

SAN BENITO LOCAL AGENCY FORMATION COMMISSION

REGULAR MEETING AGENDA

Thursday, January 11, 2018

Board of Supervisors Chambers
481 Fourth Street, Hollister CA

6:00 P.M.

1. Call to Order and Roll Call
2. Recitation of the Pledge of Allegiance
3. 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

4. Open nominations and conduct election for Chair for calendar year 2018
5. Open nominations and conduct election for Vice-Chair for calendar year 2018

CONSENT AGENDA

6. Approval of minutes from, August 10, September 14, and October 12, 2017.

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 11th Agenda by the Commission at the October 12, 2017, Commission meeting.

BOUNDARY CHANGE PROPOSALS

None.

INFORMATIONAL

8. Executive Officer Report on CALAFCO Annual Conference in October 2017
9. Executive Officer Report on CALAFCO Legislative Committee 2017-18 Session
10. Commissioner Announcements and Requests for Future Agenda Items
11. Executive Officer oral status report on pending proposals
12. Adjourn to regular meeting at 6:00 PM on February 8, 2018 unless meeting time is changed based on Commission action or cancelled by 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

Commissioners: Richard Bettencourt, Chair ♦ Ignacio Velazquez, Vice Chair ♦ Anthony Botelho ♦ Jaime De La Cruz ♦ Jim West
Alternate Commissioners: Dan DeVries ♦ Robert Rivas ♦ Roberta Daniel **Executive Officer:** Bill Nicholson

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 cgraves@cosb.us.

SELECTION OF OFFICERS

4. Open nominations and conduct election for Chair for calendar year 2018.

5. Open nominations and conduct election for Vice-Chair for calendar year 2018.

LOCAL AGENCY FORMATION COMMISSION
SAN BENITO COUNTY

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

January 11, 2018 (Agenda)

Local Agency Formation Commission
2301 Technology Parkway
Hollister CA 95023

Selection of LAFCO Officers for 2018
(Agenda Items 4 and 5)

Dear Members of the Commission:

RECOMMENDATION

It is recommended that the Commission select a Chairperson and Vice Chairperson to serve for 2018.

DISCUSSION

The Commission's Rules and Procedures provide that the Commission shall elect a Chair and Vice-Chair at the first meeting of the calendar year for one year terms. The Rules and Procedures also state that the positions shall be rotated among the members unless a Commissioner declines a nomination.

Chair Bettencourt, has completed his term for the 2017 calendar year, and Vice Chair Velazquez could be nominated to replace Chair Bettencourt. However, it is up to the Commission to make the appointments, and there is only one limitation: Alternate members cannot be selected as Chair or Vice Chair. All regular Commissioner positions are filled and are eligible to be selected.

Sincerely,



Bill Nicholson
Executive Officer

CONSENT AGENDA

**6. Approval of minutes from
August 10, September 14, and
October 12, 2017.**

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

August 10, 2017

Board of Supervisors Chambers - Hollister, CA

1. Chair Richard Bettencourt called the meeting to order at 6:00 p.m. Present were Executive Officer Bill Nicholson, and Commissioners Chair, Richard Bettencourt, Jim West, Alternate Commissioner Robert Rivas, Ignacio Velazquez and Jaime De La Cruz. Commissioner Anthony Botelho and Alternates Commissioners Dan DeVries and Roberta Daniel were not present.
2. Commissioner Rivas led the chamber in The Pledge of Allegiance.
3. Public Comment Period.

Emily Renzel spoke in regards to a proposal made to San Benito County for a formula one race way on 550 acres butting our quiet historic town of San Juan Bautista. She said that this project is physically bigger than all of San Juan Bautista. The site is currently designated as agricultural in the county General Plan. She said that the mission statement of LAFCO is to encourage the orderly growth of local communities, preserve agricultural lands, to discourage urban sprawl and to assure efficient local government service. This proposal for a race way suggests attendants to 200 to 250,000 people and also includes a 200 room hotel and 40 condominiums. Traffic impacts throughout San Benito would be a mess. From a water and sewer point of view, this project would be equivalent to 1 ½ San Juan Bautista's. She said that if this project should come before the commission she hopes that it will be soundly rejected based upon your mission statement. She asked to be notified by LAFCO if this raceway is ever agenized at LAFCO.

CONSENT AGENDA

4. Approval of minutes of the June 8 and June 29, 2017 meetings.
Commissioner Jaime De La Cruz made a motion to approve the minutes, Commissioner Robert Rivas seconded. (4/0 vote) Commissioner Velasquez abstained

BOUNDARY CHANGE PROPOSALS – PUBLIC HEARING ITEMS

5. LAFCO 520 – Allendale Annexation to the City of Hollister and Parallel Sphere of influence Amendment:

Executive Officer Nicholson said that they have gotten another request from the applicant for another continuance which would be for the September 14th meeting, as the applicants and representatives work with the County on the tax sharing agreement

conditions. Mr. Nicholson asked that the public hearing be opened just in case someone came to speak and then ask for it to be continued to the September 14th meeting.

Commissioner Velasquez recused himself.

Public Hearing period opened by Chair Bettencourt.

As there were no speakers, Chair Bettencourt closed the Public Hearing period.

Commissioner West made a motion to continue this item to the September 14, 2017 meeting at 6:00 PM. Commissioner Rivas seconded the motion.

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

6. LAFCO 522 – Borelli Annexation to the City of Hollister:

Executive Officer Nicholson announced that like the previous item he has received a request from the applicant to continue this item to the meeting of September 14th, for the same reason to work on the condition of approval. Mr. Nicholson asked that the public hearing be opened just in case someone came to speak and then ask for it to be continued to the September 14th meeting.

