

SAN BENITO LOCAL AGENCY FORMATION COMMISSION

REGULAR MEETING AGENDA

Thursday, April 14, 2022 – 4:00 P.M.

Board of Supervisors Chambers
481 Fourth Street, Hollister CA

Pursuant to California Governor Gavin Newsome's Executive Order No. N-29-20 issued on March 19, 2020, relating to the convening of public meetings in response to the COVID-19 pandemic, members of the Commission are allowed to attend the meeting via teleconference and to participate in the meeting to the same extent as if they were present.

The meetings are open to the public, under the following conditions: All Attendees may attend the Commission meeting in person and follow the State guidelines. If an attendee is not fully vaccinated it is highly recommended that an attendee wears a face covering or face shield. All attendees must comply with any other rules of procedures/instructions announced by the LAFCO Commission and/or LAFCO Staff. The meeting will be available through Zoom for those who wish to join or require accommodations with the instructions below:

The meeting can also be accessed by the public in the following methods: Through Zoom (<https://zoom.us/join>) per the instruction stated below, and other methods as described further below with the following ID and Password:

Webinar ID: 833 3605 8395

Webinar Password: 701548

Participating by Zoom:

Three ways to attend Zoom meetings: on a web browser, through the Zoom App, or over the phone. Each webinar will have a webinar ID and password, which is a unique number associated with an instant or scheduled meeting (found at the top of this text). The chat feature is disabled for all participants. Additionally, the video function is not available to the public.

Zoom regularly provides new versions of the Zoom desktop client and Zoom mobile app to release new security features and fix bugs. To ensure you can join the meeting and participate through public comment, please launch the web address to download the Zoom application: <https://zoom.us/support/download>. Furthermore, we recommend upgrading to the latest version of Zoom once it is available. Please visit <https://support.zoom.us/hc/en-us/articles/201362233-Upgrade-update-to-the-latest-version> to ensure you have the newest Zoom update.

Zoom on Web-browser:

- a. If joining through web-browser, launch the address <https://zoom.us/join> or open the direct link listed below: <https://zoom.us> or launch the Zoom app on your Tablet or Smartphone.
- b. Select “JOIN A MEETING”
- c. The participant will be prompted to enter Webinar ID and Password listed above and name to join the meeting. The meeting agenda can be found at <https://www.cosb.us/>
- d. The participant can launch audio through their computer or set it up through the phone.
- e. Public Comment: Select the “Participants Tab” and click “Raise hand” icon, and the Zoom facilitator will unmute you when your turn arrives.

Zoom Audio Only (phone):

- a. If you are calling in as audio-only, please dial US: +1 669 900 6833 or +1 408 638 0968
- b. It will ask you to enter the Webinar ID listed above, followed by the “#” key (pound key), then enter Webinar Password listed above at the top page of the agenda. The meeting agenda can be found at <https://www.cosb.us/>
- c. It will then ask for a Participant ID, press the “#” key (pound key) to continue.
- d. Once you enter the Zoom meeting, you will automatically be placed on mute.
- e. Public Comment: If you are using a phone, please press “*9” (star-nine) to raise your hand, and the Zoom facilitator will unmute you when your turn arrives.

Written Comments & Email Public Comment

Members of the public may submit comments via email by 5:00 PM on the Wednesday prior to the meeting to the LAFCO Clerk at Jfrechette@cosb.us.

Public Comment Guidelines

- a. The Commission welcomes your comments.
- b. If participating on Zoom, once you are selected you will hear that you have been unmuted: At this time, please state your first name, last name, and county you reside in for the record.
- c. Each individual speaker will be limited to a presentation total of three (3) minutes, or such other time as may be designed by the Chair.
- d. Please keep your comments, brief, to the point, and do not repeat prior testimony, so that as many people as possible can be heard. Your cooperation is appreciated.

If you have any questions, please contact the LAFCO Clerk at (831) 636-4000, Ext. 13 or email JFrechette@cosb.us

1. Call to Order and Roll Call
2. Recitation of the Pledge of Allegiance
3. Approve Affidavit of Posting Agenda

BUISNESS 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.

PUBLIC COMMENT PERIOD

5. Public Comment Period - This is an opportunity for members of the public to speak on items that are not on the agenda

CONSENT AGENDA

6. Approval of minutes: February 10, 2022

BUISNESS ITEMS – PUBLIC HEARING ITEMS

7. Approval of the Proposed 2022-23 LAFCO Budget

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

INFORMATIONAL

9. Commissioner Announcements and Requests for Future Agenda Items
10. Executive Officer oral status report on pending proposals and other LAFCO business items
11. Adjourn to next regular meeting on May 12, 2022, 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 a 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 Clerk’s Office at least three (3) days prior to the meeting by telephone at 831/636-4000, Ext. 13 or by email at Jfrechette@cosb.us.

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



CERTIFICATE OF POSTING

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

**SAN BENITO COUNTY LOCAL AGENCY FORMATION
COMMISSION**

Scheduled for April 14, 2022, was posted at the San Benito County Resource Management Agency, 2301 Technology Parkway, Hollister, CA and at the San Benito County Administration Office, 481 Fourth Street, Hollister, CA on this 8th day of April 2022.

Jennifer Frechette
Clerk of the Board

**BUSINESS – 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.



LOCAL AGENCY FORMATION COMMISSION
SAN BENITO COUNTY

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

DATE: April 14, 2022 (Agenda)
TO: Local Agency Formation Commission
FROM: ^{B/N} Bill Nicholson, Executive Officer

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.

(Agenda Item 4)

REQUEST

It is requested the Commission adopt the proposed Resolution No. 2022-02 authorizing teleconferencing options for meetings of the Local Agency Formation Commission for the period of April 14, 2022 through May 14, 2022, pursuant to AB 361.

DISCUSSION

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, amending his prior Executive Order N-29-20 and waiving certain provisions of the Brown Act relating to teleconferences/remote meetings by local agency legislative bodies. The Executive Order waived, among other things, the provisions of the Brown Act that otherwise required the physical presence of members of local agency legislative bodies or other personnel in a particular location as a condition of participation or as a quorum for a public meeting. These modifications remained in effect through September 30, 2021.

On September 16, 2021, the Governor signed Assembly Bill (AB) 361, a bill that codifies certain teleconference procedures that local agencies have adopted in response to the Governor's Brown Act-related Executive Orders. Specifically, AB 361 allows a local agency to continue to use teleconferencing under the same basic rules as provided in the Executive Orders under certain prescribed circumstances or when certain findings have been made and adopted by the local agency legislative body.

When the state of emergency lasts longer than 30 days, as is the case presently, the legislative body must make findings every 30 days to continue using the bill's exemption to the Brown Act teleconferencing rules. AB 361 mandates that the legislative body must find that there is a continuing need for teleconferencing due to dangers posed by the

Commissioners: Bob Tiffany, Chair ♦ Cesar Flores, Vice Chair ♦ Ignacio Velazquez ♦ Richard Bettencourt ♦ Bea Gonzales

Alternate Commissioners: Rolan Resendiz ♦ Peter Hernandez ♦ Elia Salinas **Executive Officer:** Bill Nicholson

ongoing state of emergency. This means that local agencies will have to put an item on the public meeting agenda at least every thirty days to make findings regarding the circumstances of the emergency and to vote to continue relying upon the law's teleconference provisions.

