

# SAN BENITO LOCAL AGENCY FORMATION COMMISSION

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## REGULAR MEETING AGENDA

Wednesday, February 19, 2020

Board of Supervisors Chambers  
481 Fourth Street, Hollister CA

**3:00 P.M.**

1. Call to Order and Roll Call
2. Recitation of the Pledge of Allegiance
3. Approve Affidavit of Posting Agenda
4. Public Comment Period - This is an opportunity for members of the public to speak on items that are not on the agenda

### SELECTION OF OFFICERS

5. Open nominations and conduct elections for Commission Chair for 2020 Calendar Year
6. Open nominations and conduct elections for Commission Vice-Chair for 2020 Calendar Year

### CONSENT AGENDA

7. Approval of minutes: November 20, 2019

### BUSINESS ITEMS – NON-HEARING ITEMS

8. Selection of Regular and Alternate Public Member positions on the Commission for four year terms extending to March 1, 2024
9. Discussion of upcoming Budget Process and Work Program for Fiscal Year 2020-21
10. Update and clarification on previous LAFCO Commission direction for the Executive Officer to initiate a Sphere of Influence Amendment for the City of Hollister in the Southside Road Area (Action taken at the January 11, 2018 Commission Meeting)

### INFORMATIONAL

11. Review of Response Letter from the San Benito County Budget Officer to the San Benito LAFCO request dated November 20, 2019 that the County of San Benito assume responsibility for payment of “Retirement–Medical Insurance” for a former Executive Officer who was a County employee
12. Commissioner Announcements and Requests for Future Agenda Items
13. Executive Officer Update on the FY 2019-20 Legislation proposed or monitored by the California Association of Local Agency Formation Commissions (CALAFCO)

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**Commissioners:** Cesar Flores, Chair ♦ Richard Bettencourt, Vice Chair ♦ Ignacio Velazquez ♦ Mark Medina ♦ Jim Gillio

**Alternate Commissioners:** Peter Hernandez ♦ Roberta Daniel ♦ Mary Vazquez Edge **Executive Officer:** Bill Nicholson

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14. Executive Officer oral status report on pending proposals
15. Adjourn to next regular meeting on March 18, 2020, unless meeting is cancelled by the Chair

Disclosure of Campaign Contributions – LAFCO Commissioners are disqualified and are not able to participate in proceedings involving an “entitlement for use” if, within the 12 months preceding the LAFCO decision, the Commissioner received more than \$250 in campaign contributions from the applicant, an agent of the applicant or an financially interested person who actively supports or opposes the LAFCO decision on this matter.

Those who have made such contributions are required to disclose that fact for the official record of the proceedings. Disclosures must include the amount of the contribution and the recipient Commissioner and may be made either in writing to the Executive Officer of the Commission prior to the hearing or by an oral declaration at the time of the hearing.

The foregoing requirements are set forth in the Political Reform Act of 1974, specifically in Government Code section 84308.

Disability Accommodations - Persons with a disability who require any disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the meeting are asked to contact the LAFCO office at least three (3) days prior to the meeting by telephone at 831/637-5313 or by email at [jslibsager@cosb.us](mailto:jslibsager@cosb.us).

*LOCAL AGENCY FORMATION COMMISSION  
2301 Technology Parkway  
Hollister, CA 95023*



**CERTIFICATE OF POSTING**

Pursuant to Government Code § 59454.2(a) I, Janet Slibsager, Clerk of the Board of Supervisors, certify that the **REGULAR MEETING AGENDA** for the

**SAN BENITO COUNTY LOCAL AGENCY FORMATION COMMISSION**

Scheduled for February 19, 2020 was posted at the San Benito County Planning Department, 2301 Technology Parkway, Hollister, CA and at the San Benito County Administration Office, 481 Fourth Street, Hollister, CA on this 14<sup>th</sup> Day of February, 2020.

All locations freely accessible to the general public.

Janet Slibsager

Clerk of the Board of Supervisors

# **SELECTION OF OFFICERS**

- 5. Open nominations and conduct elections for Commission Chair for 2020 Calendar Year**
- 6. Open nominations and conduct elections for Commission Vice-Chair for 2020 Calendar Year**



# CONSENT AGENDA

**7. Approval of minutes: November 20, 2019 meeting.**



**SAN BENITO LOCAL AGENCY FORMATION  
COMMISSION  
MINUTES OF MEETING**

November 20, 2019

Board of Supervisors Chambers - Hollister, CA

**CALL TO ORDER**

1. Chair Cesar Flores called the meeting to order at 3:00 p.m. Those present were Executive Officer Bill Nicholson and Commissioners: Richard Bettencourt, Jim Gillio (appeared before Item #6), Cesar Flores, Peter Hernandez (Alternate) and Ignacio Velazquez. Commissioner Mark Medina was absent. Also present were Michael Ziman, LAFCO Counsel, and Janet Slibsager, Recording Secretary.
2. Commissioner Bettencourt led the Pledge of Allegiance.
3. **APPROVE AFFIDAVIT OF POSTING AGENDA**  
*Commissioner Velazquez made a motion to accept the Affidavit of Posting, Commissioner Hernandez seconded.*

Ayes: Bettencourt, Hernandez, Velazquez, and Flores  
Noes: None  
Abstain: None  
Absent: Medina

**PUBLIC COMMENT**

4. **Public Comment Period:** There was no one from the public who wished to speak.

**CONSENT AGENDA**

5. **Approval of minutes of the August 21, 2019 meeting:**  
*Commissioner Bettencourt made a motion to approve the minutes as presented, Commissioner Velazquez seconded.*

Ayes: Bettencourt, Velazquez, Hernandez, and Flores  
Noes: None  
Abstain: None  
Absent: Medina

**BUSINESS ITEMS – PUBLIC HEARING ITEM**

6. **LAFCO 532 – Cole Road Annexation to the Aromas Water District: Involving the annexation of four parcels containing approximately 21.0 acres to obtain municipal water due to diminished capacity and poor water quality from on-site wells. The territory is located on the east side of Cole Road and approximately 400 feet south of Anzar Road in the unincorporated Aromas area. (Assessor's Parcel Numbers 011-160-031, 032, 033 and 034). The annexation area is contiguous to the existing District territory across Cole Road to the west. The actions requested are to determine the annexation is exempt from environmental review under sections 15303(d) and 15319 of the CEQA Guidelines, and to consider approval of the annexation.**

Commissioner Flores read the item.

