

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

April 14, 2022

Board of Supervisors Chambers - Hollister, CA

CALL TO ORDER

1. Chair Bob Tiffany called the meeting to order at 4:01 p.m. Those present were Executive Officer Bill Nicholson and Commissioners: Bea Gonzales, Richard Bettencourt, and Bob Tiffany. Commissioners Ignacio Velazquez and Cesar Flores were absent. Alternate Rolan Resendiz was present. Also present were Reed Gallogly, LAFCO Counsel, and Jennifer Frechette, Recording Secretary.
2. Commissioner Gonzales led the Pledge of Allegiance.

3. **APPROVE AFFIDAVIT OF POSTING AGENDA**

Commissioner Gonzales made a motion to accept the Affidavit of Posting, Commissioner Bettencourt seconded. (4/0 vote)

Ayes: Tiffany, Bettencourt, Gonzales, and Resendiz

Noes: None

Abstain: None

Absent: Velazquez and Flores

BUSINESS ITEMS – GENERAL BUSINESS, NON-HEARING ITEMS

4. **Adopt proposed resolution authorizing teleconferencing options for meetings of the Local Agency Formation Commission for the period of April 14, 2022, to May 14, 2022 pursuant to AB 361.**

Commissioner Bettencourt made a motion to accept the Resolution authorizing teleconferencing option, Commissioner Gonzales seconded. (4/0 vote)

Ayes: Tiffany, Bettencourt, Gonzales, and Resendiz

Noes: None

Abstain: None

Absent: Velazquez and Flores

PUBLIC COMMENT

5. **Public Comment Period:** No comments.

CONSENT AGENDA

6. **Approval of minutes: February 10, 2022**

Commissioner Gonzales made a motion to approve the minutes of February 10, 2022, Commissioner Bettencourt seconded. (4/0 vote)

*Ayes: Tiffany, Bettencourt, Gonzales, and Resendiz
Noes: None
Abstain: None
Absent: Velazquez and Flores*

BUSINESS ITEMS – PUBLIC HEARING ITEMS

7. **Approval of the Proposed 2022-23 LAFCO Budget**

Executive Officer Bill Nicholson gave a brief overview and background of the proposed 2022-23 LAFCO Budget. He stated the budget needs to be adopted by June 15th.

Commissioner Tiffany noted that the proposed budget is only about \$1,000.00 more than last year's budget and asked if LAFCO doesn't spend the money if it just moves over to the next year.

Mr. Nicholson confirmed that if the money does not get spent it gets moved over to the following year. He also stated there is a contingency account of about \$20,000.00 that can only be spent if the LAFCO commission decides to spend it.

Commissioner Bettencourt asked Mr. Nicholson if the 2.5% wage rate increase in his wages was enough to cover fuel and travel. He requested clarification that LAFCO has to keep paying OPBES benefits to a former Executive Officer, that recently moved out of the area. He also asked Mr. Nicholson to explain cost allocation plan.

Mr. Nicholson stated the 2.5% rate is just used for the budget, but the actual wage rate is adopted by a federal agency and is posted in April of each year so if it is higher there is enough money in the budget to cover the difference. The cost allocation plan is set by the County because it performs a lot of functions for various departments and agencies, and they are allowed to keep track of their time allocated to each of those functions. The County distributes their overhead costs to all entities they support, including LAFCO.

Commissioner Tiffany asked if this budget includes money allocated for the review of County Service Areas (CSAs). Mr. Nicholson confirmed it does include costs for his time to review the CSA study for LAFCO, but the detailed engineering work would be paid for by the County.

The public hearing was open at 4:16 p.m.

There was no public comment.

The public hearing was closed at 4:17 p.m.

Commissioner Bettencourt made a motion to approve the Proposed 2022-23 LAFCO Budget, Commissioner Gonzales seconded.

*Ayes: Tiffany, Bettencourt, Gonzales, and Resendiz
Noes: None
Abstain: None
Absent: Velazquez and Flores*

BUSINESS ITEMS – NON-HEARING ITEMS:

- 8. Update on Fairview Corners Area Projects including the Fairview Corners Subdivision, the San Benito Campus of Gavilan Joint Community College District, and the Proposed Lands of Lee Subdivision Regarding Wastewater Service Issues and LAFCOs Role.**

The minutes for this General Business Item are presented as a summary of the speakers and general topics. The following documents are available on the LAFCO Website for the April 14, 2022 LAFCO Meeting and can be accessed by the public, agencies and interested parties for full detail of the discussion: The Executive Officer's Report dated 4-14-2022; a copy of the

Executive Officer's PowerPoint presentation presented at the 4-14-2022 during the meeting; a letter from Michael Patrick Durkee, Attorney for Bill Lee, owner of the "Lands of Lee" subdivision property; and a map identifying the three development projects provided by Bill Lee in relation to the Sunnyslope County Water District boundary.