Reducing the circumstances under which people come into close contact remains a vital component of the County's COVID-19 response strategy. Local agency public meetings are an essential government function and the last 24 months have proven that the hybrid format protects public access while minimizing exposure to COVID-19.

Staff therefore recommends that the Commission adopt findings that conducting in-person meetings at the present time would present an imminent risk to the health and safety of attendees. A resolution to that effect and directing staff to return each 30 days to afford the Commission the opportunity to reconsider such findings, is included herewith. If the Commission adopts the proposed resolution, they may continue to meet under the modified Brown Act teleconference rules of AB 631 through May 14, 2022.

Enclosure – Resolution No. 2022-02

LAFCO No. 2022-02

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF SAN BENITO COUNTY AUTHORIZING CONTINUED REMOTE TELECONFERENCE MEETINGS PURSUANT TO AB 361

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic; and,

WHEREAS, the proclaimed state of emergency remains in effect; and,

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the "Brown Act"), provided certain requirements were met and followed; and,

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 that clarified the suspension of the teleconferencing rules set forth in the Brown Act, and further provided that those provisions would remain suspended through September 30, 2021; and,

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 that provides that a legislative body subject to the Brown Act may continue to meet without fully complying with the teleconferencing rules in the Brown Act provided the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees, and further requires that certain findings be made by the legislative body every thirty (30) days; and,

WHEREAS, California Department of Public Health ("CDPH") and the federal Centers for Disease Control and Prevention ("CDC") caution that the Delta variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations (<https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>); and,

WHEREAS, the transmission and existence of COVID-19 remains prevalent in the Community, as evidenced by the statistics located on the San Benito County website at: <https://hhsa.cosb.us/public-health/covid-19/>

WHEREAS, the Commission has an important governmental interest in protecting the health, safety, and welfare of those who participate in meetings subject to the Brown Act; and,

San Benito LAFCO
LAFCO Resolution No. 2022-02

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the Local Agency Formation Commission of San Benito County deems it necessary to find that a requirement to meet in person for meetings of the Commission would present imminent risks to the health or safety of attendees, and thus, intends to invoke the provisions of AB 361 related to teleconferencing; and,

WHEREAS, the Commission has considered all information related to this matter, as presented at the public meetings of the Commission, including but not limited to the current circumstances related to the state of emergency, which continues to remain in active.

WHEREAS, the Commission further finds that the state of emergency continues to directly impact the ability of the members to meet safely in person.

NOW, THEREFORE, BE IT RESOLVED, by the Local Agency Formation Commission of the County of San Benito as follows:

1. The Commission finds that the facts set forth in the recitals to this Resolution are true and correct and are incorporated into this Resolution by this reference.
2. The Commission finds that meeting in person for meetings subject to the Ralph M. Brown Act would present imminent risks to the health or safety of attendees.
3. Staff is directed to return no later than thirty (30) days after the adoption of this resolution with an item for the Board to consider making the findings required by AB 361 in order to continue meeting under its provisions.
4. The Executive Officer and LAFCO Counsel are directed to take such other necessary or appropriate actions to implement the intent and purposes of this resolution.

PASSED AND ADOPTED by the Local Agency Formation Commission of San Benito County, on this 14th day of April 2022, by the following vote:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSTAINING: COMMISSIONERS

ABSENT: COMMISSIONERS

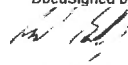
San Benito LAFCO
LAFCO Resolution No. 2022-02

Dated: _____
Bob Tiffany, Chair
San Benito Local Agency Formation Commission

ATTEST:

APPROVED AS TO LEGAL FORM:

Bill Nicholson, Executive Officer
San Benito Local Agency
Formation Commission

DocuSigned by:

51 A1 18C7BCD1B4D2

Reed Gallogly, LAFCO Counsel

DATE: _____

DATE: _____

CONSENT AGENDA

6. Approval of minutes: February 10, 2022



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

February 10, 2022
Board of Supervisors Chambers - Hollister, CA

CALL TO ORDER

1. Chair Bob Tiffany called the meeting to order at 4:00 p.m. Those present were Executive Officer Bill Nicholson and Commissioners: Cesar Flores, Bea Gonzales, Richard Bettencourt, and Bob Tiffany. Commissioner Ignacio Velazquez arrived late. Also present were Shirley Murphy, LAFCO Counsel, and Dulce Alonso, Recording Secretary.
2. Commissioner Flores led the Pledge of Allegiance.
3. **APPROVE AFFIDAVIT OF POSTING AGENDA**

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

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

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 February 10, 2022, to March 12, 2022 pursuant to AB 361.**

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

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

PUBLIC COMMENT

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

SELECTION OF OFFICERS

6. **Open nominations and conduct election for Chair for calendar year 2022.
And**
7. **Open nominations and conduct election for Vice-Chair for calendar year
2022**

Items 6 and 7 were heard together.

Commissioner Bettencourt stated he would like for Commissioner Tiffany to continue to be the chair.

Commissioner Tiffany stated it would be ideal and he would like to have a full year as chair.

Commissioner Gonzales stated she would like to keep Commissioner Tiffany as chair for continuity and Commissioner Bettencourt as vice-chair or Commissioner Flores.

Commissioner Flores stated continuity is good, but he wouldn't mind being the vice-chair as well.

Commissioner Tiffany asked Commissioner Bettencourt if he was ok with it and Commissioner Bettencourt confirmed. Commissioner Tiffany added that there would be an advantage of having Commissioner Flores as vice-chair since he represents the City of San Juan.

Public Comment was not called because no one from the public was present at this meeting.

Commissioner Gonzales made a motion to nominate Commissioner Tiffany as Chair and Commissioner Flores as Vice-Chair for LAFCO for the year 2022, Commissioner Bettencourt seconded.

Ayes: *Tiffany, Bettencourt, Gonzales, and Flores*
Noes: *None*

Abstain: None
Absent: Velazquez

CONSENT AGENDA:

8. Approval of minutes: October 14, 2021 and Special Joint Meeting of October 27, 2021.

Public Comment was not called because no one from the public was present at this meeting.

Commissioner Bettencourt made a motion to approve the minutes from October 14, 2021 and Special Joint Meeting of October 27, 2021, seconded by Commissioner Flores.

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

INFORMATIONAL:

9. Introduction to upcoming budget process for 2022-23 Fiscal Year.

Executive Officer Bill Nicholson gave a brief overview of the upcoming budget process for 2022-23 fiscal year. Under LAFCO law there needs to be a preliminary budget and then a final budget. Before presenting the budget to the commissioners in April Mr. Nicholson stated he wanted to get some feedback. The main activity is processing applications that come in and the work varies. Right now, nothing is pending. The other activities that LAFCO performs involves work on the Sphere of Influence amendments for cities or districts and Municipal Service Reviews (MSR).

Executive Officer Bill Nicholson stated the initial rounds of MSRs were completed in 2007 and there have been updates to various special districts but not to the cities and those are the most complex.

Commissioner Tiffany asked what is involved in an MSR.

Executive Officer Bill Nicholson stated there are 9 factors that are looked at in MSRs. You get into the operations that the service area provides, you look at the government efficiencies and budget, and identify if they have issues or problems with operations. LAFCO would then come up with recommendations.

Commissioner Tiffany asked about CSAs and terms of timing.