Executive Officer Bill Nicholson gave an overview of the project, total of four parcels, around five acres each, totaling 21 acres including the roadway. It is considered exempt from CEQA with no new construction. Aromas will help with a line for water there is extra capacity. Staff is recommending approval for the project.

Commissioner Gillio asked if there is a test that needs to be done or one that determines if water is low and needs to be hooked up to another water system.

Executive Officer Bill Nicholson stated that since this is an annexation it is up to the district whether they have capacity or not, and in this case, the district has agreed to allow hookups to their lines. When there is a Health and Safety issue, the County Health Department would get involved to verify if there is a need.

Commissioner Bettencourt would like to comment after he hears from the applicant.

Commissioner Flores opened the public hearing.

Jane Rekedal from Aromas, the applicant spoke about the well on her property she has owned since 1980 failing and had to have it replaced. Now the cost of drilling a third well would be too expensive. The Aromas water district has agreed to collaborate with them.

Commissioner Bettencourt stated that he has a lot of history with the Aromas Water District and wanted to know if the well started to fail after the earthquakes.

Jane Rekedal stated no.

Commissioner Bettencourt asked the applicant if they were ok with hookup fees.

Jane Rekedal stated yes, the fees will be less then drilling a third well.

Commissioner Flores closed the public hearing.

Commissioner Gillio read the motion:

I move to approve the Cole Road Annexation to the Aromas Water District with the following actions: A) Find the proposal qualifies for a Categorical Exemption in compliance with CEQA, as determined by the Aromas Water District, in conformance with sections 15303(d) and 15319. B) Adopt the related determinations in the Executive Officer's Report and approve the Cole Road Annexation to the Aromas Water District subject to one condition of approval: Condition: Direct the staff not to record the annexation until the map and legal description requirements are found by the County Surveyor to be acceptable.

*Commissioner Gillio made a motion to approve the modified proposal as submitted based on the text, Commissioner Bettencourt seconded the motion.*

Ayes: Bettencourt, Gillio, Velazquez, Hernandez and Flores

Noes: None

Abstain: None

Absent: Medina

#### **BUSINESS ITEMS – NON-HEARING ITEMS**

- 7. Review draft letter to the County Board of Supervisors, as directed at the September 18, 2019 Commission meeting, requesting the County of San Benito assume responsibility for payment of "Retirement–Medical Insurance" for a former Executive Officer who was a County employee. After approving any modifications to the draft, direct the Chair to sign the letter and forward to the Chairman of the County Board of Supervisors.**



Executive Officer Bill asked commissioners if they needed background information and the Commission declined.

Commissioner Flores opened for public comment.

Judi Johnson commented that she is here to answer any questions the board may have since the item is pertaining to her.

Commissioner Bettencourt said the item is not about her, but about the two other cities having to pay on this item and feels that it is unfair. He feels the County should be paying the burden of the retirement.

Judi Johnson said work was done for both Cities and the County as an employee of LAFCO not as a County employee.

Commissioner Gillio asked Mrs. Johnson if she did any work for the County while she was working for LAFCO.

Judi Johnson replied she did not do any work for the County besides LAFCO.

Commissioner Gillio does not support signing this letter for the Board of Supervisors, believes it is a rare item that should have not happened and feels the two cities, and the County should share the responsibility.

Commissioner Velazquez said the matter is not about Mrs. Johnson, it is a matter of the funding and would like to know if both agencies understood the retirement benefits requirement.

Judy Johnson replied no and that benefits differed from person to person. She has her contract from when she was hired. Also expressed that she did more work for the County then the Cities, but was hired for all.

Commissioner Flores asked if there were any more public comments.

There were no more comments.

Commissioner Hernandez commented that he agrees with Commissioner Gillio that the funding should lay on the Cities and County for the funding.

*Commissioner Velazquez made a motion for staff to draft a letter to the Board of Supervisors, Commissioner Bettencourt seconded.*

Ayes: Bettencourt, Velazquez, and Flores  
Noes: Gillio, Hernandez  
Abstain: None  
Absent: Medina

## **INFORMATIONAL**

### **8. Commissioner Announcements and Requests for Future Agenda Items.**

There were no Announcements or Requests for Future Agenda Items.

### **9. Report on the 2019 California Association of Local Agency Formation Commissions (CALAFCO) Annual Conference in Sacramento (October 30 to November 1, 2019)**

Commissioner Gillio commented that there was a great presentation about troubled districts, and would like to work on this after the New Year, such as for the Pacheco Stormwater District.

Commissioner Bettencourt would like to know if LAFCO has been given ideas to fix the problem.

Commissioner Gillio reported that there was a study of the Sativa Water District in Los Angeles County, a district had failing water and rusting of water lines. LAFCO came in with the Board of Supervisors and took over the water district and now run it. It was a lesson of how it was done, what needed to be done, and how to run it. It was a learning experience for the Board of Supervisors, if they needed to take over a special district how to do so in a safe environment.

Executive Officer Bill Nicholson stated that there was a controversial item brought up to the commission in advance about dues and structure for CALAFCO. The benefits of the CALAFCO organization is in fighting for local authority to put laws in place and not allowing the Sate to take LAFCO's power away. Information was provided on dues and that an alternative formula from Ventura LAFCO did not help San Benito County

only saving \$200.00. The board of CALAFCO is working on a better formula, and approved the recommendation. Bill Nicholson also summarized some of the sessions; stress testing on LAFCO, Sativa Water District, and affordable housing.

Commissioner Hernandez had a discussion on bills that take over local control, housing, and bond measures.

**10. Executive Officer Update on the FY 2018-19 Legislation proposed or monitored by the California Association of Local Agency Formation Commissions (CALAFCO)**

There were no reports.

**11. Executive Officer oral status report on pending proposals**

There were no reports.

