

MENDOCINO

Local Agency Formation Commission

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COMMISSIONERS

Tony Orth, Chair

Brooktrails Township CSD

Scott Ignacio, Vice Chair

Point Arena City Council

Gerald Ward, Treasurer

Public Member

Matthew Froneberger

Special District Member

Glenn McGourty

County Board of Supervisors

Maureen Mulheren

County Board of Supervisors

Mari Rodin

City Member

Jenifer Bazzani, Alternate

Ukiah Valley Fire District

Gerardo Gonzalez, Alternate

Willits City Council

John Haschak, Alternate

County Board of Supervisors

Richard Weinkle, Alternate

Public Member

STAFF

Executive Officer

Uma Hinman

Analyst

Larkyn Feiler

Commission Clerk

Kristen Meadows

Counsel

Scott Browne

REGULAR MEETINGS

First Monday of each month

at 9:00 AM in the

Mendocino County

Board of Supervisors

Chambers

501 Low Gap Road, Ukiah

Approved by Commission on May 2, 2022

MINUTES

Local Agency Formation Commission of Mendocino County

Regular Meeting of Monday, April 4, 2022

Meeting held via Zoom due to COVID-19 Pandemic Emergency Conditions

1. **CALL TO ORDER and ROLL CALL** (Video Time 1:10)

Chair Orth called the meeting to order at 9:00 a.m.

Regular Commissioners Present: Tony Orth, Scott Ignacio, Gerald Ward, Glenn McGourty, Matthew Froneberger, Maureen Mulheren, and Mari Rodin

Regular Commissioners Absent: None

Alternate Commissioners Present: Richard Weinkle (9:10)

Alternate Commissioners Absent: John Haschak, Gerardo Gonzalez, and Jenifer Bazzani

Staff Present: Uma Hinman, Executive Officer; Larkyn Feiler, Analyst; Kristen Meadows, Clerk; and Marsha Burch, Legal Counsel

2. **AB 361 REMOTE TELECONFERENCING ACTION** (Video Time 2:07)

The Commission adopted Resolution No. 2021-22-11 making continued findings pursuant to Assembly Bill 361 to conduct public meetings remotely due to the COVID-19 pandemic.

EO Hinman reported that the Board of Supervisors will resume meeting in its Chambers at the end of the month, however, it is not open to other meetings at this time.

Chair Orth informed the Commission of the Meeting Owl, a 360-degree camera, mic, and speaker device for hybrid meetings from Owl Labs. Local agencies currently using the Owl include Anderson Valley CSD and Brooktrails Township CSD.

Commissioner McGourty expressed support for hybrid meetings.

Motion by Commissioner Ignacio to adopt Resolution No. 2021-22-11.

Second by Commissioner McGourty.

Approved by roll call vote: unanimous.

Ayes: (7) Froneberger, Rodin, Ignacio, McGourty, Mulheren, Ward, Orth

3. **PUBLIC EXPRESSION** None

4. **CONSENT CALENDAR** (Video Time 7:02)

4a) **February 7, 2022 Regular Meeting Summary**

There were no comments from the Commission regarding the Meeting Summary.

4b) February 2022 Claims & Financial Report

March 2022 Claims totaling:	\$18,524.82
Hinman & Associates Consulting	14,646.25
P. Scott Browne	900.00
Banners & Signs	120.16
Pehling & Pehling, CPA	1760.00
County of Mendocino	306.80
Comcast	97.30
Streamline	50.00
Weinkle	100

Commissioner Ward asked about the Assistant Planner itemized on the Hinman & Associates invoice. EO Hinman responded that she is an employee of Hinman & Associates Consulting.

4c) Ratification of AB 2957 CALAFCO Omnibus Bill Support Letter

There were no comments from the Commission regarding the Support Letter.

Motion by Commissioner Mulheren to approve the Consent Calendar.

Second by Commissioner McGourty.

Approved by roll call vote: unanimous.

Ayes: (7) Mulheren, McGourty, Rodin, Ward, Froneberger, Ignacio, Orth

5. PUBLIC HEARING ITEMS (Video Time: 8:50)

5a) Proposed Service Rates and Fee Schedule Update

EO Hinman summarized the proposed services rates, methodology and fee schedule presented to the Commission at the March 7th Regular Meeting.