Executive Officer Bill Nicholson stated that there have been issues in the drafting of the MSR document for CSAs. The county has consulted the Wallace Group to update the draft from 2015. They are updating facts that were lacking in the last round. The MSR document is a LAFCO document and previously it was drafted without being engaged with LAFCO, but currently it is being done in communication with LAFCO. Before it is completed and goes to the Board of Supervisors, LAFCO needs to approve the MSR.

Commissioner Bettencourt asked if LAFCO has any teeth to recommend any changes regarding CSAs to the Board of Supervisors.

Executive Officer Bill Nicholson stated that LAFCO can recommend services be removed or added.

Commissioner Tiffany asked if Mr. Nicholson will be spending more time working with the county on CSAs and MSRs.

Executive Officer Bill Nicholson stated he had put in the budget an additional \$7,000.00 to potentially work on them, and he has considered keeping this amount in the upcoming budget.

Commissioner Velazquez asked if it would be easier or better for the county to work on the CSAs instead of LAFCO spending its time on them.

Executive Officer Bill Nicholson stated that LAFCO could prepare the MSR for the CSAs, but the county has hired a consultant to prepare the MSR, so the county is spending the money, not LAFCO. He would be looking at it through the responsibility of LAFCO not the county, so LAFCO has its own review.

10. Commissioner Announcements and Requests for Future Agenda Items.

Commissioner Bettencourt stated that the Board of Supervisors passed a GHAD (Geologic Hazard Assessment District) and he asked Executive Officer Bill Nicholson if LAFCO has any responsibility with the GHAD. He also asked LAFCO Counsel Shirley Murphy if there were any other GHADs in the county.

LAFCO Counsel Shirley Murphy stated there may be more GHADs, like the one by San Juan Oaks.

Executive Officer Bill Nicholson stated that LAFCO is exempt from responsibility from the GHAD under Government Code Section 56036(b) because it is a financing entity not a governing body making decisions.

Commissioner Velazquez stated that there is an issue again with the proposed Gavilan College site and it is going to be important to address this now and how it works for the public. He suggested the clarification of how this works should be on the next meeting.

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

Executive Officer Bill Nicholson stated that Fairview Corners project was approved by the county so LAFCO's role is to decide if they should get city sewer or not. Another project coming up is the Christopher property research park at the north side of HWY 156 and San Felipe Rd. It is currently going through the City Annexation process, Sphere of Influence expansion, and scoping out the topics in the EIR. It is going to take a while before it gets to LAFCO because of the environmental review. The City of San Juan Bautista is working on a General Plan boundary study, and they will then have a proposed Sphere of Influence to come to LAFCO and then it would be the time to do the MSR update.

ADJOURNMENT

12. **Upon a motion by Commissioner Flores, and seconded by Commissioner Velazquez, adjourned meeting at 4:45 p.m.**

Final Minutes Approved by the Commission
on _____

By: _____

Bob Tiffany, Chairman

BUSINESS ITEMS – PUBLIC HEARING ITEMS

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



April 14, 2022 (Agenda)

Local Agency Formation Commission
2301 Technology Parkway
Hollister CA 95023

Proposed LAFCO Budget for FY 2022-23
(Agenda Item 7)

Dear Members of the Commission:

RECOMMENDATION

It is recommended the Commission:

1. Review the Proposed Budget for Fiscal Year 2022-23, accept all public testimony and approve the Proposed Budget with any desired modifications.
2. Direct the staff to distribute the Proposed Budget to cities, special districts and the County as required by Government Code Section 56381.
3. Return to the Commission with a Final Budget for consideration at the May 12, 2022 regular Commission meeting, scheduled at 4:00 pm.

DISCUSSION

Attached to this Report is a summary of the Proposed Budget for Fiscal Year 2022-2023 "Explanation of Accounts" which also identifies the appropriations and expenditures experienced through March 31st in the current 2021-22 Fiscal Year. As a short summary, as of the end of March, the Commission had expended \$50,189 of the full year's budget of \$161,677 (representing approximately 31%). The next Fiscal Year budget is proposed to increase slightly to a total of \$163,547.

As detailed in the Explanation of Accounts attachment, current fiscal year expenditures are well below budgeted amounts in several accounts - notably accounts related to processing of boundary change applications: services and supplies, legal notices, and consultant (Executive Officer) and Clerk service costs. We don't have current year invoices from County Counsel and like last year there were no expenditures for conferences and travel due to the cancelled conferences from the COVID-19 pandemic. The Executive Officer is also behind in billing for this fiscal year at there should be approximately \$15,000 more in

billing by the end of the third quarter. A copy of the “Budget Performance Report” for the 7/1/20 to 3/31/21 time period is provided as an attachment which highlights expenditures and revenues by account number. This report doesn’t necessarily show all transactions through March 31st, and in the first attachment: “Explanation of Accounts” bills received by March 31st, but not yet paid are reflected in the individual account totals.

Revenue from application fees totaled \$2,040.00 in the first three quarters (reflecting two annexations to the Aromas Water District). However, there are two more annexations to Aromas in the works which could increase the total revenue to \$5,000 or more. Non-application revenue for LAFCO operations comes from mandatory contributions from the County and the Cities of Hollister and San Juan Bautista, and billing by the County Auditor doesn’t typically occur until near the end of the Fiscal Year.

Summary of the Budget Process

LAFCO is an independent commission established by the legislature to carry out specific duties. It is responsible for adopting its own budget to fulfill the purposes described in the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000. The law does not require approval of the budget by the County, the cities or any other local agencies beyond the LAFCO Commission itself.

Government Code Section 56381(a) governs the preparation of the LAFCO budget. It reads as follows:

The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and 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.

Slight Proposed Budget Increase

There are several identified changes in the Proposed Budget from the current fiscal year that, in total, would increase requested appropriations by a total of \$1,732. This has to do with recalculating the anticipated hours to be spent by the Executive Officer in support of LAFCO functions. Time is typically based on 35 hours allocated per month, and there is a pending update to the County Service Area (CSA) municipal service review underway by

the County, and the budget again contains an estimated 50 hours of the Executive Officer's time for coordination and review. The increase also accounts for an estimated consumer price index (CPI) increase approved by the Commission at the March 11, 2021 meeting, which is estimated at 2.5%.

The other line-item increase in the California Association of Local Agency Formation Commissions (CALAFCO) dues being increased by \$138 based on the County's population increase. The CALAFCO Spreadsheet for all LAFCOs and a cover memo from Pamela Miller is also attached describing this increase and other CALAFCO activities. There will likely be an increase in the County GIS contribution, but it has not been identified at this time.

The Commission may wish to make further modifications to this Proposed Budget based on a review the attached Proposed Budget "Explanation of Accounts" and comments by the Commission or public at the scheduled public hearing.

However, the Commission should be aware that appropriations which are not expended during one fiscal year become part of the Available Fund Balance to finance the following fiscal year budget. These "carry over" funds reduce the amount requested to be paid by the County and Cities. The Auditor's Office computes any fund balance at the end of the fiscal year.

Revenues

Contributions from the County and cities represent the great majority of LAFCO revenue. At the Proposed Budget Hearing, the Executive Officer will provide an update as to what these jurisdictions have paid in the prior fiscal year. Application fee revenue amounted to \$2,040.00 in the first three quarters, which is historically a low amount, although two or three other applications are anticipated by the end of the Fiscal year which could raise this total to over \$5,000.00. With the City of Hollister General Plan update underway and efforts by the City of San Juan Bautista to identify a preferred sphere of influence, application activity, and corresponding revenue, is expected to increase in the next fiscal year.