**ADJOURNMENT**

**12. Upon a motion by Commissioner Gillio, and seconded by Commissioner Hernandez, adjourned meeting at 3:40 p.m.**

Final Minutes Approved by the Commission  
on \_\_\_\_\_

By: \_\_\_\_\_  
Cesar E. Flores, Chairman

# **BUSINESS ITEMS – NON- HEARING ITEMS**

- 8. Selection of Regular and Alternate Public Member positions on the Commission for four year terms extending to March 1, 2024**
- 9. Discussion of upcoming Budget Process and Work Program for Fiscal Year 2020-21**
- 10. Update and clarification on previous LAFCO Commission direction for the Executive Officer to initiate a Sphere of Influence Amendment for the City of Hollister in the Southside Road Area (Action taken at the January 11, 2018 Commission Meeting)**



February 19, 2020 (Agenda)

Local Agency Formation Commission  
2301 Technology Parkway  
Hollister CA 95023

**Selection of Regular and Alternate  
Public Member Positions on the Commission  
(Agenda Item 8)**

Dear Members of the Commission:

RECOMMENDATION

Review the applications submitted for public member positions on San Benito LAFCO, and vote to appoint the Regular Public Member and the Alternate Public Member to four year terms expiring on March 1, 2024.

DISCUSSION

The terms of Richard Bettencourt, the Regular Public Member, and Roberta Daniel, the Alternate Public Member will expire on March 1, 2020 in compliance with local San Benito LAFCO policy (Section 3.A. "Terms of Office" of the Commissioner Handbook. However, the current members are still in office for the February 19<sup>th</sup> Commission meeting.

According to Government Code section 56325, the public member vacancy must be posted on a notice outside the hearing chambers, and sent to the clerk or secretary of the legislative body of each local agency within the county at least 21 days prior to the meeting date to make a selection. This noticing and posting has been accomplished as of January 23, 2020, with a deadline for submitting an application of 5:00 pm on February 13<sup>th</sup>. The candidates selected must receive one affirmative vote from both a city and a county member of the Commission.

Applications have been received from three candidates, and a copy of their application form is enclosed. One application is from the current regular Public Member - Commissioner Richard Bettencourt who is seeking a third term on the Commission. The other applications are from Trevin Barber and Elia Salinas who are both seeking a first appointment to the Commission. The current Alternate Public Member, Roberta Daniel was contacted by mail and phone by the Executive Officer and indicated she may reapply

Local Agency Formation Commission  
February 19, 2020 (Agenda)  
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to serve in this alternate capacity again. However, since the Commission changed the participation rules in 2017 to disallow the alternate Commissioners to participate in meetings when the regular member was in attendance, she saw limited value in continuing to serve.

Candidates were encouraged to attend the March 19<sup>th</sup> meeting in case the Commission had any questions. Should any Commissioner have any questions in advance of the meeting, please give me a call at (209) 769-0472.

Sincerely,



Bill Nicholson  
Executive Officer

Enclosures: Application forms

**LOCAL AGENCY FORMATION COMMISSION**  
SAN BENITO COUNTY

2301 Technology Parkway  
Hollister, CA 95023  
Phone: (831) 637-5313

**APPLICATION FOR LAFCO  
"PUBLIC MEMBER"**

Name: Richard Bettencourt Date of Birth: 12/7/37  
Address: \_\_\_\_\_  
City: Hollister State: CA Zip: 95023  
Phone: \_\_\_\_\_  
Application for: Regular Member ; Alternate Member ; Either Position

**REASON YOU ARE APPLYING FOR THIS POSITION?**

I am currently on LAFCO and want to continue.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WHAT QUALIFICATIONS DO YOU HAVE FOR THIS POSITION?**

Was on Planning Commission for 8 years (2002-2010).  
Was on Monterey Bay Air Advisory Board for 5 years (2010-2015).  
Currently, I am on LAFCO (2010-2020), I have  
been in my own business from 1956-2019.  
\_\_\_\_\_  
\_\_\_\_\_

**PROVIDE ANY OTHER COMMENTS YOU WISH TO ADD:**

I try to follow LAFCO code and also try to plan  
into the future within the code. I love my county  
in which I grew up in and want to do the best job  
possible in bettering the community. I am now fully  
retired so I will now have more time to study  
the issues at hand.  
\_\_\_\_\_  
\_\_\_\_\_

Richard Bettencourt  
Signature

1-27-2020  
Date





the community. The plan to allow cultivation and manufacturing will yield six-million dollars a year while balancing the public's concern for safety.

- I have a lot of experience developing strategic plans and preparing performance metrics. More recently, in the past year, I have been developing I have been developing a performance metrics / business intelligence system, including an executive decision support system, for the City of Gilroy. The goal is to develop a data-driven organization not only by way of policy and procedure but also in culture.
- I also have experience monitoring performance based contracts and franchise agreements. Some of the larger agreements I worked on include contracts for energy services, waste hauling, county general services, and sheriff services.
- In the public sector, experience working with citizen groups is a must and a crucial component of policy development. I have a lot of experience working with citizen groups. Many people do not realize that the Lancaster area in the high-desert of Los Angeles County is host to more solar panels per capita, than anywhere else in the world. There has literally been billions of dollars' worth of investment in just the past six years alone. The construction, of which, is often at odds with those that would like to see the area remain a rural town. In its own way, Lancaster is representative of the same conflicts all other cities in California have, which is: **whether to stay exactly the same or develop**. I played a key role in helping to resolve this conflict. We scheduled ad hoc committee meetings regularly. We invited the unions, the developers, neighboring town councils, air quality managers, the County Supervisor's office, and city staff. Getting everyone together to listen to each other was productive because we could address uncertainties, misinformation, clarify expectations, and build consensus for possible solutions. Ultimately, we brokered some deals: we resolved that the developer would move their project back several hundred yards away from the residents houses. We created a new streamlined system for handling rouge dust events. In addition, we agreed to decrease some of the landscaping requirements to help cut some costs for the developer. I believe it is the role of the local government, particularly the council and city manager's office, to weave the various interests within a community together to achieve progress. Its projects like this one with Antelope Acres that encourage me and demonstrate how the public administration profession plays an integral role in helping people achieve a higher quality of life. Because of the amazing mentors and

community members that I have worked with, I have tangible experience with what excellent public service looks like.

I love my City and given the depth and breadth of my direct experience in the field of public administration I am a suitable candidate for this appointment and would appreciate your consideration of my application materials.

PROVIDE ANY OTHER COMMENTS YOU WISH TO ADD:

I will make myself available upon request to discuss how we can work together to make a significant contribution to the County's wellbeing.

Thank you for your service.