Public Hearing period opened by Chair Bettencourt.

As there were no speakers, Chair Bettencourt closed the Public Hearing period.

Commissioner De La Cruz made a motion to continue this item to the September 14, 2017 meeting at 6:00 PM. Commissioner Rivas seconded the motion.

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

Executive Officer Nicholson mentioned that in discussion with Counsel we would like to request that the commission move up the last item on the agenda, Item 9, regarding the indemnification agreement as part of the standard application submittal process with the San Benito Local Agency Formation Commission.

Commissioner's agreed to hear Item 9 first before Item 7 and the rest of the items.

9. Consideration of adoption of policy to require applicants to enter an indemnification agreement as part of the standard application submittal process with the San Benito Local Agency Formation Commission.

Executive Officer Nicholson mentioned that there is a standard requirement by most LAFCO's in the State and a lot of Local Planning Agencies (Cities and Counties) to have applicants indemnify the government body in their actions to approve, deny or modify an application so that the applicant takes on the responsibility to defend it rather than the public entity. He said in LAFCO's case the commissions unique, the commission is funded by the two cities and the county. Mr. Nicholson provided an example if LAFCO was sued. He said that it is very common that the local governments make indemnification of standard component when you submit your application you sign off that you indemnify LAFCO. Mr. Nicholson spoke of the sample that was attached to their packet as standard for the application. He said that they are proposing that LAFCO adopt this as a standard procedure as part of the application process.

Commissioner West said that he was surprised we are not indemnified.

Commissioner De La Cruz asked if this document had been provided to the applicants that we currently have.

Executive Officer Nicholson said it closely mirrors the agreements that are out right now, basically the same language.

Assistant County Counsel Barbara Thompson provided additional information as to the reason for the indemnification agreement and the language.

Discussion and questions ensued by Commissioners and staff.

Ms. Thompson stated that after public comment the Commission could adopt this as a standard policy so that you have something in place and if you have any future changes they can be brought back to the commission.

Chair Bettencourt opened public comment:

Doug Ledabour asked the commission to postpone the indemnification agreement to give them an opportunity to meet with County Counsel to talk about the language. He said that if the Commission chose to move forward on this this evening at least modify it so that they could reach and agreement project by project, but were really hoping for a 30 day continuance.

Discussion ensued by the Commissioners.

Chair Bettencourt closed the public comment period.

Commissioner Velasquez made a motion to approve indemnification agreement. Commissioner West seconded the motion.

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

7. Possible direction to Staff on how to proceed with Out of Agency Boundary Service Extensions, notably sewer service in connection with the Hollister Urban Area Water and Wastewater Master Plan:

Executive Officer Nicholson said that the goal is to get direction from the Commission on what to do with the relationship of the Hollister Urban Area, outside agency services, which is sewer from the City of Hollister Wastewater Master Plan. He said on June 29th there was a study session in regards to the pros and cons of LAFCO review of individual projects, exemptions from LAFCO and how this decision effects growth. He said that the commission decided to move the item forward to this meeting. He said at the last meeting there were four directions presented to the commissioners to consider. All of those options were for how LAFCO would be involved. Some of those options would lead to creating a district still run by the City, but would be just for sewer.

Mr. Nicholson provided a PowerPoint presentation and provided information in regards to the different boundary areas on a map. He spoke about the City of Hollister's Master Plan and the County's General Plan in regards to sewer. He also spoke about the different projects going on in regards to City sewer extensions and projects in the Sunnyslope County Water District that have been approved and are pending.

Mr. Nicholson gave the four recommendations and provided information on all of them: 1) Creating a sanitation district, which would require a lot of negotiation between the City and the other parties. It would take the sewer system from being a department of the City and would be its own, similar to that of the San Benito County Water District; 2) Create a Joint Powers Authority where the City would agree to sewer service, agreement with other Districts and the County. The body would be exempt from LAFCO. He said option 1 and 2 could follow the Hollister Urban Area boundaries as indicated on the map; 3) The City request LAFCO to update the sphere of influence to match the Hollister Urban Area, would not include Sunnyslope Water. He said that LAFCO is required by law to look at the sphere of influence every five years, or as necessary; 4) LAFCO initiating the full update of the City's sphere of influence to match the Hollister Urban Area. An alternative idea would be focusing on the area that we have the biggest hardship for landowners, which is the Southside Road area. He said the option is for the

Commission to direct staff to focus on the Southside Road area and bring the City's sphere of influence to cover that area. He said that LAFCO is the responsible authority for creating a sphere of influence. He said in most cases the City will update their General Plan and make it a bigger boundary for growth and they come to LAFCO to approve a bigger sphere. LAFCO does not approve the general plans, they can comment on them, but they set the sphere.

Mr. Nicholson said that he would recommend that the Commission authorize staff to work on Southside area. He provided additional information on all of the options.

Commissioner Velasquez said that he was extremely frustrated that we have headaches because we sought loop holes to get around certain things and now we are creating a sprawl leap frog development. We keep looking for ways to allow building to happen where it shouldn't be happening. He said we need to step back and do what is right for this community, plan our community better and take some time to do this right. He said that this is going to cause nothing but problems and I don't want to be a part of what LAFCO is here for. LAFCO is here to make sure that we don't sprawl or leap frog development. He said that we are looking for loop holes to get around state law. He said that this was passed when he was not present and is frustrated by that and does not want to be part of this conversation of trying to solve headaches by finding a way to patch it together to make it work, it is wrong.