REQUESTED ACTION

In consideration of this information, it is recommended the Commission adopt the Proposed Budget and direct the Executive Officer to distribute it to local agencies as required by Government Code Section 56381(a), incorporating any amendments desired by the Commission. The Commission should also set a public hearing on the Final Budget for the regularly scheduled Commission meeting on May 12, 2022.

Local Agency Formation Commission
Proposed Budget for FY 2022-2023
April 14, 2022 (Agenda)
Page 4

Sincerely,



Bill Nicholson
Executive Officer

Enclosures:

1. Proposed Budget for FY 2022-23 "Explanation of Accounts"
2. Budget Performance Report – Date Range 07/01/21-03/31/22
3. Correspondence from Pamela Miller, (Former) Executive Director of CALAFCO with spreadsheet of CALAFO Dues increase for all 58 LAFCOs

SAN BENITO LOCAL AGENCY FORMATION COMMISSION

Proposed Budget Detail for Fiscal Year 2022-23 (4/14/22)

Explanation of Accounts

Object Code No.	Description	FY 2021-22 Adopted	As of 3/31/22	FY 2022-23 Proposed	Change
619.166	CALAFCO Membership	1,829	1,875	1,967	138
	Membership dues reflect minor increase based on population increase.				
619.172	Service & Supplies: Postage	1,000	0	1,000	0
	Maintain account based on historic application activity (YTD billing not submitted)				
619.174	Service & Supplies: Office Supplies & Copies	2,000	0	2,000	0
	Maintain account based on historic application activity & use of County copying rate.				
619.180	Services & Supplies: Legal Notice	1,000	150	1,000	0
	Maintain account based on anticipated advertising costs and application activity.				
619.194	Training - Registration	1,500	566	1,500	0
619.196	Travel - Lodging	1,520	0	1,520	0
	Executive Officer and Commissioner attendance at CALAFCO Conference – Assumes Fall Conference in October 2022 and Staff Workshop in Irvine in April 2023.				
619.198	Training & Education - Meals	300	0	300	0
	Corresponding meal reimbursement for conference attendance/travel held stable.				
619.200	Travel – Mileage	1,000	0	1,000	0
	For attending conferences and special meetings, reduced based on historic usage.				
619.210	Legal Counsel Services	10,000	0	10,000	0
	Legal services are provided by County Counsel and Outside Counsel; not billed yet.				
619.222	LAFCO Consultant Services	69,300	27,475	71,032	1,732
	Executive Officer services at 35 hours/mo. & 50 hours support for MSR for County Service Areas with CPI increase est. 2.5%. (With correction of error in amt. last FY)				
619.226	Prof. Services: Public Works (Map/Legal review)	2,000	0	2,000	0

San Benito Local Agency Formation Commission
Proposed Budget for Fiscal Year 2022-23
Page 2

Object Code No.	Description	FY 2021-22 <u>Adopted</u>	As of <u>3/31/22</u>	FY 2022-23 <u>Proposed</u>	<u>Change</u>
619.252	County GIS Contribution	2,416	2,416	2,416	0
	The Commission participates in the County GIS Program. The amount is provided by the County as the LAFCO share of annual Basic Maintenance Expense.				
619.101	Cost Allocation Plan	33,621	16,810	33,621	0
	County overhead for Auditor/Administration and related functions – based on Cost Allocation Plan				
619.226	Board Clerk Support	7,000	4,687	7,000	0
	Reimbursement for Board Clerk as LAFCO Clerk – maintain historic funding level.				
645.704	Retire – Medical Insurance	10,000	5,880	10,000	0
	Medical insurance costs for former Executive Officer – OPEB responsibility.				
999.999	Contingency Reserve	20,000	0	20,000	0
	Contingency Reserve – remain at \$20,000 for emergencies/unanticipated costs. Funds only spent with prior Commission authorization.				
	Totals	161,677	50,189	163,547	1,870

Account	Account Description	Adopted Budget	Budget Amendments	Amended Budget	Current Month Transactions	YTD Encumbrances	YTD Transactions	Budget - YTD Transactions	% Used/ Rec'd	Prior Year Total
REVENUE										
Department 95 - Trust and Agency										
Division 7280 - LAFCO										
Program/Section/Activity 1000 - Administration										
523	Licenses, Permits and Franchises									
523.001	Licenses, Permits and Franchises Other	.00	.00	.00	.00	.00	2,040.00	(2,040.00)	+++	5,350.00
	523 - Licenses, Permits and Franchises Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,040.00	(\$2,040.00)	+++	\$5,350.00
541	Use of Money and Property									
541.001	Use of Money and Property Interest	.00	.00	.00	.00	.00	63.70	(63.70)	+++	(91.51)
	541 - Use of Money and Property Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$63.70	(\$63.70)	+++	(\$91.51)
560	Charges for Services									
560.203	Charges for Services City of Hollister	.00	.00	.00	.00	.00	.00	.00	+++	68,204.49
560.204	Charges for Services Contribution City of SJB	.00	.00	.00	.00	.00	.00	.00	+++	7,554.51
	560 - Charges for Services Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	+++	\$75,759.00
575	Other Financing									
575.001	Other Financing Contribution from General Fund	.00	.00	.00	.00	.00	.00	.00	+++	75,759.00
	575 - Other Financing Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	+++	\$75,759.00
	Program/Section/Activity 1000 - Administration Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,103.70	(\$2,103.70)	+++	\$156,776.49
	Division 7280 - LAFCO Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,103.70	(\$2,103.70)	+++	\$156,776.49
	Department 95 - Trust and Agency Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,103.70	(\$2,103.70)	+++	\$156,776.49
	REVENUE TOTALS	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,103.70	(\$2,103.70)	+++	\$156,776.49
EXPENSE										
Department 95 - Trust and Agency										
Division 7280 - LAFCO										
Program/Section/Activity 1000 - Administration										
619	Services and Supplies									
619.166	Services and Supplies Membership Dues	.00	.00	.00	.00	.00	1,875.00	(1,875.00)	+++	1,829.00
619.172	Services and Supplies Postage and Delivery	.00	.00	.00	.00	.00	.00	.00	+++	167.13
619.174	Services and Supplies Office Supplies	.00	.00	.00	.00	.00	.00	.00	+++	859.91
619.180	Services and Supplies Public and Legal Notices	.00	.00	.00	.00	.00	150.60	(150.60)	+++	884.30
619.194	Services and Supplies Training	.00	.00	.00	.00	.00	566.10	(566.10)	+++	.00
619.200	Services and Supplies Transportation	.00	.00	.00	.00	.00	.00	.00	+++	36.23
619.222	Services and Supplies Other Consultants	.00	.00	.00	3,778.32	.00	9,663.78	(9,663.78)	+++	47,040.00
619.226	Services and Supplies Administrative Support	.00	.00	.00	.00	.00	4,687.03	(4,687.03)	+++	.00
619.252	Services and Supplies Special Dept - Materials	.00	.00	.00	.00	.00	2,416.00	(2,416.00)	+++	1,796.00
	619 - Services and Supplies Totals	\$0.00	\$0.00	\$0.00	\$3,778.32	\$0.00	\$19,358.51	(\$19,358.51)	+++	\$52,612.57
645	Other Charges									
645.704	Other Charges Retiree Medical Insurance	.00	.00	.00	605.06	.00	5,639.18	(5,639.18)	+++	8,820.00
	645 - Other Charges Totals	\$0.00	\$0.00	\$0.00	\$605.06	\$0.00	\$5,639.18	(\$5,639.18)	+++	\$8,820.00