*Trevin Barber*

\_\_\_\_\_  
Signature

02/05/2020

\_\_\_\_\_  
Date

**LOCAL AGENCY FORMATION COMMISSION**  
SAN BENITO COUNTY

2301 Technology Parkway  
Hollister, CA 95023  
Phone: (831) 637-5313

**APPLICATION FOR LAFCO  
"PUBLIC MEMBER"**

Name: ELIA SALINAS Date of Birth: 06071959  
Address: [REDACTED]  
City: HOLLISTER State: CA Zip: 95023  
Phone: [REDACTED]  
Application for: Regular Member ; Alternate Member ; Either Position

REASON YOU ARE APPLYING FOR THIS POSITION?

AS A COMMUNITY ADVOCATE I BELIEVE COMMUNITY RESEARCH, AND LOGIC SHOULD BE ESSENTIAL OF DECISION MAKING FOR THE BETTERMENT FOR THE COUNTY

WHAT QUALIFICATIONS DO YOU HAVE FOR THIS POSITION?

I ATTEND APPROXIMATELY 80% OF BO'S MEETINGS; FAMILIARIZE MYSELF WITH AGENDA ITEMS AND PACKET TO BRING CONCERNS BEFORE THE BOARD CURRENTLY A HOLLISTER AIRPORT COMMISSIONER

PROVIDE ANY OTHER COMMENTS YOU WISH TO ADD:

I HAVE BEEN A SBC RESIDENT FOR 25 YEARS

[Signature]  
Signature

FEB 13, 2020  
Date

February 19, 2020 (Agenda)

Local Agency Formation Commission  
2301 Technology Parkway  
Hollister CA 95023

**Discussion of Upcoming Budget Process and Work Program  
for Fiscal Year 2020-21  
(Agenda Item 9)**

Dear Members of the Commission:

RECOMMENDATION

No action is required by the Commission; this item is for a discussion of general direction of ideas for the upcoming budget process and work program.

DISCUSSION

We are heading into the time of year when we must begin the budget process for the 2020-21 Fiscal Year. The LAFCO law under Government Code section 56381(a) governs the preparation of the LAFCO budget with the following provisions:

*The Commission shall adopt, annually, following noticed public hearings, a proposed budget by May 1 and a final budget by June 15.*

*At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter.*

*The commission shall transmit its proposed and final budgets to the board of supervisors, to each city, and to each independent special district.*

Accordingly, it is anticipated that the proposed budget will be presented at the April 15 Commission meeting and the final budget will be presented at the May 20 meeting. For reference, the current fiscal year budget was adopted at a total of \$141,497, a

The Commission is responsible for adopting its own budget to fulfill the purposes described in the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000.

While the proposed and final budget gets sent to other local agencies, the law does not require their approval. In San Benito County, after accounting for any application fee revenue, LAFCO operations are funded 50% by the County and 50% between the two cities based on their relative share of total revenue received by the two cities. (For reference, in 2017 Hollister received 93.725% of total city revenue and San Juan Bautista received only 6.275%).

This item was placed on the February Commission agenda to give the Commission an opportunity to identify any special work program items that should be included in the upcoming year. These would typically include initiation of sphere of influence studies or preparation of related Municipal Service Reviews (MSRs) for cities or special districts.

Under Government Code section 56425(g): On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence." Most LAFCOs consider the term "as necessary" to provide flexibility in the timing of actual updates, especially when there are no changes in a city or district operations or service area. A related requirement enacted in 2000 was the requirement to prepare Municipal Service Reviews (MSRs) with specific content requirements for each local agency, and to prohibit the expansion or update of an agencies sphere of influence without first preparing a MSR update under Government Code section 56340. LAFCO adopted San Benito LAFCO adopted a comprehensive MSR for all cities and independent special districts in 2007, and there have been several updates to special districts in subsequent years. A list of the dates of the current MSRs for all cities and special districts will be provided at the Commission meeting for this agenda item.

For the current fiscal year, the Commission included funds in the budget for the Executive Officer to assist County Resource Management Agency staff and their consultants in an update of the MSR for all the County Service Areas (CSAs). However, the original consultant was released from service and recent efforts by the County have been to focus on improving operations and funding for several problematic CSAs.

One other example of a sphere of influence and MSR update that needs to be addressed is for the City of San Juan Bautista. The City updated their General Plan in 2015, with recommendations to significantly reduce the size of the sphere of influence. The city has not formally submitted an application for a sphere amendment or an MSR update – a common request after a General Plan is updated. However, if the Commission desires, funds can also be budgeted for LAFCO to initiate such an effort utilizing Executive Officer and/or outside consulting resources.

Another item on today's agenda addresses a Commission directed minor sphere of influence amendment involving the City of Hollister for a developing area in the County

Local Agency Formation Commission  
Discussion of Budget Process and Work Program for FY 2020-21  
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that is outside the City's General Plan and sphere of influence boundary, but requires City sewer service. This is an example of a LAFCO initiated effort, although it will be examined again under Agenda Item 10 on today's agenda.

These examples are not intended to limit the Commission's discussion, and are only provided as examples to stimulate discussion. Hopefully, the Commission will have additional ideas for the coming fiscal year.

Sincerely,

Bill Nicholson  
Executive Officer

**LOCAL AGENCY FORMATION COMMISSION**  
SAN BENITO COUNTY

2301 Technology Parkway  
Hollister, CA 95023  
Phone: (831) 637-5313

February 19, 2020 (Agenda)

Local Agency Formation Commission  
2301 Technology Parkway  
Hollister CA 95023

**Update and clarification on previous LAFCO Commission direction for the  
Executive Officer to initiate a Sphere of Influence Amendment for the  
City of Hollister in the Southside Road Area  
(Agenda Item 10)**

Dear Members of the Commission:

RECOMMENDATION

Confirmation by the Commission to complete prior direction for LAFCO staff to initiate a focused sphere of influence amendment effort for the City of Hollister in the Southside Road area and to coordinate with the City of Hollister and the Sunnyslope County Water District in the analysis and completion of associated environmental documentation.

DISCUSSION

As summarized in the attached Executive Officer's Memo to the Commission dated January 11, 2018, multiple requests for City of Hollister sewer extensions for new development projects in the Southside Road area were challenging to the Commission, property owners, project applicants and LAFCO staff. When a city or special district desires to provide services outside their agency boundary without annexation, the provisions under Government Code section 56133 guides the review and approval process.