Alternate Commissioner Rivas said that he did agree with the Mayor Velasquez. He said that he supports option 1 and appreciated the thorough report and the materials that were provided. He said that he wants to see some responsibility, we need to fix this. He said as a member of LAFCO he has a problem giving the green light to establish this sewer connection way outside of the City's Influence. He said that this commission needs to work with the City to establish some kind of special district some kind of compromise, some kind of sphere amendment. He said that he is not going to be part of a process like we had in the 90's and have a moratorium for ten years. He said as a County Supervisor he feels really uncomfortable with the direction that we are moving towards, as a Commission I would like to see all of this stuff straightened out and do whatever it is going to take to do things right and responsibly. He said that is the direction that he wants to move in.

Commissioner De La Cruz said that he would favor the last, 4th, option.

Commissioner West said that this is a dog fight between the County and the City of Hollister. He said that he would like to have them figure it out rather than LAFCO. He said that he can't see the City of San Juan Bautista trying to work out their problems. He said that he liked option number 2 or number 3.

Commissioner Bettencourt said that his concerns are like Commissioner Velasquez's growth. He said that he would vote for option 4.

Commissioner Velasquez said he would like to offer an option 5, follow state law. He said lets deal with the issue and work with the public and do things right in this community.

Commissioner West said that he would agree with an option 5. In response, Executive Officer Nicholson indicated that all options 1 through 4 would follow State law.

Chairman Bettencourt opened it up for public comment:

Those speaking from the public were: Emily Renzel, San Juan Bautista resident spoke in regards to growth, water and sewer concerns.

Todd Deutscher, applicant, shared a couple of thoughts and concerns about somethings that were mentioned that he does not believe are correct in regards to sewer, the law, growth and cost concerns.

Chairman Bettencourt closed the public comment period.

Discussion ensued by Commissioners and staff. Mr. Nicholson provided additional information.

Commissioner Velasquez made a motion to approve option 3 as presented. Commissioner West seconded the motion.

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

8. Correspondence from the City Attorney for the City of Hollister dated July 5, 2017, regarding exemption from LAFCO Review for City sewer connection to new development at 3061 Southside Road - Commission direction on letter of response.

Executive Officer Mr. Nicholson provided a staff summary of this item, Fay/Bennett project exemption.

Discussion ensued by Commissioners and staff on the use of the County Hospital facility on Southside Road for the last twenty years or so and sewer connection.

Chairman Bettencourt opened public comment.

Those speaking from the public were Todd Deutscher. He said that the City Attorney said that it was exempt; our legal counsel said it was exempt, and a third law firm has

said that it was exempt under this particular law. He said that they have a resolution from the city stating that sewer is available there and can be provided to us. He said that he asks that it be looked at historically and legally.

Chairman Bettencourt closed public comment period.

Assistant County Counsel Barbara Thompson provided information in regards to the letter and the exemption. She said that she would support the letter.

Deputy County Counsel Sarah Dickenson provided additional information in regards to language in the letter regarding exemption. She said that she agrees with the letter that has been drafted. The letter indicates that it would not be exempt and that they need to come to LAFCO.

Commissioner Velasquez made a motion to draft and send letter as recommended. Commissioner De La Cruz seconded the motion.

Ayes: Velasquez, De La Cruz, Rivas, West and Bettencourt.
Noes: None
Abstain: None

INFORMATIONAL

10. CALAFCO Legislative Committee Status Report.

Executive Officer Mr. Nicholson has asked to have this item continued to the next meeting as he does not have all of the information on this item.

11. Adjourn to regular meeting at 6:00 PM on August 10, 2017, unless meeting time is changed based on Commission action or cancelled by Chair.

ADJOURNMENT

Upon motion by Commissioner West, and seconded by Commissioner De La Cruz, adjourned meeting to the next meeting on September 14, 2017, unless canceled by the Chair or a special meeting is called.

Final Minutes Approved by the Commission
on _____

By _____
Richard Bettencourt, Chairman

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

September 14, 2017

Board of Supervisors Chambers - Hollister, CA

1. Chair Richard Bettencourt called the meeting to order at 6:00 p.m. present were Executive Officer Bill Nicholson, and Commissioners: Chair, Richard Bettencourt, Jim West, Alternate Commissioner Robert Rivas, Alternate Commissioner Dan DeVries, and Commissioner Anthony Botelho. Commissioners Ignacio Velazquez, Jaime De La Cruz and Roberta Daniel were absent.

2. Commissioner West led the Pledge of Allegiance.

3. Approval of Agenda as Posted or Amended:

Executive Officer Bill Nicholson reported that the applicant Todd Deutscher has asked to continue item 10 to the next meeting. Commissioner Botelho made a motion to approve agenda as amended. Commissioner West seconded. (Unanimous)

4. Public Comment Period: There was no one wishing to speak from the public.

CONSENT AGENDA

5. Approval of minutes of the July 13, 2017 meeting.
Commissioner Anthony Botelho made a motion to approve the minutes, Commissioner Jim West seconded. (5/0 vote)

**CLOSED SESSION-CONFERENCE WITH LEGAL COUNSEL-
ANTICIPATED LITIGATION CHANGE PROPOSALS - PUBLIC
HEARING ITEMS**

6. Significant Exposure to litigation pursuant to Section 54956.9: Number of Cases:
(2) Closed Session is authorized by Section 54956.9(d)(2), (e)(1).

Chairman Bettencourt stated that he would like to put a time limit on the closed session. A time limit of 20 minutes was stated. The Commissioners entered into closed session at 6:04 p.m. and reported out of closed session at 6:37 p.m.

No reportable action was taken.