Account	Account Description	Adopted Budget	Budget Amendments	Amended Budget	Current Month Transactions	YTD Encumbrances	YTD Transactions	Budget - YTD Transactions	% Used/Rec'd	Prior Year Total
Fund 626 - LAFCo										
	EXPENSE									
	Department 95 - Trust and Agency									
	Division 7280 - LAFCo									
	Program/Section/Activity 1000 - Administration									
649	Other Charges									
649.101	Other Charges Cost Plan	.00	.00	.00	.00	.00	16,810.50	(16,810.50)	+++	18,351.00
	649 - Other Charges Totals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$16,810.50	(\$16,810.50)	+++	\$18,351.00
	Program/Section/Activity 1000 - Administration Totals	\$0.00	\$0.00	\$0.00	4,383.38	\$0.00	41,808.19	(41,808.19)	+++	79,783.57
	Division 7280 - LAFCo Totals	\$0.00	\$0.00	\$0.00	4,383.38	\$0.00	41,808.19	(41,808.19)	+++	79,783.57
	Department 95 - Trust and Agency Totals	\$0.00	\$0.00	\$0.00	4,383.38	\$0.00	41,808.19	(41,808.19)	+++	79,783.57
	EXPENSE TOTALS	\$0.00	\$0.00	\$0.00	4,383.38	\$0.00	41,808.19	(41,808.19)	+++	79,783.57
	Fund 626 - LAFCo Totals									
	REVENUE TOTALS	.00	.00	.00	.00	.00	2,103.70	(2,103.70)	+++	156,776.49
	EXPENSE TOTALS	.00	.00	.00	4,383.38	.00	41,808.19	(41,808.19)	+++	79,783.57
	Fund 626 - LAFCo Totals	\$0.00	\$0.00	\$0.00	(\$4,383.38)	\$0.00	(\$39,704.49)	\$39,704.49		\$76,992.92
	Grand Totals									
	REVENUE TOTALS	.00	.00	.00	.00	.00	2,103.70	(2,103.70)	+++	156,776.49
	EXPENSE TOTALS	.00	.00	.00	4,383.38	.00	41,808.19	(41,808.19)	+++	79,783.57
	Grand Totals	\$0.00	\$0.00	\$0.00	(\$4,383.38)	\$0.00	(\$39,704.49)	\$39,704.49		\$76,992.92

Nicholson, Bill

From: Pamela Miller <pmiller@calafco.org>
Sent: Tuesday, February 1, 2022 5:00 PM
To: Info
Cc: Jeni Tickler; Pamela Miller
Subject: CALAFCO FY 2022-23 Member Dues and other budget information
Attachments: Calafco Dues 2022-23_as adopted 1-21-22.pdf

Good afternoon EOs and Clerks.

At the January 21, 2022 Board of Directors meeting, the Board considered the FY 2022-23 dues. As you know, they do this annually at the first meeting in the calendar year so that all of you will have the figures you need to begin your budget process (and so that CALAFCO can begin ours as well).

The Bylaws allow for the Board to adjust one (or more) of the variables in the dues formula, which include population cap, base rate, per capita rate, and/or the estimated CPI. After updating the population estimates, and after careful consideration of all options, the Board unanimously adopted the FY 2022-23 dues with only a change by the current estimated CPI of 4.9%. All other variables remain the same as the current FY. Attached is the dues schedule by LAFCo for FY 2022-23. A reminder if you wish to see the information on the item contained in the Board meeting packet, you can find it on the CALAFCO website in the Board meeting packet section (in the members only section of the site). While the actual CPI for next FY will likely be higher than 4.9% (and several sources currently cite estimates higher), the Bylaws call for the use of the estimate provided by the CA Dept. of Finance at the time of the Board's deliberation, and the 4.9% figure is the most recent estimate available.

Also, as I know you will begin having other budget-related questions as you start preparing your annual budgets for FY 22-23, I thought I would also share the information below with you that may help you plan.

- ✓ 2022 annual conference is at the Hyatt Regency Newport Beach John Wayne Airport in October 2022. Room rates are \$194, excluding taxes and fees. Registration rates *are estimated* to be \$550 (early bird) / \$590 (regular rate) for a full conference member registration
- ✓ No information is available yet on the 2023 staff workshop. As soon as it is, we will let you know.
- ✓ CALAFCO will continue to provide virtual educational offerings at no cost to our members at least through June 2022, and likely through the rest of the 2022 calendar year. Eventually we would like to begin offering several in-person sessions per year as we did pre-pandemic.
- ✓ You also still have access at no cost to the CALAFCO toll-free conference calling system and Zoom to conduct your staff and commission meetings.

Please let me know if you have any questions.

Pamela

Pamela Miller
Executive Director
California Association of Local Agency Formation Commissions
1020 12th Street, Suite 222
Sacramento, CA 95814

FY 2022-23 Member LAFCo Dues
As adopted by the CALAFCO Board
January 21, 2022

COUNTY	FY 21-22 DUES	CPI 4.9%	FY 22-23 DUES
ALAMEDA	10,760	527	11,287
ALPINE	1,016	50	1,066
AMADOR	1,524	75	1,599
BUTTE	3,877	190	4,067
CALAVERAS	1,617	79	1,696
COLUSA	1,308	64	1,372
CONTRA COSTA	10,760	527	11,287
DEL NORTE	1,379	68	1,447
ELDORADO	3,677	180	3,857
FRESNO	10,760	527	11,287
GLENN	1,411	69	1,480
HUMBOLDT	2,850	140	2,990
IMPERIAL	3,623	178	3,801
INYO	1,257	62	1,319
KINGS	3,158	155	3,313
LAKE	1,889	93	1,982
LASSEN	1,403	69	1,472
LOS ANGELES	10,760	527	11,287
MADERA	3,214	157	3,371
MARIN	4,611	226	4,837
MARIPOSA	1,248	61	1,309
MENDOCINO	2,220	109	2,329
MERCED	4,970	244	5,214
MODOC	1,131	55	1,186
MONO	1,187	58	1,245
MONTEREY	7,153	350	7,503
NAPA	2,934	144	3,078
NEVADA	2,359	116	2,475
ORANGE	10,760	527	11,287
PLACER	6,542	321	6,863
PLUMAS	1,254	61	1,315
RIVERSIDE	10,760	527	11,287
SACRAMENTO	10,760	527	11,287
SAN BENITO	1,875	92	1,967
SAN BERNARDINO	10,760	527	11,287
SAN DIEGO	10,760	527	11,287
SAN FRANCISCO	10,760	527	11,287
SAN JOAQUIN	10,760	527	11,287
SAN LUIS OPISPO	4,850	238	5,088
SAN MATEO	10,760	527	11,287
SANTA BARBARA	7,293	357	7,650
SANTA CLARA	10,760	527	11,287
SANTA CRUZ	4,766	234	5,000
SHASTA	3,478	170	3,648
SIERRA	1,043	51	1,094
SISKIYOU	1,611	79	1,690
SOLANO	7,138	350	7,488
SONOMA	7,848	385	8,233
STANISLAUS	8,752	429	9,181
SUTTER	2,410	118	2,528
TEHAMA	1,910	94	2,004
TRINITY	1,185	58	1,243
TULARE	7,704	377	8,081
TUOLUMNE	1,730	85	1,815
VENTURA	10,760	527	11,287
YOLO	4,091	200	4,291
YUBA	2,103	103	2,206
	289,239	14,173	303,412