Extensions of service for new development located outside an agencies Sphere of Influence is limited to circumstances where an "existing or impending threat to the health or safety of the public" is involved. Therefore, it is much more difficult for LAFCO to approve extensions for new development located outside the sphere than it is for serving new development located within a jurisdictions sphere of influence – which is recognized as that agencies future service area.

Due to the increasing activity by the City of Hollister to update their General Plan, issues over prime agricultural land in the sphere expansion area, and a slowing of interest in future sewer extensions in the Southside Road area, the Executive Officer has delayed

Local Agency Formation Commission  
Update and clarification on the Sphere of Influence Amendment to the City of Hollister in  
the Southside Road Area  
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processing this sphere of influence expansion. However, a recent County-approved subdivision project (Culler/Bray) will also require a sewer connection to build single-family residences. The property is adjacent to the Sunnyside Estates Subdivision which had previously been found exempt from LAFCO review by the Commission which is similar to the neighboring Fey/Bennet Ranch Subdivision referenced in the attached memo.

As only two of the current Commissioners were serving on the Commission at the time the direction was given in January 2018, and they had opposing votes, I did not want to proceed with the sphere amendment now and find the Commission was no longer interested.

Please review the attached Memo dated 1/11/2018 for background along with the meeting minutes which are also attached, and I will be prepared to provide a summary at the Commission meeting on February 19<sup>th</sup>.

If you have any questions that you would like addressed prior to the meeting, feel free to contact me.

Sincerely,



Bill Nicholson  
Executive Officer

Enclosures: Commission Memo and Minutes Dated 1/22/2018




## Attachment 1

**LOCAL AGENCY FORMATION COMMISSION**  
SAN BENITO COUNTY

2301 Technology Parkway  
Hollister, CA 95023  
Phone: (831) 637-5313

DATE: January 11, 2018 (Agenda)

TO: San Benito LAFCO Commissioners

FROM:  Bill Nicholson, Executive Officer

RE: **Consideration of Initiation of Sphere of Influence Amendment in the Southside Road area adjacent to the City of Hollister (Agenda Item 7)**

### Introduction

The Commission held repeated discussions and took several actions during 2017 concerning issues related to the Hollister Urban Area Water and Wastewater Master Plan and requests for the extension of City of Hollister sewer service outside the City limits and outside the City's Sphere of Influence. The Commission and all parties involved became very familiar with California Government Code section 56133 which provides the requirements for LAFCO approval of service extensions outside an agencies boundary along with a number of exemptions.

When considering the latest exemption for the Fay/Bennett Ranch subdivision project (Todd Deutscher, Applicant) on October 12, 2017, the three Commissioners present requested an item be placed on the January 11th Agenda to see if the Commission would agree to direct LAFCO staff to initiate a focused City sphere of influence expansion targeted only in the Southside Road area as an alternative to continuing to consider whether sewer extensions in the area are exempt from LAFCO review.

### Background

At the August 10, 2017, LAFCO Meeting, the last in a series of workshops on City of Hollister sewer extensions within the Hollister Urban Area, but outside their sphere of influence, the Commission decided to let the City of Hollister initiate an update of their sphere of influence as part of a General Plan update program as the favored alternative from among the options provided. This decision was based on the logic that the City should determine where they wanted to extend their sphere based on their internal City priorities, and that LAFCO should not spend their limited budget on such a large undertaking.

The City has actually retained a consultant for this effort and is forming a working group to provide input and advice to the City Council moving forward. However, this LAFCO deference to the City regarding the sphere of influence did not delay requests for the City to provide sewer connections outside their City limits and outside their sphere of

influence. Based on Government Code section 56133(b), the Commission cannot grant approval of these connections serving new development outside the City sphere of influence, so the Commission will continue to be requested to find these sewer extensions exempt from LAFCO review.

Between July and October of 2017, the Commission determined that three City sewer extensions in the Southside Road area were all exempt from LAFCO review: one based on evidence service had historically been provided before 2001, exempted under 56433(e)(4), and two based on a determination there is an agreement between agencies providing the same type and capacity of service (Hollister and the Sunnyslope County Water District), exempted under 56133(e)(1).

Presently San Benito County Resource Management Agency is processing two subdivision applications in this Southside Road area which will require City sewer connections, and there are several more projects being discussed.

#### Estimated Work Effort

It is anticipated that the boundary of the 2014 "Southside Road Annexation to the Sunnyslope County Water District" would primarily serve as the sphere expansion area (see Attachment 1). The sphere expansion area would only include land which is also located within the Hollister Urban Area, in order to partially rely on the existing environmental documentation prepared by the San Benito County Water District in 2011. This area is highlighted in Attachment 2.

In terms of Staff time and cost, the effort would be similar to the costs of processing a large 100+ acre annexation, for which LAFCO would typically charge \$2,000. The related environmental review effort would require a similar amount of time and effort and with LAFCO paying processing, printing, and associated publishing costs; this effort could be accomplished for between \$5,000-6,000. Staff would fit in this work with other application processing and file management efforts over the next two to three months. (The current FY 20017-18 Budget assumed 35 hours of Executive Officer time per month, and in the first 6 months of the Fiscal Year, the average has been 35.375 hours per month.)

In terms of the environmental review component, it is not anticipated that a new environmental document would need to be prepared by LAFCO. Based on the summary of initial research presented below, an Initial Study can be prepared that should conclude that the environmental analysis from a variety of previous projects is adequate, and it is anticipated there are no conditions present resulting from the sphere of influence amendment that would require preparation of a new or supplemental CEQA document by LAFCO.

Staff has reviewed a variety of historic planning and environmental documents while investigating this limited sphere of influence amendment approach over the past couple months, and during research last year for the multiple LAFCO Hollister Urban Area workshops. Much of the analysis of this area is contained in comprehensive documents and several neighborhood-level studies. Of great benefit to this effort, is a draft Initial Study and set of CEQA environmental findings presented to the City when it was considering a similar sphere of influence expansion effort for Southside Road last summer. Staff can modify this document to cover the 2014 Sunnyslope CWD annexation area or another boundary desired by the Commission.

