrats, Fred!



SCHEDULE OF UPCOMING EVENTS

*Tenaya Lodge, Fish Camp, CA
2024 Annual Conference Site*

JANUARY	5	CALAFCO Board of Directors Meeting (Virtual)*
	12	CALAFCO Legislative Committee (Virtual)†
FEBRUARY	16	CALAFCO Legislative Committee (Virtual)†
MARCH	5	CALAFCO U -
	22	CALAFCO Legislative Committee (Virtual)†
APRIL	12	CALAFCO Board of Directors Meeting (Virtual)*
	24-26	CALAFCO Staff Workshop (Pleasanton)
MAY	10	CALAFCO Legislative Committee (Virtual)†
JUNE	14	CALAFCO Legislative Committee (Virtual)†
JULY	12	CALAFCO Legislative Committee (Virtual)†
	19	CALAFCO Board of Directors Meeting (Virtual)*
AUGUST	23	CALAFCO Legislative Committee (Virtual), if needed†
SEPTEMBER		Let's get ready for the Conference!
OCTOBER	16-18	CALAFCO Annual Conference (Yosemite)
	17	CALAFCO Annual Business Meeting (Yosemite)
	18	CALAFCO Board of Directors Meeting (Yosemite)
NOVEMBER	1	CALAFCO Legislative Committee (Virtual)†
DECEMBER	6	CALAFCO Legislative Committee (Virtual), if needed†



* 10:00 AM Start time
† 9:00 AM Start time

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

KATE MCKENNA, AICP
Executive Officer

DATE: February 26, 2024
TO: Chair and Members of the Formation Commission
FROM: Kate McKenna, AICP, Executive Officer
PREPARED BY: Darren McBain, Principal Analyst
SUBJECT: Continued from the January 22, 2024 meeting – Adoption of a Resolution Amending 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 revised draft Policy Implementation Guidelines for Agricultural Mitigation, and related policy refinements; and
4. Adopt the Guidelines and policy refinements.

EXECUTIVE OFFICER’S REPORT:

Overview

Attached is a set of revised draft Policy Implementation Guidelines regarding agricultural mitigation requirements for city annexations of farmland. The revised draft Guidelines reflect direction provided by the Commission at the January 22 regular meeting and the December 4, 2023 workshop.

In 2010, the Commission adopted the current *Policy for Preservation of Open-Space and Agricultural Lands*. The attached draft Guidelines are intended to augment the adopted Policy, and assist in implementing 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.

When adopted, the Guidelines would become a new Section III of the adopted Policy, as shown in **Exhibit A to Attachment 1**. The attached draft also includes minor refinements to Section II of the Policy. All of the recommended changes are shown in redline/strikethrough-and-underline format in **Attachment 2**.

Draft Policy Implementation Guidelines for Agricultural Mitigation and Related Policy Refinements

As with last month’s version, the revised draft Guidelines are organized as four main sections:

1. Lands that are subject to agricultural mitigation requirements
2. Timing of implementation
3. Methods of implementation
4. Alternative agricultural mitigation proposals

The revised draft reflects changes and clarifications that the Commission requested at the January 22 meeting, with additional minor changes to bring all sections into harmony with the Commission's direction. The main revisions to the previous draft include:

- Creation of an appeal process for an application incompleteness determination by the executive officer (*Policy page 38, new footnote 1*), and for the executive officer's determinations on adequacy of proposed agricultural mitigation actions for later phases of annexations over 100 acres (*Policy page 41, footnote 2*). If approved, staff will add the new appeal process to the list of actions in LAFCO's adopted fee schedule, with staff's time spent on processing an appeal billable at LAFCO's standard rate (currently \$171 per hour);
- Text changes referring to the "~~opinion analysis~~ of the executive officer" and "to the satisfaction of ~~LAFCO~~ the Commission."
- Use of the State of California's most recent Important Farmlands Map designations, as of the date an annexation application is submitted, as a basis for evaluating agricultural impacts and mitigation requirements (*Guidelines Page 39, Subsection 1*);
- Clarifications regarding phased recordation of annexations of 100 acres or more in four phases total, with each phase comprising at least 25% of the overall approved annexation acreage (*Subsection 2*);
- Revisions pertaining to good-faith efforts to locate conservation suitable conservation easement sites (*Subsection 3.B*), in-lieu fee payments (*3.C*), and use of in-lieu fees to fund purchase of conservation easements exclusively in Monterey County (*3.D*).