Summary of Speakers:

Executive Officer Bill Nicholson gave a PowerPoint presentation which summarized the information in the Executive Officer's Report for this Agenda Item and included various maps of the "Hollister Urban Area" (HUA), the Sunnyslope County Water District boundary and the City of Hollister City Limits and Sphere of Influence boundary.

This included a background of the "Hollister Urban Area" (HUA) adopted by a Memorandum of Understanding between the San Benito County Water District, the City of Hollister and San Benito County, and later joined into by the Sunnyslope County Water District in 2008.

The LAFCO Commission's approved the HUA boundary in 2012, and its identification of areas where future City of Hollister "regional" wastewater service would be extended and areas where the Sunnyslope County Water District would provide wastewater service. There has been extensive controversy over the requirements under Government Code section 56133 and whether extensions within the HUA are exempt from LAFCO review under an agreement between the Sunnyslope County Water District and the Hollister City Manager entered in August, 2016. However, for several years the City has been requesting LAFCO approval before extending sewer service outside the City limits, regardless of the 2016 agreement.

Due to recent City decisions limiting wastewater extensions to the three projects discussed tonight, the Sunnyslope County Water District is now considering extending wastewater service across Airline Highway and there is additional controversy whether it would be subject to LAFCO review as a service that had not been historically contemplated during annexation of the properties or in preparation of the Hollister Urban Area wastewater master plans.

Ongoing questions and discussion among the LAFCO Commissioners, LAFCO Counsel, Reed Gallogly, and Executive Officer Nicholson occurred throughout the presentation.

Following completion of the presentation, the Commission accepted Comments from the public and waived the three-minute limitation for each speaker which was listed on the meeting agenda. Some of the speakers answered questions from the Commission as a part of the public input process which extended from 5:14 P.M. to 6:25 PM. While there was a large amount of discussion and opinions raised during the public discussion period, no formal position was taken by the Commission and the action taken was to bring this matter back to the Commission at the June meeting.

Public Input and Key Points:

Michael Patrick Durkee, Attorney for Bill Lee, summarized his letter dated April 13, 2022, that it is up to the Commission to decide whether they need to review Hollister wastewater extension outside the City limits, there are exceptions in the law, but LAFCO does not have the authority to limit where the Sunnyslope County Water District can provide wastewater service within their current district boundary.

Bill Lee agreed that Sunnyslope County Water District can supply wastewater service to his development without LAFCO review and he asked the Commission to confirm this position by a formal vote at a future meeting.

Don Ridenhour, citizen, and former General Manager of the Sunnyslope County Water District, disagrees that LAFCO has review authority over the district extending wastewater service anywhere within their boundary. The current sewer service agreement between the City and district is valid for any Hollister wastewater extension within the Sunnyslope boundary. It would be appropriate to expand the Hollister Sphere of Influence to match the Hollister Urban Area, but if Sunnyslope has the wastewater treatment capacity, they just need to prepare and adopt a master plan in order to provide the sewer instead of the City, and LAFCO doesn't have to approve it.

Sara Singleton, San Benito County Water District, referenced the historic 2004 and 2008 MOU for the City of Hollister to provide wastewater treatment services within the Hollister Urban Area because they have a tertiary treatment plant and, in essence, the community gets to use the ground and

surface water twice due to the benefits of the wastewater treatment plant design and agreements among the agencies.

Cathleen Rose, Superintendent, Gavilan Joint Community College District, summarized the plans and funding for the San Benito Campus at the corner of Fairview Road and Airline Highway. In the future they also propose to construct student housing on the property. Because they have a deadline to spend the Measure X Bond funds, they will build the first phase of the campus and rely on a septic system if there are problems getting sewer from the City or Sunnyslope. However, they are in negotiations with Dividend Homes (Fairview Corners project developers) on a partnership agreement for water, sewer, roads and other improvements which would benefit the College.