From a regional context the two most important efforts include the County's 2015 General Plan and corresponding EIR identifying the urban growth in the area, along with the historic 2008 Hollister Urban Area Water and Wastewater Master Plan and the EIR adopted by the San Benito County Water District in 2011. On the more local level are the 2014 Sunnyslope County Water District (Sunnyside CWD) annexation of the Southside Road area for water service, and its related CEQA documentation, and the recent Sunnyside Estates EIR and Bennett Ranch Initial Study/Mitigated Negative Declaration adopted by San Benito County.

#### Recommended Action

If the Commission agrees with the overall scope and approach for a focused sphere of influence amendment for the Southside Road area, direct LAFCO staff to initiate the sphere of influence amendment effort, and to coordinate with the City of Hollister and the Sunnyslope County Water District in the analysis and completion of associated environmental documentation, and return to the Commission with progress reports over the next two months in preparation of a formal public hearing.

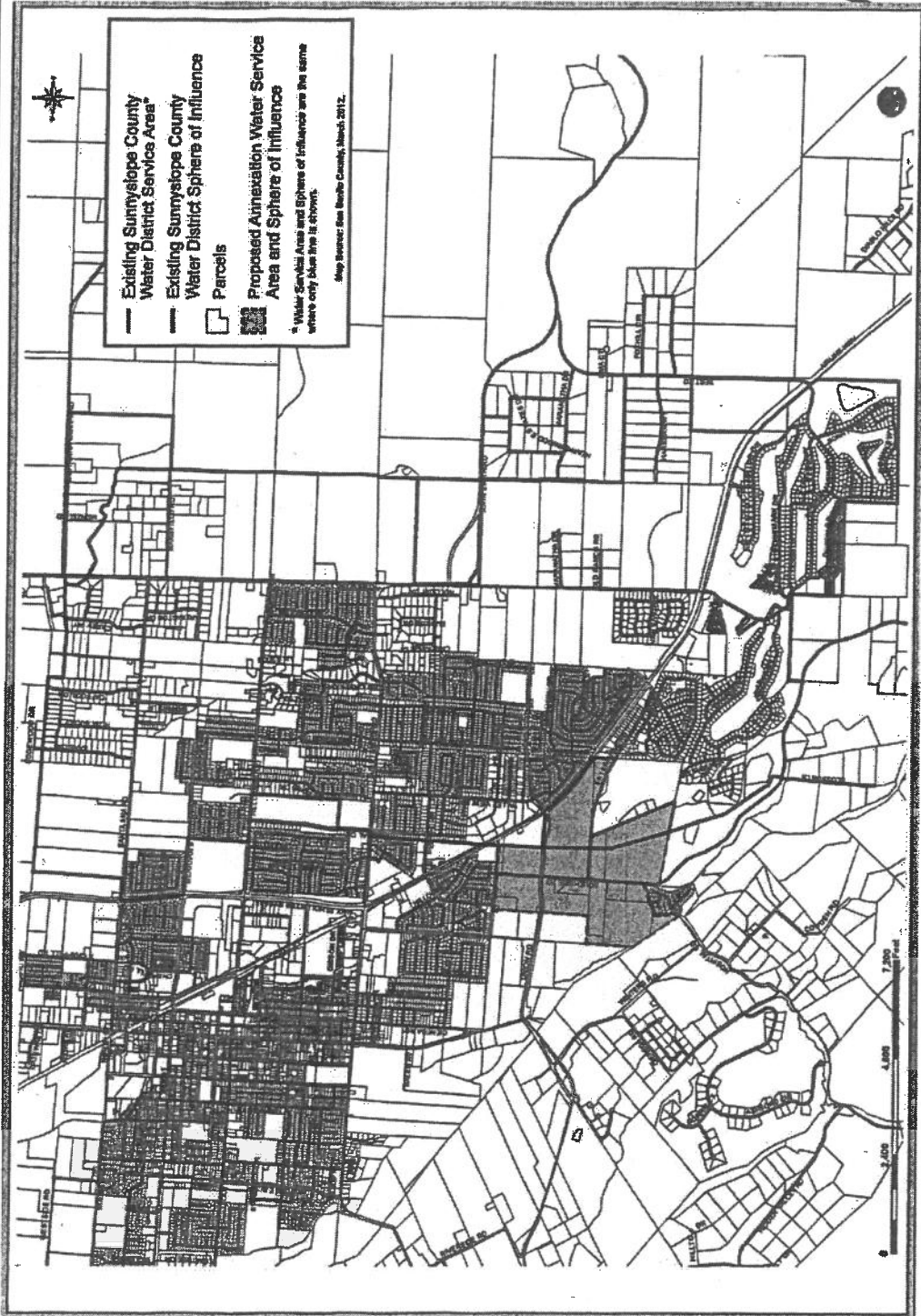
cc: Bill Avera, City Manager, City of Hollister  
John Guertin, RMA Director, San Benito County  
Don Ridenhour, General Manager, Sunnyslope County Water District  
LAFCO Counsel