In keeping with direction provided at the January 22 meeting, no new changes are recommended to *Subsection 4, Alternative Agricultural Mitigation Proposals*.

Correspondence Received

Following the January 22 meeting, LAFCO has received an email from LandWatch Monterey County recommending additional revisions to Subsection 4 of the draft Guidelines. After careful review, staff and legal counsel recommend that no changes to Subsection 4 are needed. However, LandWatch's comments are attached for the Commission's consideration (**Attachment 3**).

Public Outreach

Staff provided notification of the November 27, 2023 agricultural mitigation 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 and February 26 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 review, discuss, and adopt the Guidelines and related policy refinements by authorizing the Chair to sign the attached draft resolution adding new Section III (Policy Implementation Guidelines) and amending Section II of the Commission's adopted 2010 Policy as discussed in this report. In the event that the Commission directs any new changes or refinements as part of the February 26 meeting, staff will review the precise final wording with the Chair prior to signature. 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 March 25 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 **Exhibit A** amending the Commission's adopted 2010 *Policy for Preservation of Open-Space and Agricultural Lands*
2. Redline version of Exhibit A to Attachment 1
3. Email correspondence from LandWatch Monterey County – February 9, 2024

Note: The meeting packets for the January 2024 meeting, the November 27, 2023 initial workshop session, and the December 4 continued workshop are available on LAFCO's website, under the "Agendas & Minutes" tab: www.co.monterey.ca.us/government/government-links/lafco/past-agendas-minutes

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, AND RELATED POLICY REFINEMENTS

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

WHEREAS, on January 22, 2024 the Commission reviewed and discussed the draft Guidelines and provided direction to staff requesting several refinements and clarifications; and

WHEREAS, staff has prepared revised draft Guidelines, and related Policy refinements, based on the Commission's direction provided at the January 22, 2024 meeting, and has publicly circulated the draft amendments as part of the meeting packet for February 26, 2024; and

WHEREAS, on February 26, 2024 the Commission reviewed and discussed the revised draft Guidelines and related Policy refinements and determined them to be consistent with the direction 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" and related Policy refinements (Exhibit A).

UPON MOTION of Commissioner _____, seconded by Commissioner _____, the foregoing resolution is adopted this 26th day of February, 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 26th day of February, 2024

By: _____
Kate McKenna, AICP, Executive Officer

PART E. PRESERVATION OF OPEN-SPACE AND AGRICULTURAL LANDS¹⁹

Draft, for review and discussion at the
Feb. 26, 2024 meeting

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

¹⁹ 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 analysis of the executive officer, will be deemed incomplete.¹ Proposals may be denied if they fail to demonstrate to the satisfaction of the Commission 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 analysis of the executive officer, will be deemed incomplete.¹ Proposals may be denied if they fail to demonstrate to the satisfaction of the Commission 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 analysis of the executive officer, will be deemed incomplete.¹ Proposals may be denied if they fail to demonstrate to the satisfaction of the Commission that: a) they guide development or use of land for other than open-space uses

¹ Pursuant to Government Code Section 56658, the Executive Officer shall determine an application to be complete or incomplete within 30 days of an application being submitted. The Executive Officer’s determination that an application is incomplete, with regard to the Commission’s Policy for Preservation of Open Space and Agricultural Lands, may be appealed to the Commission.

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 the Commission 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 February 26, 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 Prime Farmland, Farmland of Statewide or Local Importance, or Unique Farmland by the State of California Department of Conservation as of the date an annexation application is submitted to LAFCO.

Agricultural mitigation may also be warranted – on a case-by-case basis – if the annexation site previously had one or more of these designations but was later changed by the State to a lower, non-farmland designation (for example, because the lands are fallowed for a period of time). CEQA documents being prepared for annexation of formerly designated farmlands should evaluate development of those lands as a potential impact to agricultural resources that may warrant mitigation, depending on site-specific physical conditions and the circumstances that were involved in the changes of mapping designation. LAFCO staff is available to consult with cities to assist in developing a CEQA document's evaluation of potential farmlands impacts.