BUSINESS ITEMS – STUDY SESSION:

7. Study Session on Adopted Commission Policy to require applicants to enter an indemnification agreement with the San Benito Local Agency Formation Commission as part of the standard application submittal process. (The Commission approved the requirement for applicant's to sign indemnification agreements at the August 10, 2017, Commission meeting.)

Executive Officer Bill Nicholson provided information on indemnification agreement changes and the applicants responses.

Chairman Bettencourt opened public comment period.

Those speaking from the public were: Scott Fuller had some suggestions and concerns in regards to third party indemnification agreements. He said that there should be a more traditional agreement as the standard agreement and have a provision to negotiate the standard agreement where there is an unusual circumstance.

Christine Breen, representing Sunnyside Estates said that she still does not have clarity and would like clarity tonight in regards to her client's project being deemed exempt back in March. She also had some questions in regards to the third party indemnification agreement and a standard agreement provided by her client.

Doug Ledabore representing K & H Group said that he wanted to echo the comment of the other speaker in regards to the third party indemnification agreement and how it is written.

Chairman Bettencourt closed the public comment period.

Commissioner Rivas said that he has met with people in regards to their concerns about the third party language in the indemnification agreement and the impacts that it has on the applicants. He said that he appreciates staff because they are trying to protect our County and LAFCO. He said that he would agree to eliminate the third party language from the indemnification agreement so that it would make more sense for our applicants.

Commissioner West said that our Attorney's did a tremendous job in protecting LAFCO and protecting the County. He said it infringes with the business of the County and he agrees with Commissioner Rivas to eliminate the third party condition on this.

Commissioner Rivas made a motion to move forward with an indemnification agreement but eliminate the reference of third party language: "in addition to any legal action related to the project processing approval, legal action shall include but not be limited to (propose any action against LAFCO against third party seeking approval as the applicant)." Commissioner West seconded the motion.

Ayes: Bettencourt, West, Rivas, Botelho and De Vries
Noes: None
Abstain: None

BOUNDARY CHANGE PROPOSALS – PUBLIC HEARING ITEMS

8. LAFCO 522 – Borelli Annexation to the City of Hollister: Involving the annexation of approximately 25 acres of property, located on the north side of Buena Vista Road and on the west side of the extension of Miller Road, more particularly identified as 1340 Buena Vista Road, for a future residential subdivision to be served by the City of Hollister. The actions requested are to make a determination that the Commission has reviewed and considered the City's Initial Study/Mitigated Negative Declaration, and there are no mitigation measures for the Commission to adopt, and to approve the annexation, and authorize LAFCO staff to complete the proceedings without further notice, hearing or election.

Assistant County Counsel Barbara Thompson said that she would like to hear from the applicant to see if they would like to request a continuance.

Doug Ledabore, applicant, said that he would like to ask for a continuance, said that they have been working on this with County Counsel and he has not had an opportunity to review the changes with his legal counsel yet. He would like to have it put back on the calendar for next month.

Commissioner Bettencourt asked if he was talking about the tax sharing agreement.

Mr. Ledabore replied yes.

Commissioner De Vries made a motion to continue this item to the next regular meeting of October 12, 2017 at 6:00 PM. Commissioner West seconded the motion.

Ayes: Bettencourt, West, Rivas, Botelho and De Vries
Noes: None
Abstain: None

9. LAFCO 520 – Allendale Annexation to the City of Hollister and Parallel Sphere of Influence Amendment: Involving an amendment to the City of Hollister Sphere of Influence of approximately 31 acres, and the annexation of 57.9 acres into the City located to the northeast of the intersection of Buena Vista Road and Locust

Avenue and west of the Union Pacific Railroad Right-of-Way. The annexation involves a portion of a larger development, with the annexation area proposed for 198 single family and 10 multiple family residential dwellings to be served all public services the City of Hollister. The actions requested are to make an environmental determination regarding the adequacy of the City's Environmental Impact Report, and consider amendment of the Sphere of Influence and approval of the annexation.

Executive Office Nicholson mentioned that this item has been continued multiple times and it has to do with indemnification and master tax sharing agreement. He said that he wasn't sure if the applicant wanted to go with the language that counsel wrote up or if they want another continuance.

Assistant County Counsel Barbara Thompson provided a perspective about the condition of approval but stated that they have not come to an agreement on it. She passed out a paper that provided some language on 3 options that she was providing.

Commissioner Botelho had some questions in regards to the conditions of the master tax sharing agreement.

Ms. Thompson provided additional information.

Chairman Bettencourt opened public comment period.

Those speaking from the public were: Scott Fuller, Representing the Landowners, said that they have agreed to pay without protest, without legal action, the fee that is currently in the 2011 master tax agreement, which is approximately \$11,500.00. So as long as that is in place and we are pulling permits from the annexed area we agree to pay that. He said that if it changes because you come up with a new scenario, new agreement new amount, we agree to pay that.

Dana Savona, De Nova Homes, said that we are not trying to get more than the other developer; we just want to make sure that we are playing on the same playing field with the other developers. She said we are saying that we are not going to challenge it.

Dave Sanson, De Nova Homes, spoke in regards to fees. He said to do what is fair and right for property owners.

Chairman Bettencourt closed the public comment period.

Commissioner Botelho said that he had no problem with the proposal.

Commissioner Rivas said that he agreed with Commissioner Botelho. He thanked staff. He said that he wants to move forward on this, this is a positive thing for our county and community. Would like us to approve language that would be agreeable to applicant accepting the fee as what it is now.

Commissioner West agreed. You pay the fees that they are today, if there are changes, you pay the changes.

Chairman Bettencourt said that he agreed with fellow Commissioners.