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**



LOCAL AGENCY FORMATION COMMISSION
SAN BENITO COUNTY

2301 Technology Parkway
Hollister, CA 95023
Phone: (831) 637-5313 Fax: (805) 647-7647

DATE: April 14, 2022 (Agenda)
TO: Local Agency Formation Commission
FROM: Bill Nicholson, Executive Officer
RE: **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**

Agenda Item 8

Based upon multiple discussions and meetings regarding several projects located in the Fairview Road/Airline Highway (SR 25) area, the Executive Officer has placed this item on the April 14th Commission Agenda to update the Commission on potential future applications that could be submitted to LAFCO to authorize wastewater treatment service – either from the City of Hollister or possibly from the Sunnyslope County Water District. The most longstanding discussions have involved representatives of the “Fairview Corners” project which involves a County-approved residential subdivision proposing approximately 189 lots on 60 acres to be located on the eastside of Fairview Road across from the existing Cielo Vista subdivision. The initial Fairview Corners Specific Plan was originally approved by the County in 2012.

The second project involves the San Benito Campus of the Gavilan Joint Community College District which will be located on 78 acres at the southeast corner of Fairview Road and Airline Highway (SR 25). The third project involves the proposed “Lands of Lee” tentative subdivision map located on the east side of Fairview Road and north of the Fairview Corners property. The Notice of Preparation (NOP) of the EIR for this project released in February 2022, identified the project consisting of a residential development involving 121 single-family detached lots, 20 attached “duet units” along with a park site and related public facilities to be located on 27.4 acres. This project is currently undergoing environmental review by San Benito County. A map identifying the location of these three projects is presented in Attachment 1.

Wastewater collection and treatment services for both the Gavilan College Campus and the Fairview Corners subdivision were identified to be provided by the City of Hollister’s in planning approvals and associated Environmental Impact Reports in the 2008 to 2012 timeframe. The City’s wastewater treatment plant was being expanded to serve the “Hollister Urban Area” – a boundary established in 2008 through a Memorandum of Understanding (MOU) between the County, City of Hollister, Sunnyslope CWD and the San Benito County Water District, which included territory both within the City and in the surrounding

Commissioners: Bob Tiffany, Chair ♦ Cesar Flores, Vice Chair ♦ Ignacio Velazquez ♦ Richard Bettencourt ♦ Bea Gonzales

Alternate Commissioners: Rolan Resendiz ♦ Elia Salinas ♦ Peter Hernandez **Executive Officer:** Bill Nicholson

unincorporated areas (including the three projects discussed in this report). San Benito LAFCO has not taken any previous action on these three individual projects.

LAFCOs Role Over Sewer Extensions:

When the “Hollister Urban Area” was established, San Benito LAFCO mistakenly processed an application to “approve” this boundary even though it is not recognized as a LAFCO-related boundary under the California Government Code. The LAFCO approval actually referenced the formation of an independent special district for the provision of regional wastewater service although this was not proposed, and no district was ever formed. Following LAFCOs action, the City of Hollister discontinued their historic practice of seeking LAFCO approval of wastewater connections outside the City limits and LAFCO no longer required such applications.

However, on January 22, 2015, the Commission adopted a resolution confirming that San Benito LAFCO will again require review and approval of wastewater extensions outside of the City limits in conformance with Government Code section 56133. The Commission specifically found that “...*adoption of this policy is needed to avoid confusion and misunderstanding regarding the procedures to be followed in authorizing the City of Hollister to provide sewer services outside of its boundaries.*”

As evidence of this former confusion regarding LAFCOs role, the Draft Environmental Impact Report (EIR) for the Fairview Corners project prepared in 2008 identified that San Benito LAFCO would use the EIR for “...action approving the proposed wastewater and recycled water services provision to the project” (DEIR Pg. 1-21). However, the EIR did not actually evaluate the Government Code provisions under which LAFCO could authorize the wastewater extension from the City and no application was submitted to LAFCO following certification of the Final EIR in 2012 or in the years since the project was approved by the County.

Current City of Hollister Wastewater Service Options and LAFCOs Role:

It is now commonly recognized that connection to the City of Hollister wastewater treatment plant for property located outside the City limits will require LAFCO approval of an out-of-agency boundary sewer connection in compliance with Government Code (GC) section 56133(b). Alternatively, if the City desires to annex the property(s) as a requirement for obtaining all City services, then LAFCO’s role will involve the processing of a formal annexation application.

In either of these two approaches, LAFCO will also have to approve a parallel expansion of the City’s Sphere of Influence (SOI). In compliance with GC section 56133(b), extension of services outside the city limits, but within the SOI, may be considered “...in anticipation of a future annexation” and this requirement has historically been satisfied through a Pre-Annexation Agreement. These agreements include a provision that the landowners waive their right to protest future annexation of the property when initiated by the City.

The SOI expansion requires the Commission to make certain determinations under Government Code subsection 56425(e) the Commission shall consider and prepare written statements with respect to five areas of analysis. As the local agency providing the wastewater service, SOI will also need to be consistent with the City's growth plans identified in their General Plan.

In the alternative where the City proposes to annex the property, this would typically involve the consent of a majority of the landowners within the annexation boundary. The City would also need to "prezone" the property to reflect the zoning designation that will be in place following annexation and which is consistent with the corresponding City General Plan land use designation. As the Commission is aware, the City is currently preparing an update of their General Plan which will identify the areas proposed for annexation to the City over the life of the General Plan (typically a 20-year time horizon).

City Authority to Initiate Out of Agency Boundary Service Extension Request:

It should be clearly understood by the Commission and project applicants that the City of Hollister has the lead role in initiation of the application to LAFCO. Under GC section 56133(a), "written approval from the commission" is required before a city or special district may provide new or extended a service outside its jurisdictional boundary. Therefore, it is not the project proponent or landowner who needs to obtain LAFCO approval, but the jurisdiction who proposes to extend the service - the City of Hollister in this instance. If the City is not willing to provide a sewer service extension, there can be no application for the LAFCO Commissioners to consider.

Unfortunately, the City, County and Sunnyslope CWD – as well as various landowners and project sponsors – did not understand this requirement during the establishment of the Hollister Urban Area. However, State Government Code enacted through the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 established the requirements which LAFCO must follow. That being said, there are certain exemptions listed in section 56133(e) which do not require LAFCO approval, although the Commission has requested that jurisdictions seek concurrence from the Commission regarding the exemption for the mutual protection of the agency providing the service and for San Benito LAFCO. None of the exemptions identified in the Government Code apply to a wastewater service extension from the City to the three projects listed in this report. This is also contrary to an agreement between Hollister and the Sunnyslope CWD in 2016 which implied the Sunnyslope CWD had intended to provide wastewater service throughout the District because they collect wastewater charges from customers in their District who are connected to the City wastewater treatment plant.