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 consisting of at least 25% 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 three subsequent phases with each phase including at least 25% of the original 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.² Recordation of the initial and subsequent (phased) certificates of completion for an annexation is subject to time limitations as determined by the Commission pursuant to Government Code Section 57001.

3. Methods of Implementation

- A. Mitigation ratio and criteria:** 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.
- 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 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 to fund the purchase of conservation easements in Monterey County.

“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) Has made reasonable efforts 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 will 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 for agricultural purposes on the land

² For an annexation phase being recorded as a subsequent Certificate of Completion pursuant to this paragraph, a determination by the Executive Officer that proposed agricultural mitigation actions are inadequate may be appealed to the Commission.

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 shall be completed no more than 90 days prior to recordation of a Certificate of Completion for an annexation. The in-lieu fees shall be paid to a qualified conservation entity prior to recordation.

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 based on a new appraisal that is prepared no more than 90 days prior to recording a Certificate of Completion for each individual phase. Fees shall be paid prior to each incremental recordation.

3. In addition to the in-lieu fee, applicants may be required to pay to the conservation entity a reasonable 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 either a portion of or the entire mitigation requirement for an applicant.

D. Qualified conservation entity: Dedication of conservation easements, or payment of in-lieu fees, should be to a 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. The conservation entity shall provide reasonable assurances that in-lieu fees collected in connection with LAFCO's approval process will fund acquisition and administration of conservation easements exclusively in Monterey County.

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.

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 of public benefit, 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.

PART E. PRESERVATION OF OPEN-SPACE AND AGRICULTURAL LANDS¹⁹

I. INTRODUCTION

Draft, for review and discussion at the
Feb. 26, 2024 meeting

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

¹⁹ 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-analysis](#) of the executive officer, will be deemed incomplete.¹ Proposals may be denied if they fail to demonstrate to the satisfaction of [LAFCO-the Commission](#) 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-analysis](#) of the executive officer, will be deemed incomplete.¹ Proposals may be denied if they fail to demonstrate to the satisfaction of [LAFCO-the Commission](#) 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-analysis](#) of the executive officer, will be deemed incomplete.¹ Proposals may be denied if they fail to demonstrate to the satisfaction of [LAFCO-the Commission](#) that: a)

¹ Pursuant to Government Code Section 56658, the Executive Officer shall determine an application to be complete or incomplete within 30 days of an application being submitted. The Executive Officer’s determination that an application is incomplete, with regard to the Commission’s Policy for Preservation of Open Space and Agricultural Lands, may be appealed to the Commission.

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~~ [the Commission](#) 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~~ [February 26, 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)~~ the date an annexation application is submitted to LAFCO.

Agricultural mitigation may also be warranted – on a case-by-case basis – if lands currently designated as such are if the annexation site previously had one or more of these designations but was 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 anfor annexation proposal of formerly designated farmlands should continue to evaluate the development of those lands as a potential ly significant impact to agricultural resources that may warrants mitigation, depending on site-specific physical conditions and the circumstances that were involved in the changes of mapping designation. LAFCO staff is available to consult with cities to assist in developing a CEQA document’s evaluation of potential farmlands impacts.

~~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)~~ consisting of at least 25% 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~~ three subsequent phases with each phase including at least 25% of the ~~remaining original~~ 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.² Recordation of the initial and subsequent (phased) certificates of completion for an annexation is subject to time limitations as determined by the Commission pursuant to Government Code Section 57001.

3. **Methods of Implementation**

A. Mitigation ratio and criteria: Agricultural mitigation should be provided at ~~no less than a 1-to-1~~ 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

² For an annexation phase being recorded as a subsequent Certificate of Completion pursuant to this paragraph, a determination by the Executive Officer that proposed agricultural mitigation actions are inadequate may be appealed to the Commission.

elsewhere in Monterey County, and/or proceed to payment of mitigation in-lieu fees to fund the purchase of conservation easements in Monterey County.