Commissioner Botelho made a motion to approve with language G, without the third party indemnification. Commissioner Rivas seconded the motion.

Ayes: Botelho, Rivas, West, Bettencourt and De Vries
Noes: None
Abstain: None

10. Consideration of Exemption from LAFCO Review Under Government Code Section 56133(e)(1) for the connection of sewer from the City of Hollister – Request from Todd Deutscher, Hollister Land Partnership, LLC as project applicant, for the Fay/Bennett Ranch subdivision project at 3061 Southside Road, located on the east side of Southside Road an approximately 400 feet south of Enterprise Road.

Executive Officer Nicholson mentioned at the beginning of the meeting that this item is being continued.

11. Appointment of voting Delegate and Alternate for the CALAFCO Board Elections and Related Business at the October 25th CALAFCO Conference in San Diego.

Executive Officer Nicholson asked the Commission to make him the delegate and Commissioner Bettencourt the Alternate, since he will be attending the conference.

Commissioner Botelho made a motion to approve Executive Officer as the delegate and our Chairman Bettencourt as the alternate. Commissioner West seconded the motion.

Ayes: Botelho, West, Rivas, Bettencourt and De Vries
Noes: None
Abstain: None

INFORMATIONAL

12. Legislative update:

Executive Officer Nicholson provided information in regards to a bill passed and signed by the Governor which requires LAFCO's to call a special district selection committee together, which is a member of every special district, for the counties that have a countywide redevelopment successor agency.

ADJOURNMENT

Upon motion by Commissioner West, and seconded by Commissioner Botelho, adjourned meeting to the next meeting on October 13, 2017, unless canceled by the Chair or a special meeting is called.

Final Minutes Approved by the Commission
on _____

By _____
Richard Bettencourt, Chairman

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

October 12, 2017

Board of Supervisors Chambers - Hollister, CA

1. Chair Richard Bettencourt called the meeting to order at 6:00 p.m. present were Executive Officer Bill Nicholson, and Commissioners: Chair, Richard Bettencourt, Jim West, and Jaime De La Cruz. Commissioners Ignacio Velasquez, and Anthony Botelho were absent, as were Alternates Rivas, De Vries and Daniel.
2. Commissioner West led the Pledge of Allegiance.
3. Approval of Agenda as Posted or Amended:

Commissioner De La Cruz made a motion to approve agenda as posted. Commissioner West seconded. (3/0)

4. Public Comment Period: There was no one wishing to speak from the public.

CONSENT AGENDA

5. No minutes are available for approval at this meeting.

**CLOSED SESSION-CONFERENCE WITH LEGAL COUNSEL-
ANTICIPATED LITIGATION**

6. Significant Exposure to litigation pursuant to Section 54956.9: Number of Cases:
(1) Closed Session is authorized by Section 54956.9(d)(2), (e)(1).

Deputy County Counsel Erin Liem reported that the Commission will meet in closed session on the above matter.

Chairman Bettencourt stated that he would like to limit the closed session to 15 minutes. The Commissioners entered into closed session at 6:04 p.m. and reported out of closed session at 6:43 p.m.

Deputy County Counsel Erin Liem reported that there was no reportable action was taken.

BOUNDARY CHANGE PROPOSALS – PUBLIC HEARING ITEMS:

7. LAFCO 522 – Borelli Annexation to the City of Hollister: Involving the annexation of approximately 25 acres of property, located on the north side of Buena Vista and on the west side of the extension of Miller Road, more particularly identified as 1340 Buena Vista Road, for a future residential subdivision to be served by the City of Hollister. The actions requested are to make a determination that the Commission has reviewed and considered the City's Initial Study/Mitigated Negative Declaration, and that there are no mitigation measures for the Commission to adopt, and to approve the annexation, and authorize LAFCO staff to complete the proceedings without further notice, hearing or election. **(Public Hearing Continued from the August 10 and September 14, 2017 meetings)**

Executive Officer Bill Nicholson provided information to the annexation proposal project. He said in summary it does meet the evaluation criteria, so staff is recommending approval of the annexation based on the determinations in the report.

Chairman Bettencourt opened the public hearing.

Those speaking from the public were: Doug Ledeboer, representing KDH Group, he said as staff indicated we have been working on this for a while and I think that we have language that works for all parties and is acceptable to us. He said that this property is ear marked as a priority growth area in the City of Hollister's general plan. He said that the application in front of you tonight represents annexation of the property that lies in the urban area and is consistent with state and local policy. He said that we are asking for your consideration of this project.

Chairman Bettencourt opened the public hearing.

Chairman Bettencourt closed the public hearing.

Commissioner De La Cruz made a motion to approve option 1 as stated in report by staff. Commissioner West seconded the motion.

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

BUSINESS ITEMS – NON HEARING ITEMS:

8. Consideration of Exemption from LAFCO Review Under Government Code Section 56133(e)(1) for the connection of sewer service from the City of Hollister - Request from Todd Deutscher, Hollister Land Partnership, LLC as project applicant, for the Fay/Bennet Ranch subdivision project at 3061 Southside Road, located on the east side of Southside Road and approximately 400 feet south of Enterprise Road (**Item continued from the September 14, 2017 meeting**)

Chairman Bettencourt stated that the Commission would like to put this off until the next meeting.

Chairman Bettencourt opened it up for public comment.

Those speaking from the public were: Todd Deutscher, project sponsor developer of the project, spoke of the previous exemptions that they feel that they are qualified for and provided legal opinions to that affect. He said that he is hopeful that after seeing all the information that you will be in support of this exemption based on letters from Sunnyslope sewer and a Hollister City Council resolution.

Chairman Bettencourt closed the public comment period.