#### Enclosures:

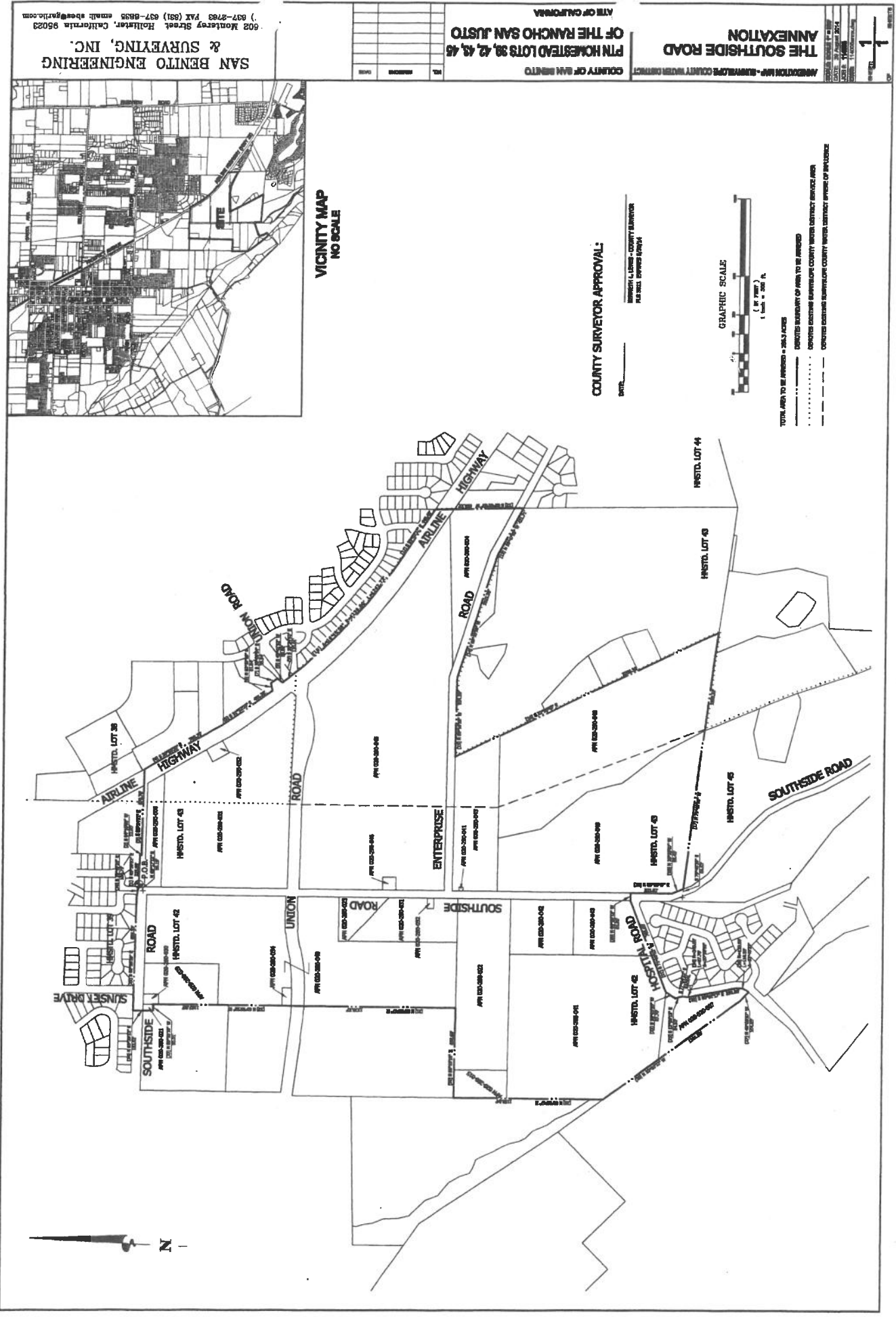
- Attachment 1. 2014 Sunnyslope County Water District Annexation Boundary in Southside Road Area
- Attachment 2. Detail of properties within this Boundary, and identification of River View Estates Subdivision to be included
- Attachment 3. Hollister City Planning Area and Hollister Urban Area Boundary Highlighting Southeastern Area

# LAFCO

of San Benito County



Possible  
LAFCO  
Initiated  
SOI  
Expansion  
Area:  
Matches  
SSCWD  
2014  
Annexation



**SAN BENITO ENGINEERING & SURVEYING, INC.**  
 602 Monterey Street Hollister, California 95023  
 (408) 937-2793 FAX (408) 937-8835 email: sbes@earthlink.com

**THE SOUTHSIDE ROAD ANNEXATION**  
 PTN HOMESTEAD LOTS 38, 42, 43, 45  
 COUNTY OF SAN BENITO  
 CITY OF CALIFORNIA

**VICINITY MAP NO SCALE**

VICINITY MAP  
NO SCALE

COUNTY SURVEYOR APPROVAL:

\_\_\_\_\_  
 COUNTY SURVEYOR

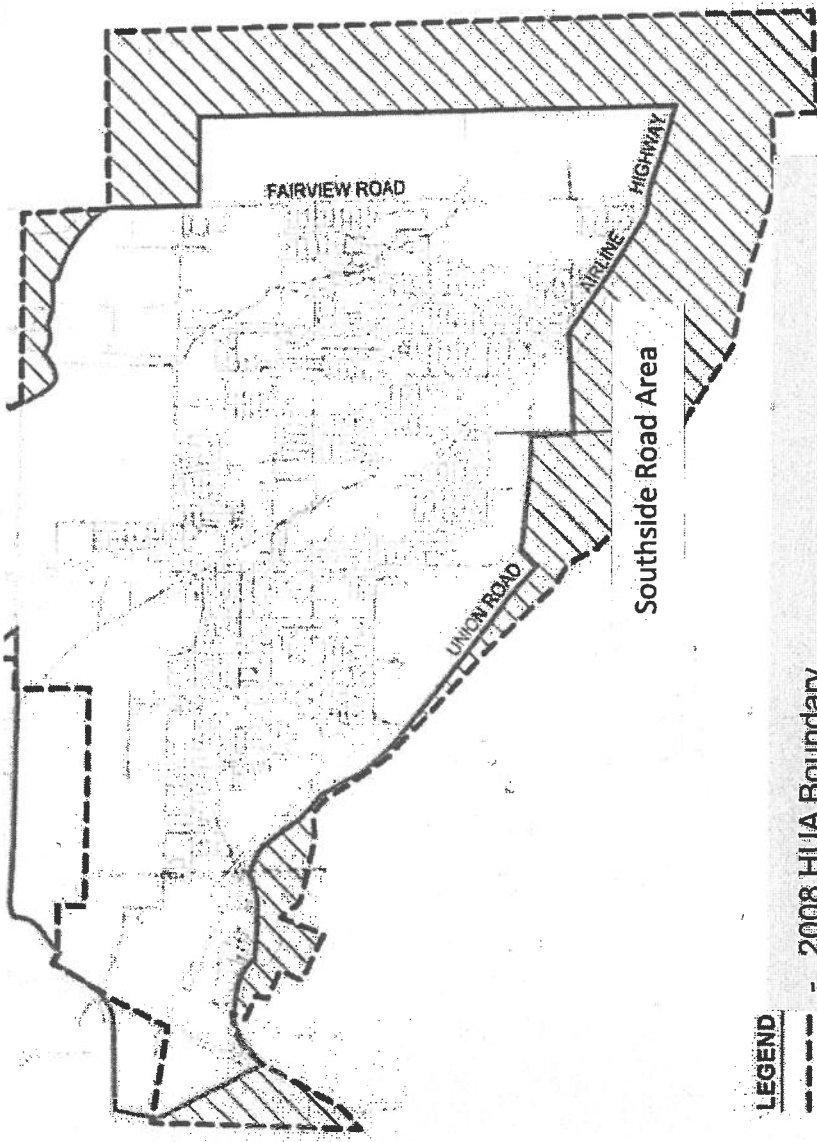


- TOTAL AREA TO BE ANNEXED = 283.3 ACRES
- ANNEXED BOUNDARY OF AREA TO BE ANNEXED
- UNANNEXED BOUNDARY OF AREA TO BE ANNEXED
- UNANNEXED BOUNDARY OF AREA TO BE ANNEXED
- UNANNEXED BOUNDARY OF AREA TO BE ANNEXED