Elia Salinas, citizen, stated the concerns raised that there is too much home building has led to the City Council split vote holding up the sewer extension to these projects. But there really are not that many houses built in the County as everyone thinks, and the lack of maintenance of the City wastewater treatment plant so the City needs to improve their wastewater service. But Sunnyslope can extend their sewer without LAFCO approval if needed.

Dick Oliver, Dividend Homes, stated the Fairview Corners project has been planned for 20 years. They negotiated an agreement to bring sewer from Hollister through the neighboring Ceilo Vista project, and the former City Manager agreed to it. If they had to follow the LAFCO approval process for sewer from Hollister it would take a General Plan amendment and Sphere of Influence amendment – but they would work with all parties in a responsible manner. The College would have benefited too.

Charles Hazelbaker, KB Homes, developer of Roberts Ranch in the City, the new subdivisions developed in the City to the west which doesn't show up on the map identifying the three projects being discussed. The City Engineer required oversizing of sewer pipes and their extension to Fairview Road to accommodate Fairview Corners and the College. This indicated the City was going to serve these projects in the future, and it would be fair that they be reimbursed by the City if they won't be reimbursed by these projects.

Michael Groves, President, EMC Planning Group, working with Dividend Homes on the Fairview Corners project from the beginning. They initially were working with the Sunnyslope County Water District for both water and

wastewater service. But upon adoption of the new Hollister Urban Area agreement, they had to design the projects to connect to Hollister sewer instead. This is good to take advantage of the recycled water from the City, but it also required all the projects in the County to help pay for the wastewater treatment plant expansion. While this is the correct solution, the Commission should place the Sunnyslope wastewater connection alternative on the next agenda and agree that the district does not need LAFCO approval, and they can begin to prepare their design plans.

Chair Tiffany closed the public comment period at 6:25 P.M., and the Commission held discussion with staff and Counsel. Chair Tiffany summarized that there were three options for the Commission regarding the extension of wastewater service to these projects: determine whether LAFCO has the authority to approve wastewater extensions into this part of the district or not. If LAFCO does have this authority, the Commission can decide to grant the right for the district to extend wastewater services to these projects, or the Commission can deny that request.

Commissioner Gonzales made a motion to bring back this item on the June calendar and decide whether LAFCO has jurisdiction over this matter, seconded by Commissioner Bettencourt.

*Ayes: Tiffany, Bettencourt, Gonzales, and Resendiz
Noes: None
Abstain: None
Absent: Velazquez and Flores*

INFORMATIONAL:

9. Commissioner Announcements and Requests for Future Agenda Items.

Commissioner Bettencourt asked when the city will bring the updated General Plan before LAFCO.

Executive Officer Bill Nicholson stated he can get the information from the city and put it on the next agenda.

Commissioner Tiffany asked Commissioner Resendiz where the City of Hollister was at with the General Plan.

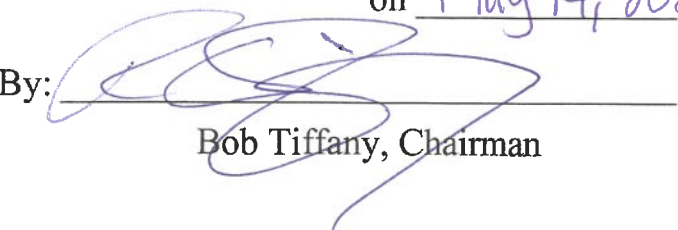
Commissioner Resendiz stated that he thought it would be appropriate for the contractor to give an update at the next meeting. The city is almost wrapped up with the Plan and will be adopting it within the next few months.

10. Executive Officer oral status report on pending proposals and other LAFCO business items.

Executive Officer Bill Nicholson stated that the only activity in terms of applications is from the Aromas Water District. Mr. Nicholson attended a community meeting for the Cole Road area. They want to annex the whole area of Cole Road and bring them in as a group so they would all be eligible for water service. San Juan Bautista has also been working on their General Plan Boundary Study and they will soon have a Sphere of Influence update completed to bring to LAFCO.

ADJOURNMENT

11. Upon a motion by Commissioner Bettencourt, and seconded by Commissioner Gonzales, and carried 4 – 0, the meeting was adjourned at 7:03 p.m.

Final Minutes Approved by the Commission
on May 14, 2022
By: 
Bob Tiffany, Chairman