“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~~Has made reasonable efforts 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~~will 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 for agricultural purposes 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 no more than 90 days prior to recordation of a Certificate of Completion for an annexation. The in-lieu fees shall be paid to a qualified conservation entity prior to recordation.
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 based on a new appraisal that is prepared no more than 90 days at the time of prior to recording a Certificate of Completion for each individual phase. ~~Determining and paying in-lieu fees shall occur within 90 days~~be paid prior to each incremental recordation.
3. In addition to the in-lieu fee, applicants may be required to pay to the conservation entity ~~a~~ reasonable 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 either a portion of or 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 a 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. The conservation entity shall provide reasonable assurances that in-lieu fees collected in connection with LAFCO’s approval process will

[fund acquisition and administration of conservation easements exclusively in Monterey County.](#)

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.

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 of public benefit, 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.

Dear Ms. McKenna,

Thank you for the opportunity to comment on Section 4: "Alternative agricultural mitigation proposals" of the draft Section III "Policy Implementation Guidelines for Agricultural Mitigation." The current language is overly broad and creates an opening for conversion of agricultural lands without mitigation. Additionally, as currently drafted, adoption of Section 4 would necessitate CEQA review, as it constitutes a new policy.

Recommendation

To remedy these issues, LandWatch recommends the following language:

Alternative agricultural mitigation proposals:

Agricultural mitigation shall 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 and duty to consider, on a case-by-case basis, requests for partial exceptions to mitigation requirements, where mitigation is shown to be economically infeasible and where consideration of the exception would be consistent with the California Environmental Quality Act, as determined by LAFCO.

Examples that may be considered for pro rata reductions to agricultural mitigation requirements on the basis of economic infeasibility include projects for deed-restricted affordable housing, inclusionary housing, and agricultural housing, but only to the extent that the projects demonstrate that such specified use is certain and guaranteed.

While exceptions to mitigation may be considered by the Commission for the specific uses cited above, 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. The Commission retains the right to deny requests for exceptions where it deems that such exceptions would be inconsistent with its overall goal.

Discussion

I. LAFCO should revise paragraph 1 of section 4 to clarify that local agencies cannot rely on arbitrary local policies to exempt projects from mitigation.

LandWatch recommends modification of the language in the first paragraph, which states: "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)." As currently worded, the Commission would be leaving itself the option of ignoring its standard mitigation requirements any time that a city adopts some lesser agricultural mitigation and finds that it is "consistent with a project's required mitigation measures under the California Environmental Quality Act." This would allow the lead agency sweeping power to determine, based on any identified policy objective, that agricultural mitigation is not required for a given project because it is "infeasible."

Citing *California Native Plant Society v. The City of Santa Cruz*, which purports to uphold an infeasibility finding where it is based on policy grounds, the lead agency could determine that mitigation is not feasible solely based on whether it is “desirable” when balancing all relevant factors. LandWatch believes that CEQA does not permit this interpretation of an agency’s latitude to make infeasibility findings. However, by adopting the current draft of section 4, LAFCO would be opening the door for an agency to argue that CNPS allows it to find that mitigation is infeasible if it would inhibit an otherwise “desirable” project, with “desirable” being defined solely and subjectively by the lead agency.

LandWatch believes that agricultural mitigation exceptions should be granted only when an agency makes the determination that this mitigation is economically infeasible under CEQA case law governing findings of economic infeasibility. The agricultural mitigation exception should be limited to at most the pro rata percentage of lost agricultural land on which the economics of committed uses demonstrably cannot support that pro rata share of agricultural mitigation cost. For example, agricultural mitigation may not be economically feasible for tight margin projects such as deed-restricted affordable, inclusionary, and/or agricultural housing. LAFCO should not open the door to exceptions based on a lead agency’s ad hoc balancing of other non-economic factors.

The fact that LAFCO has discretion to accept or deny proposed exceptions does not eliminate the issue. LAFCO’s authority and duty to consider and mandate mitigation under the Cortese-Knox-Hertzberg Local Government Reorganization Act is statutorily independent of CEQA. Under the current draft, LAFCO’s independence would be confined within narrow bounds both by bureaucratic momentum to accept cities’ CEQA findings unquestioningly and by the expectation that LAFCO should subordinate its statutorily independent discretion to the lead agency’s policy-based determinations of infeasibility under CEQA. At minimum, the proposed language would create potential for arbitrary and inconsistent application of the exceptions.