Pursuant to Government Code (GC) Section 56383, the Commission is authorized to establish a schedule of fees and service charges provided the fees are reasonable for the service provided. Currently, all services are billed at staff hourly charge-out rates which do not include overhead costs. Therefore, LAFCo currently relies entirely on apportionment fees to fund operations. Establishing weighted service rates will enable LAFCo to recoup some overhead costs and potentially reduce apportionment fees to member agencies.

GC Sections 66016-66019 require a publicly noticed meeting, consideration of public comments, and action by resolution, and a 60-day delay from adoption. Staff recommended that the new rates take effect July 1, 2022 to coincide with the new budget and staff rates.

Commissioner Ward asked how the rates would affect applications submitted before July 1st. EO Hinman answered the rates will be applied to all applications as soon as they are effective and invited Counsel Burch to comment. Ms. Burch agreed and encouraged using a consistent approach when establishing the rates to ensure fairness to all applicants.

Commissioner Ignacio suggested communicating the rate change to pending applicants for transparency.

Commissioner Rodin asked the amount of additional revenue anticipated by the new rates. EO Hinman responded, based on calculations from the past two fiscal years, staff estimates revenues between \$15,000 - \$20,000 annually.

Motion by Commissioner Froneberger to adopt Resolution 2021-22-13 establishing weighted service rates that capture a portion of overhead and long-term planning costs for services subject to the Fee Schedule and that will go into effect July 1, 2022; and direct staff to update and post the Mendocino LAFCo Fee Schedule accordingly.

Second by Commissioner Rodin.

Approved by roll call vote: unanimous.

Ayes: (7) Mulheren, McGourty, Rodin, Ward, Froneberger, Ignacio, Orth

6. WORKSHOP ITEMS (Video Time: 18:28)

6a) County Service Area No. 3 Municipal Service Review and Sphere of Influence Study

Analyst Feiler presented the item regarding a Workshop for the County Service Area No. 3 (CSA 3 or District) Draft Municipal Service Review (MSR) and Sphere of Influence (SOI) establishment study. The following local agency representative participated in the discussion: Howard Dashiell, Director of the Department of Transportation, Mendocino County. Following are summary discussion points for this item organized by topic for ease of review:

Overlap with City Boundaries

- The City of Point Arena was included in the original 1974 CSA 3 boundary and there was no change proposed in the 1985 annexation to add all unincorporated areas of the County to the District.
- When City annexations occur, there should be a concurrent detachment from CSA 3. This has not occurred historically and has resulted in areas of overlap between the City and District boundaries that will need to be addressed, along with potential duplication of services, in moving forward now that the District is reactivated.

Duplication of Services

- CSA 3 has been a longstanding inactive district and does not provide any services.
- The CSA 3 boundary includes State and Reservation lands and currently there is no duplication of services because the District does not currently provide any services.
- Reviewing duplication of services will be considered in future applications to activate latent powers.

Countywide CSA Services

- On page 63 of the packet, in Section 2.3.10, it notes that CSA Law discourages the organizational formation of a countywide CSA and CSA service provision on a countywide basis because CSAs are intended to provide municipal services to smaller areas of the County.
- When a CSA includes the entire County boundary, the provision of CSA services may be provided more effectively and efficiently by the County directly, which is not subject to LAFCo purview, instead of through a County-dependent district.

Districtwide vs. ZOB Service Activation

- The current District boundary includes all areas of the County except the Cities of Fort Bragg, Ukiah, and Willits.
- There is no record of an existing SOI for this County-dependent District.
- The draft study recommends establishing a Service Specific Sphere that is limited to the future Sherwood Firewise Community (FWC) Zone of Benefit (ZOB) for road maintenance of emergency access routes.
- Districtwide CSAs are problematic because once a power or service is activated Districtwide, there is no LAFCo oversight in extending services to specific areas.
- By creating a Service Specific Sphere, LAFCo can limit the activation of latent powers to a specific community area and prevent duplication of services with existing local government agencies.
- To date, MSR/SOI Update studies have generally not resulted in anything less than a coterminous sphere, whereas the recommended reduced sphere for CSA 3 would be service specific and is a tool to limit disorderly and overlapping service provision.
- Districtwide activation of latent powers through CSA 3 is not necessarily feasible under LAFCo Law, especially related to the funding mechanism requirement that identifies property owners that would benefit from the proposed service and creates sufficient taxation and collection for the service.