# LAFCO

of San Benito County



- LEGEND**
- - - - - 2008 HUA Boundary
  - 2005 City General Plan Area
  - ▨ Areas Included in County General Plan Outside City GP With Development Projects Proposed & Pending

## Attachment 2

SAN BENITO LAFCO  
Minutes of Meeting  
January 11, 2018  
Page 2

### CONSENT AGENDA:

6. Approval of minutes from August 10, September 14 and October 12, 2017.  
Chairman Velasquez abstained from the minutes.  
Motion made by Commissioner Botelho and seconded by Commissioner Bettencourt to approve the minutes and presented.
- Ayes: Bettencourt, West, Botelho, De La Cruz  
Noes: None  
Abstain: Velasquez

### BUSINESS ITEMS – NON-HEARING ITEM:

- \* 7. Consideration of initiation of Sphere of Influence Amendment in the Southside Road area adjacent to the City of Hollister, an area within the Hollister Urban Area where many exemptions to Commission approval of Out of Agency Service Extensions for the delivery of city sewer service have been requested. Requested to be placed on the January 11<sup>th</sup> agenda by the Commission at the October 12, 2017, Commission meeting.

Executive Officer Bill Nicholson provided information in regards to this item as presented in the Executive Officer's Report and a PowerPoint presentation. He also provided staff recommendation.

Discussion ensued between the Commissioners and Executive Officer over whether LAFCO should initiate the sphere of influence expansion, or wait for the City to request an amendment following the recently initiated General Plan update process.

Motion made by Commissioner Botelho and seconded by Commissioner Bettencourt to direct Executive Director Bill Nicholson to coordinate with the City of Hollister and the Sunnyslope County Water District on a sphere of influence expansion in the Southside Road area, and in the analysis and completion of associated environmental documents, and return to the Commission with progress reports and a proposed reimbursement method for payment of LAFCO costs from future applicants.

Ayes: Bettencourt, West, Botelho, De La Cruz  
Noes: Velasquez  
Abstain: None

# INFORMATIONAL

11. Review of Response Letter from the San Benito County Budget Officer to the San Benito LAFCO request dated November 20, 2019 that the County of San Benito assume responsibility for payment of “Retirement–Medical Insurance” for a former Executive Officer who was a County employee
12. Commissioner Announcements and Requests for Future Agenda Items
13. Executive Officer Update on the FY 2019-20 Legislation proposed or monitored by the California Association of Local Agency Formation Commissions (CALAFCO)
14. Executive Officer oral status report on pending proposals
15. Adjourn to next regular meeting on March 18, 2020, unless meeting is cancelled by the Chair







# COUNTY OF SAN BENITO

## ADMINISTRATIVE OFFICE

481 FOURTH STREET, HOLLISTER, CA 95023 (831) 636-4000 FAX: (831) 636-4010  [WWW.COSB.US](http://WWW.COSB.US)

### RAY ESPINOSA, COUNTY ADMINISTRATIVE OFFICER

EDGAR NOLASCO, DEPUTY COUNTY ADMINISTRATIVE OFFICER

Stewart Patri  
Budget Officer

Dulce Alonso  
Management Analyst

Lauren Hull  
Management Analyst

Lorena Moreno  
Executive Secretary

January 30, 2020

Cesar E Flores, Chair  
Local Agency Formation Commission  
2301 Technology Parkway  
Hollister, CA 95023

Dear Chair Flores,

The County is in receipt of your letter dated November 20, 2019. LAFCO's letter may have been based on a misunderstanding which I hope to clarify herein.

The OBEP costs in question are not the result of the employee's prior employment with any other County department. The LAFCO's former Executive Director did not receive health benefits from any other County department prior to serving as LAFCO Executive Director. All prior County employment was temporary, part-time employee with no benefits. In or around September 2007 when first appointed to Executive Director, the Executive Director became eligible for health benefits. As LAFCO was a joint Employer of employee, the LAFCO Executive Officer may review the employee's personnel file to verify the facts stated herein.

Retiree costs are an operational cost of LAFCO. The employee was entitled to those benefits, and therefore the costs are a LAFCO obligation. The beneficiary of her services was the LAFCO entity itself. There was no "County" portion of these costs. If LAFCO had hired this employee directly, it would be responsible for all employment costs. The fact that LAFCO determined to staff this position through the County should not transfer those LAFCO costs to the County, causing the County to carry a greater percentage thereof.

Government Code 56381 (b)(2) states, "in counties in which there is no independent special district representation on the commission, the **county and its cities shall each provide a one-half share of the commission's operational costs**". . .

Section 17 of the Agreement indicates that the Agreement shall be governed by and construed in accordance the laws of State of California. This would include Government Code 56381, indicating that the County is obligated to pay no more than 50% of LAFCO's operational costs. There is little doubt that OPEB costs are an "operational cost" of LAFCO and to assign a greater portion to the County would violate Government Code 56381. It additionally, would not be "fair" or "equitable" to assign the County more than its share of LAFCO's operational costs.

Addressing the position of the letter that LAFCO may have acted differently had it known that it would be obligated for post-employment retirement benefits is highly speculative. However, it is doubtful that the County would have assumed the OPEB costs of an employee serving LAFCO exclusively.

If this does not adequately address LAFCO's concerns, I am happy to arrange a meeting with the County Administrative Officer and County Counsel to further discuss this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stewart Patri', with a long horizontal line extending to the right.

Stewart Patri  
Budget Officer

Cc: Bill Nicholson, LAFCO Executive Officer  
Vice Chair Gillio  
Supervisor Hernandez  
Chair De La Cruz  
Supervisor Botelho  
Supervisor Medina  
Ray Espinosa, County Administrative Officer