Commissioner De La Cruz made a motion to move this item to the next available meeting. Motion died for lack of a second.

Commissioner West made a motion to exempt this project from LAFCO review. Chairman Bettencourt seconded the motion.

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

INFORMATIONAL

9. Commissioner and Executive Officer comments or reports.

Chairman Bettencourt asked Commissioner De La Cruz as a member of the Board of Supervisors should the Pacheco Creek issue come to LAFCO.

Commissioner De La Cruz replied that eventually it could but currently it is at the County level.

Chairman Bettencourt mentioned that LAFCO does not have a policy on Prime Ag Land, and is it something that we should bring to this board in the future.

Executive Officer Nicholson provided information in regards to Prime Ag Land. He said that LAFCO does not have a policy like many jurisdictions. He said that some LAFCO's adopt a policy based on acre to acre basis that would require the applicant to acquire conservation easements. He said that this is a very hot issue in some counties like Fresno.

Discussion ensued by Commissioners.

Commissioner West said it is time to talk about expanding the sphere of influence of the City to address the exemptions from LAFCO review in the Southside Road area.

Commissioner De La Cruz said that he would support changing the sphere of influence.

Commissioner West asked the Executive Officer how long would that take.

Executive Officer Nicholson said probably about 3 months. He said that he could bring this to the first meeting in 2018 for direction from the Commission.

Discussion ensued with Commissioners in regards to expanding the sphere of influence for the project that was previously presented. The previous matter that was voted on was a 2/1 vote and a 3/0 vote was needed to exempt the project.

Commissioner De La Cruz asked for a 10 minute recess to talk to County Counsel.

Chairman Bettencourt called for a 10 minute recess.

Chairman Bettencourt called the meeting back to order and asked what the determination was.

LAFCO Counsel Erin Liem reported that you have to have 3 votes to have an item passed.

Commissioner De La Cruz asked Commissioner West if he would like to make a motion to reconsider the vote for Item 8.

Commissioner West made a motion to reconsider the vote. Commissioner De La Cruz seconded the motion.

Ayes: West, De La Cruz and Bettencourt
Noes: None
Abstain: None

Commissioner De La Cruz asked for another vote of item number 8.

Commissioner West made a motion to exempt the project from LAFCO. Commissioner De La Cruz seconded the motion to include per Government Code Section 56133(e)(1).

Ayes: West, De La Cruz and Bettencourt
Noes: None
Abstain: None

Executive Officer Nicholson announced that he would be attending the LAFCO Conference down in San Diego at the end of the month.

Chairman Bettencourt asked if it was possible to skip a couple of meetings and come back in January.

Executive Officer Nicholson stated that there was nothing pending right now. He mentioned that Commission changed the meeting day from the 4th Thursday to the 2nd and previously the Commission had a policy to never meet in November or December. He said that based on current work load it would be o.k. not to meet the months of November and December.

Chairman Bettencourt said that they would meet again on January 11, 2018.

ADJOURNMENT

Upon motion by Commissioner West, and seconded by Commissioner De La Cruz, adjourned meeting to the next meeting on January 11, 2018, unless canceled by the Chair or a special meeting is called.

Final Minutes Approved by the Commission
on _____

By _____
Richard Bettencourt, Chairman

BUSINESS ITEMS – NON HEARING ITEM


7. Consideration of initiation of Sphere of Influence Amendment to 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 had been requested. Requested to be placed on the January 11th Agenda by Commission at the October 12, 2017 Commission meeting.

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:

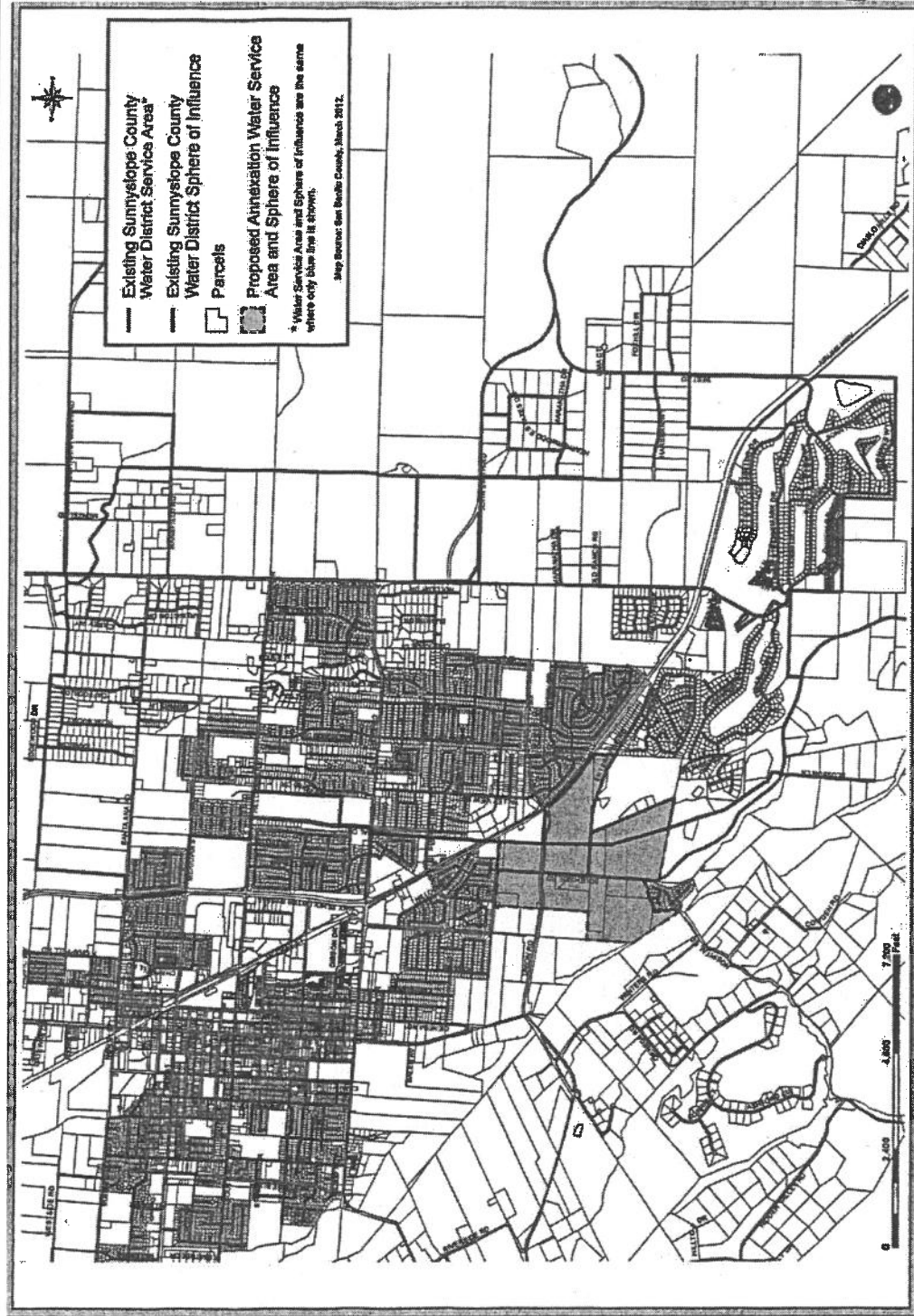
- Attachment 1. 2014 Sunnyslope County Water District Annexation Boundary in Southside Road Area
- Attachment 2. Detail of properties within this Boundary, and identification of River View Estates Subdivision to be included
- Attachment 3. Hollister City Planning Area and Hollister Urban Area Boundary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