Long-term Plan for CSA 3 Powers

- The extent of possible latent powers for CSA 3, which covers all unincorporated areas, is very broad and similar to the scope of services available to a community services district or a city.
- The CSA 3 activation of latent powers is not being discussed as part of the Mendocino County Water Agency (MCWA) which was created under separate State law.
- There is community need and interest for additional County services that CSAs can provide as a platform to address various emergencies including drought and wildfire danger.
- Brooktrails Township CSD provided a letter to the County requesting that additional CSA 3 powers be activated including fire, water, and potentially transportation for the Brooktrails FWC ZOB.

- Sonoma County has CSAs for water and fire services and tax share agreements with local districts for elevating the level of service and support to independent districts that function in County areas.
- CSA 3 could support water infrastructure projects such as ponds for groundwater recharge and well systems for raw and domestic water supply in areas not served by water districts and could augment funding to fire districts that are serving areas outside their boundaries that do not pay taxes.
- There have been struggles in Sonoma County with independent districts going through lengthy battles to separate from the CSA structure due to issues of unequal level of service provision to different areas.
- A long-term plan for CSA 3 powers or services is needed in order to make a more informed decision.
- The County has been exploring options for how the existing CSA 3 service area can be used to provide municipal services.
- The County has not discussed the possibility of creating multiple smaller CSAs to serve specific communities instead of creating multiple Zones of Benefit under a single CSA.
- A smaller government is better as long as it is effective; a single entity may be best to oversee this.
- It is important to ensure we are fully aware of and discussing potential unintended consequences based on independent district struggles in other counties related to large CSAs.

Independent vs. Dependent Districts

- The difference in forming an independent or dependent special district is generally based on the level of local population support and capacity to provide local government services.
- When sufficient community interest and resources exist, then an independent district can be a feasible government structure option. If not, a dependent district is a more feasible option initially.
- CSAs are often formed to address unique community needs of subdivisions or community areas.
- Fire services in the Sanel Valley area in the 1990's is an example of shifting from a dependent to independent district service provision model based on community interest and involvement.
- In order to change from a CSA to an independent district government structure, the CSA would need to agree to secede the area and people in the area would need to vote to assume the responsibility of service provision and taxation, which in past experience has been a long and difficult process.

Community Organizational Structure Options

- Another aspect of how communities organize and manage themselves is through HOAs and CC&Rs.
- For Brooktrails Township, the CC&Rs were created by the developer through the subdivision process with the County and had a sunset clause requiring establishment of a Specific Plan to replace the CC&Rs, which was a costly process.
- HOAs are not government agencies and cannot collect taxes or similar funding mechanisms to provide municipal services.
- HOAs can collect fees from property owners and require payment of outstanding dues through lawsuits and other means.
- A government agency that collects funding via the County Tax Collector has a more streamlined and effective collection process.
- There are a number of vehicles available for addressing the issues facing Mendocino County, such as HOAs and PRDs, and some of the issues CSA 3 is facing may be larger in scale than these types of smaller organizational structures that are geared towards subdivisions.

Process to Authorize CSA 3 Service Provision

- The CSA Zone of Benefit (ZOB) creation process is what triggers the activation of latent powers and concurrent sphere amendment application process with LAFCo.
- A funding mechanism is needed to provide CSA 3 services.
- ZOB creation would require voter approval to pay for the cost of the service requested, such as through a Proposition 218 benefit assessment.
- The benefit assessment total amount and cost allocation for a specific Zone of Benefit would be established based on an Engineering Study.

- Once LAFCo activates CSA latent powers, LAFCo purview is limited to the periodic MSR/SOI process.

Sherwood FWC ZOB

- Sherwood Road is a public road and crosses the jurisdictional boundaries of the City of Willits, Brooktrails Township CSD, the County, and CSA 3.
- The benefit of the Sherwood FWC ZOB is unimpeded two-lanes of travel for improved evacuation safety along the 3.5-miles of Sherwood Road from the intersection at Poppy Drive to North Main Street in the City of Willits during wildfire incidents.
- The current benefit assessment does not include property owners in the City because the most likely emergency traffic flow scenario is evacuation from the Brooktrails area to the major transportation corridors of Highway 20 and 101.