To avoid this scenario, LandWatch recommends that LAFCO replace section 4 in its entirety with the proposed language included at the end of this comment letter. That proposed language clearly states that LAFCO retains both the authority and the duty to make its own determinations as to the sufficiency of agricultural mitigation, which is its duty under the CKH Act, and to determine the sufficiency of the City’s CEQA compliance and determinations, which is its duty as a responsible agency under CEQA. LAFCO should not be hostage to a lead agency’s indefensible determination that agricultural mitigation is infeasible.

II. LAFCO should narrow the language of paragraph 2 to create objective certainty about qualifying exceptions.

The current language in this section is overly broad and creates uncertainty as to what exceptions qualify. As a result, it will encourage applicants to argue for a range of exceptions as a means of avoiding cumbersome and costly agricultural mitigation requirements. Specifically, the qualifier in the second sentence “but are not limited to” leaves open an unlimited number of possible exceptions. Additionally, where it states in the same sentence that the policy would extend to proposals “that provide certainty with respect to future uses,” it creates a condition that only requires certainty, whatever the use may be, rather than identifying certain specific uses that may warrant an exception. To clarify the range of specific project exceptions that might be warranted, and thereby reduce the number of viable requests for exemptions, LandWatch recommends that LAFCO replace section 4 in its entirety with the proposed language included at the end of this comment letter.

III. CEQA applies to Section 4 as currently drafted, because it is a new policy rather than an interpretation of existing policy.

Lastly, the Executive Officer's report notes that adoption of the proposed guidelines "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." It goes on to explain that "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." (emphasis added)

While this reasoning applies for proposed guidelines Sections 1, 2, and 3, the adoption of Section 4, as currently drafted and tentatively approved by the Commissioners, would not be exempt from CEQA review. The EO report contextualizes Section 4 as "the one area needing additional research by legal counsel following the December 4 meeting" and, more specifically, "whether it would be practical and legally defensible for LAFCO to make exceptions from agricultural mitigation requirements for specific types of land uses." If LAFCO decides to adopt a policy that permits exceptions on any basis other than a CEQA determination that mitigation for a particular project is infeasible, LAFCO would be creating a new policy. Section 4 is not an interpretation of how to apply the existing policy, because exceptions did not previously exist under the 2010 policy. Loss of agricultural land is always considered a significant impact under CEQA. As such, if Section 4 is included in its current form, LAFCO must comply with CEQA requirements and prepare an EIR which considers the environmental impact of the new policy.

Thank you for the opportunity to comment.

Best regards,

Michael

Please subscribe to the LandWatch newsletter, "like" us on Facebook and follow us on Twitter.



Michael D. DeLapa
Executive Director
execdir@landwatch.org
650.291.4991 m

[Subscribe](#) • [Facebook](#) • [Twitter](#)

[Remember](#) LandWatch in your will

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

KATE McKENNA, AICP
Executive Officer

DATE: February 26, 2024
TO: Chair and Members of the Formation Commission
FROM: Kate McKenna, AICP, Executive Officer
SUBJECT: **Executive Officer Communications**
CEQA: Not a Project under California Environmental Quality Act Guidelines Section 15378.

SUMMARY OF RECOMMENDATION:

Receive report for information only.

EXECUTIVE OFFICER'S REPORT:

Proposed Sale of 132 W. Gabilan Street, Salinas

LAFCO has been informed of the proposed sale of the office building we have occupied since 2001. All terms of the current lease agreement for LAFCO's suite will remain in effect until the expiration date of June 30, 2028.

Independent Special Districts Representative Nomination and Selection Process

The term of office for the LAFCO seat occupied by Commissioner Warren E. Poitras will expire in May 2024. LAFCO staff have initiated a nomination and selection process for action by the independent special districts. The nomination process will end on March 1, and the selection process will be complete by May.

Respectfully Submitted,



Kate McKenna, AICP
Executive Officer

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).