LAFCO

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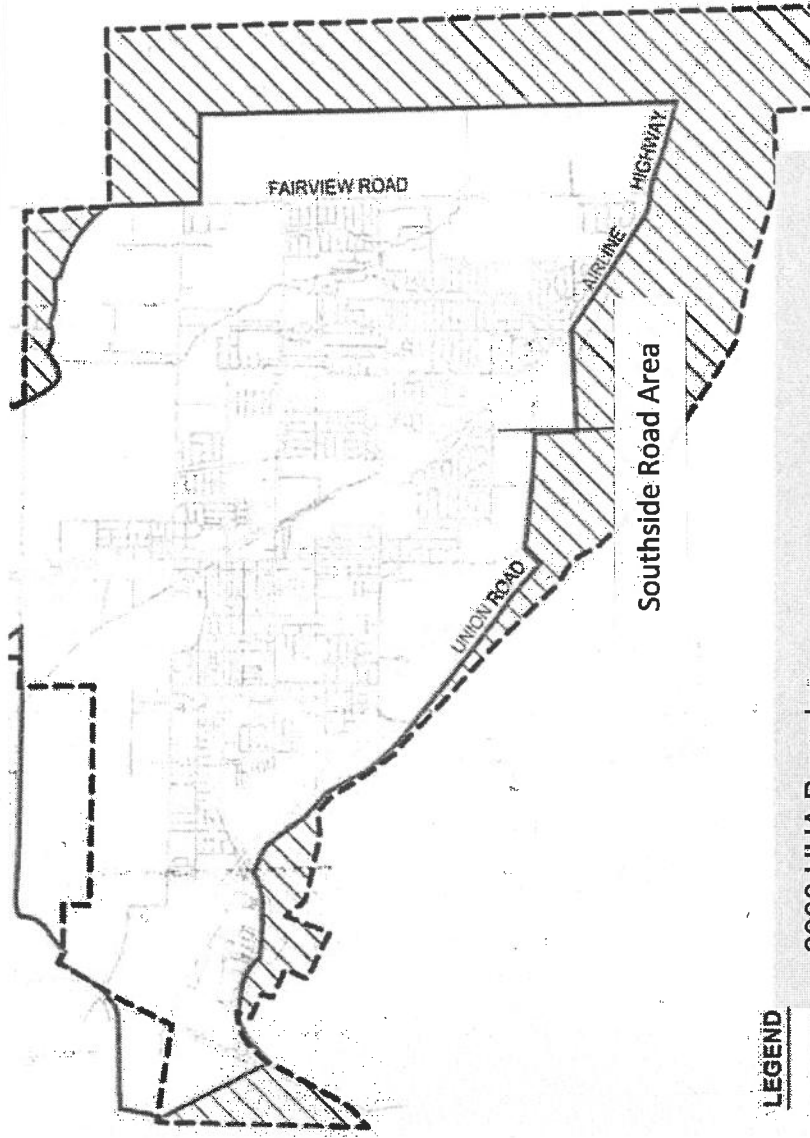


Possible
LAFCO
Initiated
SOI
Expansion
Area:
Matches
SSCWD
2014
Annexation



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

INFORMATIONAL

8. Executive Officer Report on CALAFCO Annual Conference In October 2017.

9. Executive Officer Report on CALAFCO Legislative Committee 2017-18 Session.

10. Commissioner Announcements and Requests for Future Agenda items.

11. Adjourn to regular meeting at 6:00 PM on February 8, 2018, unless meeting time is changed based on Commission action or cancelled by Chair.