Public Comments

- One written public comment was received from Ben MacMillan and was distributed to the Commission and staff and will be posted on the website.
- Staff responses to public comments will be included in the staff report for the Public Hearing tentatively scheduled for the June 6th Commission meeting.
- No verbal public comments were received during the workshop item.

Requested Changes, Information, and Follow-up

- Confirm how CSA 3 will participate in the allocation of LAFCo apportionment fees.
- Add two additional maps in the study to depict and designate areas of interest for the service gap areas in between existing fire and water district boundaries to identify where the CSA 3 function could support existing local agencies.
- Provide a more detailed outline/list in the study for the intent of CSA 3 to add specific powers and provide services to specific areas over the next 5, 10, and 20 year timeframes.
- Add a statement related to the lack of historical records to clarify the purpose or reason for the 1985 CSA 3 significant expansion from the original 1974 South Coast area boundary to the entire unincorporated area of the County.
- Contact former Supervisors Jim Eddy and Carre Brown for historical information on the purpose of the 1985 District annexation.
- Discuss with County Counsel the legal procedure of activating latent powers through LAFCo for a specific Zone of Benefit area as opposed to Districtwide.

The Commission provide comments and requested revisions on the draft study and directed staff to notice the matter for Public Hearing at the June Commission Meeting.

7. MATTERS FOR DISCUSSION AND POSSIBLE ACTION (Video Time: 1:18:45)

7a) Progress Report on Development of City of Ukiah and Ukiah Valley Sanitation District MSR/SOI Updates

On March 7th the Commission approved staff's recommendation, with agency support, to prepare both MSR/SOI updates in-house. The development and service pressures occurring in the Ukiah Valley represent the most complicated and important sphere decisions LAFCo will likely make for the foreseeable future. In addition, the studies will lay the foundation for the upcoming MSR/SOI Updates for the water districts.

EO Hinman's progress report summarized the development process for the studies:

- Staff develops a White Paper describing the interconnected provision of sewer and water services.
- The City's SOI Update will be included in the GP Update CEQA review.
- Staff works with the UVSD staff to develop SOI options for the District. The required level of CEQA review is unknown and is not included in the Work Plan budget.
- Administrative drafts for both agencies – in progress.
- The agencies will review drafts for accuracy.
- Potentially a joint public workshop for in depth discussion and review.
- Public Hearings.
- Adoption and finalization.

The tentative schedules, developed in consultation with agency staff, project completion toward the end of the calendar year for both agencies. EO Hinman noted that two schedules were prepared for the UVSD because the level of CEQA analysis is unknown at this time. The schedules will be revisited regularly and may be modified depending on General Plan Update progress, information needs, agency responsiveness, and CEQA processes.

Discussion (Video Time 1:26:24)

Commissioner Rodin asked what analysis determines the level of CEQA required. EO Hinman responded that it depends on the recommended SOI. For example, a CEQA exemption may be applied for a coterminous sphere, otherwise, an initial study will be prepared determine the level of CEQA. The current budget does not include a CEQA analysis. Commissioner Rodin asked what information determines the level of CEQA. Counsel Burch explained that the baseline conditions are analyzed followed by any changes made based on the adopted SOI. Then, determination if there is a reasonably foreseeable change (i.e. population and/or development) that would have a significant impact to the environment. If the answer is yes in any area of impact, the next steps are to prepare a Negative Declaration (ND), Mitigated Negative Declaration (MND) or an Environmental Impact Report (EIR).

Commissioner Froneberger asked about the duration of workshops for the studies. EO Hinman answered that for the purposes of the timeline, staff scheduled them during a regular meeting, however, there is flexibility at the Commission's discretion.

Commissioner Ward expressed appreciation for the report. He asked if there are agendas for the coordination meetings. EO Hinman responded that the staff-level meetings are one-on-one and are not item specific. He asked if there are discussions of consolidation. EO Hinman explained that those discussions are through the City and UVSD's Ad Hoc Committee LAFCo staff are not a part of those discussions at this time. The agencies are considering many options for future service provision, and she encouraged him to address City Staff in attendance.

Chair Orth invited public Comment.

Sage Sangiacomo, Manager for the City of Ukiah, expressed support of the presented project timeline and approach.