The City has not been attempting to use this agreement for many years and has consistently sought LAFCO approval for recent sewer extensions such as the Sunnyslope Christian Center approved by the Commission in 2021 (LAFCO File No. 540).

Potential Sunnyslope County Water District Wastewater Service Option:

As part of the ongoing controversy over City sewer service in the unincorporated area surrounding Hollister, Gavilan Community College representatives and the adjacent landowners have contacted the Sunnyslope County Water District (CWD) about providing wastewater service to the projects along Fairview Road as an alternative to the City of Hollister, which were all annexed into the Sunnyslope CWD to receive potable water service.

In conducting research involving San Benito County's responsibility for operation of the package sewer plant in the Cielo Vista subdivision, the Executive Officer discovered the Sunnyslope CWD has a very limited role in providing wastewater services within their District – basically only provided in the Ridgemark Community and several adjacent subdivisions.

The Executive Officer, in consultation with LAFCO Counsel, has determined that the Commission's approval is required if the Sunnyslope CWD desires to provide wastewater collection and treatment services to properties that were originally annexed to receive only potable water service.

This requirement for LAFCO review is based on the definition of a "change of organization" which is one of the types of "applications" which LAFCO is authorized to process under GC section 56017.2. These Government Code sections are presented below with the relevant portions of the Code identified in *italic* text:

56021. "*Change of organization*" means any of the following: (a) A city incorporation. (b) A district formation. (c) An annexation to a city. (d) An annexation to a district. (e) A detachment from a city. (f) A detachment from a district. (g) A disincorporation of a city. (h) A district dissolution. (i) A consolidation of cities. (j) A consolidation of special districts. (k) A merger of a city and a district. (l) Establishment of a subsidiary district. (m) *The exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or a part of the jurisdictional boundaries of a special district as provided in Article 1.5 (commencing with Section 56824.10) of Chapter 5 of Part 3 of this division).*

56017.2. "*Application*" means any of the following: (a) A resolution of application or petition initiating *a change of organization* or reorganization with supporting documentation as required by the commission or executive officer. (b) A request for a sphere of influence amendment or update pursuant to Section 56425. (c) A request by a city or district for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Section 56133. (d) A request by a public agency for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Section 56134.

In researching the LAFCO records on the history of the Sunnyslope CWD, the District was formed as a “County Water District” for the provision of potable water services. Almost all annexations into the district indicated the annexations were only to provide potable water service. This included annexations along Fairview Road, the Cielo Vista subdivision (which has a County-operated package sewer plant), and even the original annexation of Ridgemark in 1972. Refer to Attachment 2 for a map identifying annexations in the southeastern part of the District. These application to LAFCO and the Commission’s approval identified the annexation was only for the provision of potable water service except possibly for the southeastern expansion of Ridgemark in 1983.

The need for the annexation as listed in item (i) of File No. 241 was: “Sewer and water for homes and golf course expansion.” The Executive Officer’s Report recognized the District had taken over operation of the sewer treatment facility at Ridgemark but it was not clear if capacity was available for the proposed annexation area.

No documents have been identified to reflect that LAFCO granted approval for the District to take over operation of the Ridgemark sewer plant. In the initial Sphere of Influence Report prepared by LAFCO for the Sunnyslope CWD adopted in 1986, it was only identified that the District provided potable water service. The SOI report apparently missed reference in the 1983 annexation. Attachment 3 identifies an amended SOI boundary to include the 260 acre Southside Road area where the application from Sunnyslope CWD was to provide water service and specifically excluded providing wastewater services.

Eventually, in the 2007 Municipal Service Review prepared by LAFCO, the report recognized that in addition to potable water service, the Sunnyslope CWD “...provided sewer service to the Ridgemark, Oak Creek and Quail Hollow communities.” This is the second acknowledgement of the limited geographic area where the District provided wastewater service.

In more recent annexations where the District intended to provide both water and sewer service the District did include this service in their application to LAFCO, and the Commission’s action authorized this service. This includes the recent “Promontory at Ridgemark” annexation (aka “The Bluffs”) which is currently under construction (LAFCO File No. 525). Based on detailed information on existing wastewater treatment capacity and treated effluent ponding basin capacity, in December 2018, the Commission authorized the wastewater treatment service to this annexation along with potable water service.

Therefore, if the Sunnyslope CWD proposes to provide wastewater service to the projects in the Fairview Road/Airline Highway area – or to any other area within the district that was originally annexed for the provision of water service - an application to LAFCO would be required to extend the wastewater service area of the District. The application would also need to include detailed “plan for services” information identifying the available wastewater treatment plant capacity, ponding capacity, proposed wastewater trunk line extension sizing and location, and funding requirements. The Commission’s evaluation would be similar to an annexation in that wastewater service should only be provided to new areas if it doesn’t impact other portions of the

District entitled to receive wastewater service and the District's overall financial resources for efficient delivery of services.

Action Requested

This agenda item is intended for general discussion by the Commission and to identify areas for additional research or discussion with landowners and project applicants. No action is requested by the Commission. This agenda item will also provide an opportunity to receive comments from City and District representatives, project proponents and members of the public.



BILL NICHOLSON
Executive Officer

LOCAL AGENCY FORMATION COMMISSION

cc: Reed Gallogly, LAFCO Counsel
Brett Miller, City Manager, City of Hollister
Drew Lander, General Manager, Sunnyslope County Water District
Damon Felice, Gavilan Joint Community College District Consultant
RJ Frankel, Dividend Homes, Fairview Corners Subdivision
Bill Lee, Lands of Lee Subdivision
Steve Loupe, Interim Director, San Benito County RMA

Attachments:

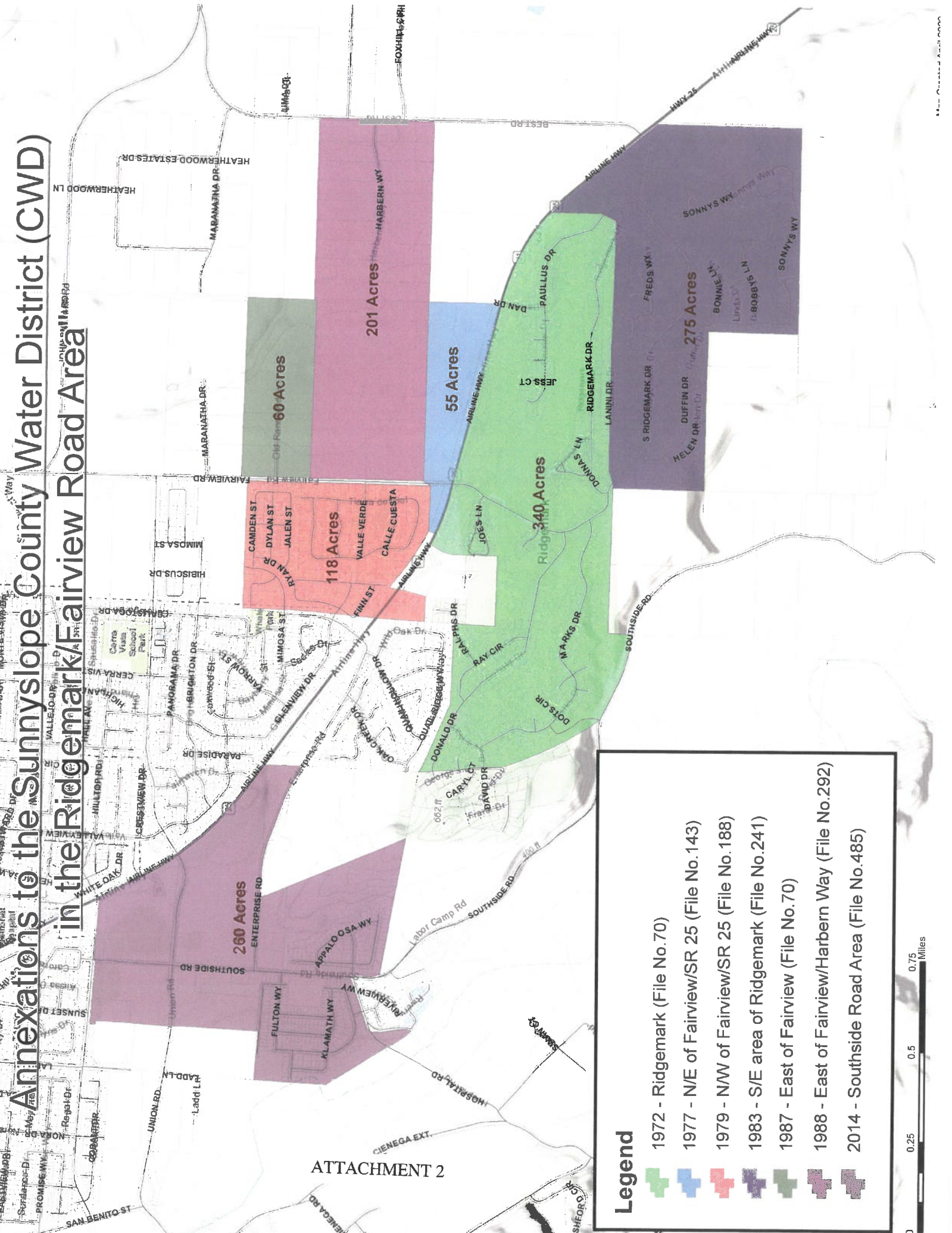
1. "Lands of Lee" Proposed Subdivision Site Plan and Adjacent Approved Projects
2. Sunnyslope County Water District Southeast Area Annexation Map
3. Sunnyslope County Water District Sphere of Influence Map Including the Southside Road Annexation Area (August 2014)



Imagery provided by Microsoft Bing and its licensors © 2022.
 Additional information provided by San Benito General Plan, 2021.

Attachment 1: "Lands of Lee" Proposed Subdivision Site Plan and Adjacent Approved Projects

Annexations to the Sunnyslope County Water District (CWD) in the Ridgemark/Fairview Road Area



ATTACHMENT 2

Legend

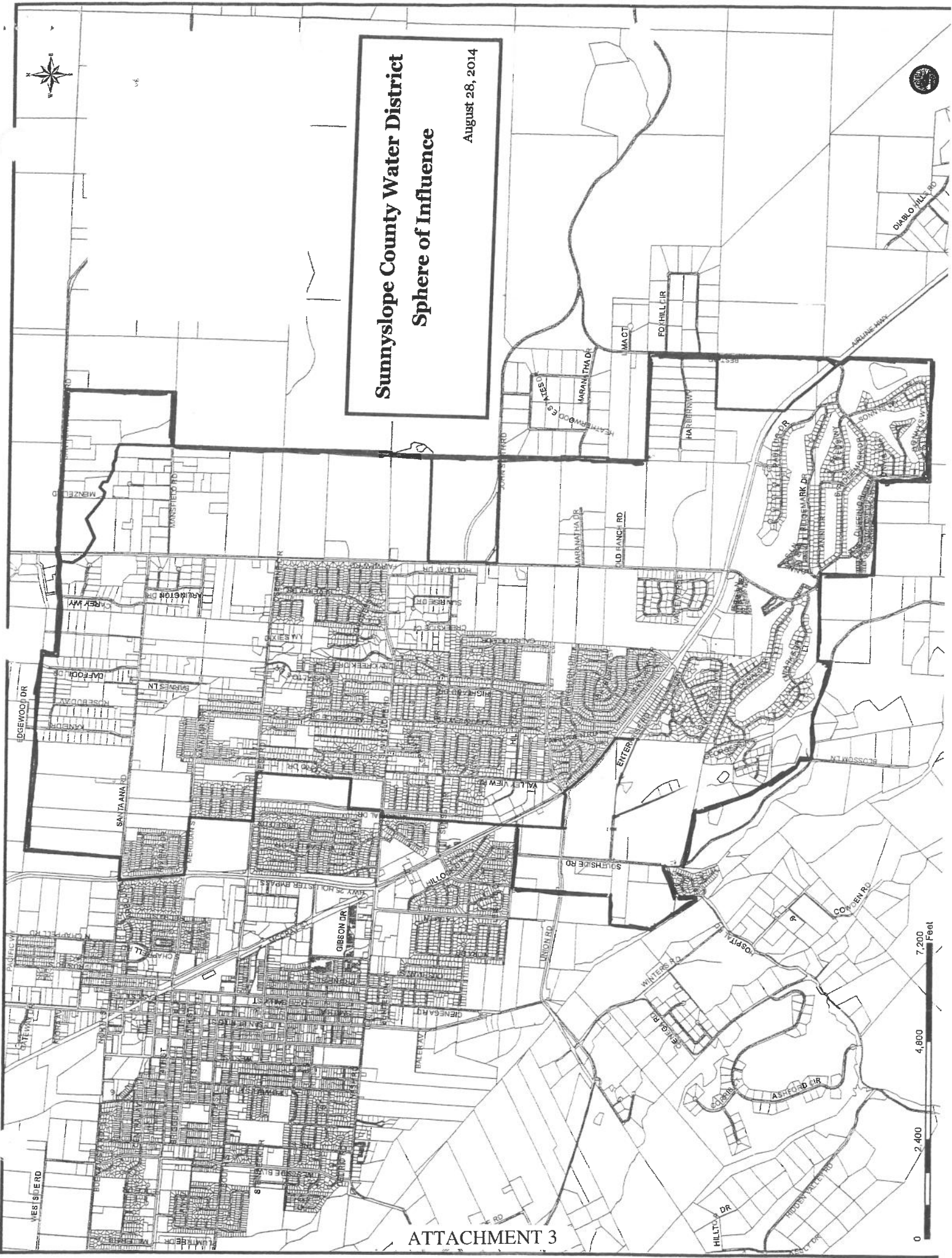
- 1972 - Ridgemark (File No.70)
- 1977 - N/E of Fairview/SR 25 (File No.143)
- 1979 - N/W of Fairview/SR 25 (File No.188)
- 1983 - S/E area of Ridgemark (File No.241)
- 1987 - East of Fairview (File No.70)
- 1988 - East of Fairview/Harbern Way (File No.292)
- 2014 - Southside Road Area (File No.485)





**Sunnyslope County Water District
Sphere of Influence**

August 28, 2014



ATTACHMENT 3



INFORMATIONAL

9. Commissioner Announcements and Requests for Future Agenda Items

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

11. Adjourn to next regular meeting on May 12, 2022, unless meeting is cancelled by the Chair