LOCAL AGENCY FORMATION COMMISSION
SAN BENITO COUNTY

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

DATE: January 11, 2018 (Agenda)

TO: Local Agency Formation Commission

FROM: Bill Nicholson, Executive Officer

RE: California Association of Local Agency Formation Commissions
(CALAFCO) Annual Conference Summary October 2017
(Agenda Item 8)

The 2017 CALAFCO Annual Conference was held in San Diego, from October 25-27, 2017. The Conference theme was: "Corners of California" reflecting the diversity of LAFCOs across the State.

Topics covered in the three days of sessions included: results of a statewide poll conducted for CALAFO on how the public identifies with LAFCO (they don't know who we are or what we do); efforts CALAFO and local LAFCOs can take to improve statewide recognition thorough "creative messaging" and possibly social media; avoiding ethical challenges (for commissioners and staff) with several case studies presented; and the annual legislative update with presentations from the Assembly Local Government Committee Consultant, northern and southern LAFCO representatives, and Pamela Miller, Executive Director of CALAFCO.

One special summary regarding seeking greater LAFCO recognition was presented by Ms. Miller who summarized the recent success CALAFCO had with educating the Little Hoover Commission and turning their initial negative impression of LAFCOs into a supportive position. This included a proposal that the State allocate between \$2 and \$3 million to LAFCOs for government efficiency and accountability projects. CALAFCO will be working with supportive legislators to sponsor a bill this year with the recommended funding tied to a set of criteria for a grant program where local LAFCOs compete for a share of the funding.

Copies of most presentations are available under "2017 Conference Materials" in the "Education" tab of the CALAFCO website at; www.calafco.org.

There is no requested action from the Commission on this informational item.

LOCAL AGENCY FORMATION COMMISSION
SAN BENITO COUNTY

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

DATE: January 11, 2018 (Agenda)

TO: Local Agency Formation Commission

FROM: Bill Nicholson, Executive Officer

RE: California Association of Local Agency Formation Commissions
(CALAFCO) Legislative Committee Update
(Agenda Item 9)

As the Commission is aware, as Executive Officer of Merced LAFCO, located in the Central Region of CALAFCO, I was appointed as a regular member of the CALAFCO Legislative Committee for the 2017-18 legislative year. Because last year was an extremely active year for CALAFCO, the Executive Board determined to continue pursuing the remaining items from last year that were either not completed or were specifically deferred to this year. A summary of legislation was included in annual CALAFCO publication "The Sphere" distributed to the Commission in November, and a short summary of the LAFCO related bills that passed in 2017 is attached.

The following is a brief summary of the proposed priorities for the coming year, and at the January meeting, any questions or opinions can be expressed that I can carry forward to the Legislative Committee at their January 19th meeting:

- Efforts to solicit CALAFCO to support legislation promoted by the League of California Cities to make a permanent fix of the vehicle license fee shift to schools (ERAF) which would help promote incorporations and inhabited island annexations into Cities again.
- The annual Omnibus Bill with technical, non-controversial changes to the Government Code in terms of definitions, clarifications to protest notification procedures, appointment of public commissioners only from citizens residing within the County, and a couple other minor revisions.
- Promoting legislation to implement a key recommendation of the Little Hoover Commission regarding providing a grant program of up to \$3 million for local LAFCOs to submit competitive proposals for completion of special studies and implementation measures identified in adopted Municipal Service Reviews (such as consolidations or dissolutions, or to help disadvantaged communities)
- Continue to monitor any other legislation introduced that may have a negative or positive effect on LAFCOs (including bills that subvert the LAFCO process, weaken LAFCOs role, or add unfunded mandates)

Local Agency Formation Commission
January 11, 2018 (Agenda)
Page 2

This is primarily an informational item, however, Staff will be prepared to forward any input received to the Legislative Committee.

Enclosure: Legislative Update from Sacramento: CALAFCO Annual Conference, October 27, 2017. (Prepared by the Assembly Local Government Committee)

**LEGISLATIVE UPDATE FROM SACRAMENTO
CALAFCO ANNUAL CONFERENCE
October 27, 2017**

LAFCO-Related Bills

- AB 464 (Gallagher) – Makes changes to LAFCO statutes which govern changes of organization and reorganization, including annexation proceedings. **SIGNED - Chapter 43, Statutes of 2017.**
- AB 979 (Lackey) – Makes changes to the statutes which govern the independent special district selection committee and representation of special districts on LAFCOs. **SIGNED - Chapter 203, Statutes of 2017.**
- AB 1361 (E. Garcia) – Authorizes a municipal water district, until January 1, 2023, to apply to a LAFCO to extend water service to Indian lands and prohibits the LAFCO from denying the application. **SIGNED - Chapter 449, Statutes of 2017.**
- AB 1725 (Assembly Local Government Committee) – Annual Assembly Local Government Committee Omnibus bill that makes several minor noncontroversial changes to the Cortese-Knox-Hertzberg Act. **SIGNED - Chapter 353, Statutes of 2017.**
- SB 130 (Senate Budget and Fiscal Review Committee) – Provides a city that incorporated between January 1, 2004 and January 1, 2012 with property tax in lieu of vehicle license fees (VLF adjustment amount). **SIGNED - Chapter 9, Statutes of 2017.**
- SB 448 (Wieckowski) – Requires the State Controller to publish a list of inactive special districts and establishes a process for LAFCOs to dissolve inactive special districts. **SIGNED - Chapter 334, Statutes of 2017.**

Issues on Deck for Next Session

- Healthcare Districts
- Water

Contact Information

Misa Lennox
Principal Consultant
Assembly Local Government Committee
(916) 319-3958
Misa.Lennox@asm.ca.gov