Commissioner Rodin expressed support of the White Paper and invited Staff to elaborate. EO Hinman explained that the White Paper is a way to clearly explain the interconnectedness of the service provisions in the Ukiah Valley. A joint MSR/SOI study on all special districts in the valley was completed in 2013, excluding the City of Ukiah. The White Paper will serve as a budget conscious alternative to updating that study and will inform the City, UVSD, and upcoming water agency studies.

Chair Orth asked if the White Paper would address comments from the State Water Board and regulatory agencies. EO Hinman agreed to include known information. She reminded the Commission of its past recommendations to consolidate the water agencies and noted the topic will be identified in the White Paper. Chair Orth asked if the State Water Board provides grants for similar reviews. EO Hinman said that staff will investigate potential opportunities.

Commissioner Ward asked Mr. Sangiacomo if there are discussions of consolidating. Mr. Sangiacomo confirmed there are discussions regarding consolidation, which is one of the reasons the City requested its detachment application be on hold. In the event of consolidation, it would eliminate the need for a SOI and CEQA review for the UVSD.

8. INFORMATION AND REPORT ITEMS

8a) Work Plan, Current, and Future Proposals (Video Time: 1:44:11)

EO Hinman summarized staff's workload, providing an update on current and potential future proposals and the status of Fiscal Year 2021-22 Work Plan tasks.

- Staff received updated materials for the City's Application for annexation of City owned properties at the end of February. The referral was sent to agencies and the tax share agreement is in progress.
- Staff expects an application from Elk CSD for activation of latent powers later this month.

Chair Orth suggested an edit to pg. 105 of the agenda packet. "... a secondary *emergency* road access for the community of Brooktrails."

Commissioner Ward commented that the work plan for CSA 3 is overbudget and asked if the County could support the project. EO Hinman responded that meeting coordination and the history portion of the Administrative Draft required extensive work to complete; however, the meetings overlap with the anticipated application to activate latent powers.

Chair Orth complimented Staff on their preparation of the draft MSR/SOI for CSA 3.

Mr. Sangiacomo informed the Commission that the City will close escrow on the Western Hills Properties today (April 4, 2022), and City Staff will be working with LAFCo on the application for annexation in the coming months.

8b) Correspondence (Video Time: 1:49:54)

Staff received a resignation letter from Alternate Commissioner Bazzani effective March 31, 2022.

8c) CALAFCO Business and Legislation Report (Video Time: 1:50:33)

SB 938 passed out of the Senate Governance and Finance Committee last week and is on its way to the Senate Floor. The Bill aligns protest hearing provisions for LAFCo-initiated dissolutions with the standard protest provisions of 25%.

8d) Executive Officer's Report (Video Time: 1:51:58)

EO Hinman summarized miscellaneous tasks in progress:

- Staff will initiate the selection process to fill Alternate Commissioner Bazzani's recently vacated seat.
- Staff is responding to a public information request for documents regarding the Mendocino City CSD.
- Staff continues to maintain contact with the Clerk of the Board regarding the return to in-person meetings.
- Staff continues to field calls from concerned members of the public regarding the Mendocino Coast Health Care District.

Commissioner Froneberger asked about the nature of the request for information on the Mendocino City CSD. EO Hinman and Analyst Feiler answered that the request is for all documents relating to the District from 2019 to March 2022 and is believed to relate to the provision of water and/or groundwater services.

8e) Committee Reports (Executive Committee/Policies & Procedures) None

8f) Commissioners Reports, Comments or Questions (Video Time: 1:57:52)

Commissioner Ward asked for an update on Mr. Browne's recovery. Ms. Burch answered that he is at home and feeling better. He has been attending some meetings virtually and the Commission can expect to see him soon.

ADJOURNMENT (Video Time: 1:58:59)

There being no further business, the meeting adjourned at 10:58 a.m. The next regular meeting of the Commission will be held on Monday, May 2, 2022 at 9:00 a.m. and will be conducted remotely due to the continued state of emergency, guidelines adopted by the Mendocino County Public Health Officer, and Executive Orders regarding the COVID-19 pandemic.

Live web streaming and recordings of Commission meetings are available via the County of Mendocino's YouTube Channel. [April 4, 2022, YouTube meeting recording](#). Links to recordings and approved minutes are also available on the [LAFCo website](#).