

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolafo.org | Web: www.mendolafo.org

COMMISSIONERS

Maureen Mulheren, Chair
County Member

**Gerald Ward, Vice
Chair/Treasurer**
Public Member

Glenn McGourty
County Member

Mari Rodin
City Member

Vacant
City Member

Vacant
Special District Member

Vacant
Special District Member

Gerardo Gonzales, Alternate
City Alternate Member

John Haschak, Alternate
County Alternate Member

Richard Weinkle, Alternate
Public Alternate Member

Vacant, Alternate
Special District Member

STAFF

Executive Officer
Uma Hinman

Clerk/Analyst
Larkyn Feiler

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

A G E N D A

Executive Committee Meeting

Monday, January 9, 2023 at 10:30 am

Mendocino County **Conference Room B**, 501 Low Gap Road, Ukiah, California

Special Notice – Hybrid Meeting

On September 16, 2021, Governor Newsom signed AB 361, which modified the Brown Act to allow for teleconferencing participation at local legislative body public meetings during the proclaimed state of emergency. As urgency legislation, this law took effect immediately. Pursuant to Government Code §54953(e)(1)(B), the Executive Committee will conduct its January 9, 2023 meeting in a **hybrid** format to accommodate both in-person and remote participation by the Committee Members and staff members. The public is similarly welcome to participate in person or remotely (video or telephone). The **hybrid** meeting can be accessed by the public in person, or remotely as described in the Instructions for Remote Participation Option, below.

The in-person meeting will be held in the County Conference Room B at 501 Low Gap Road, Ukiah. Social distancing practices are recommended whenever possible and seating is arranged to accommodate the six feet recommended by the Health Officer.

Instructions for Remote Participation Option

Join Meeting Live: Please click the following Zoom link below to join the meeting or utilize the telephone option for audio only.

1. Zoom meeting link: <https://mendocinocounty.zoom.us/j/83416176626>
2. Telephone option (audio only):
Dial: **(669) 900-9128** (*Please note that this is not a toll-free number*)
Meeting ID: **834 1617 6626**

Public Participation is encouraged and public comments are accepted:

1. Live: via the Zoom meeting link or telephone option above
2. Via Email: eo@mendolafo.org by 8:30 a.m. the day of the meeting
3. Via Mail: Mendocino LAFCo, 200 S School Street, Ukiah, CA 95482

Meeting Participation

To provide comments, please use the raise hand function in Zoom.

- a) For those accessing from a computer, tablet, or smartphone, the raise hand function may be selected by clicking or tapping it from the reactions options. When joining the Zoom meeting, please enter your name so that you can be identified to speak.
- b) For those utilizing the telephone option (audio only), please use the raise hand feature by pressing ***9** on your keypad to raise your hand, and ***6** to unmute yourself. When it is your turn to speak, you will be called on by the last four digits of your phone number, if available, and asked to identify yourself for the record.

All comments received will be conveyed to the Committee for consideration during the meeting. All meetings are live-streamed, recorded and available through the link below.

1. CALL TO ORDER & ROLL CALL

Chair Maureen Mulheren, Vice Chair/Treasurer Gerald Ward

2. PUBLIC EXPRESSION

3. MATTERS FOR DISCUSSION & POSSIBLE ACTION

3a) Approval of the March 2, 2022 Executive Committee Minutes

3b) AB 2449

Report from Executive Officer and Legal Counsel regarding implementation of AB 2449 and request for direction to staff and/or Policies & Procedures Committee.

3c) Legal Counsel

Update on Legal Counsel status and staff request for discussion and direction.

3d) Items for Future Meetings

Discussion opportunity for potential agenda items at future Commission and/or Committee meetings.

4. INFORMATION AND REPORT ITEMS

4a) Executive Officer Report

ADJOURNMENT

The next Regular Commission Meeting is scheduled for
Monday, February 6, 2023
in the County Board of Supervisors Chambers

Notice: This agenda has been posted at least 72 hours prior to the meeting and in accordance with the temporary Brown Act Guidelines instated by State Executive Order N-29-20 and AB 361.

Participation on LAFCo Matters: All persons are invited to testify and submit written comments to the Commission on public hearing items. Any challenge to a LAFCo action in Court may be limited to issues raised at a public hearing or submitted as written comments prior to the close of the public hearing.

Americans with Disabilities Act (ADA) Compliance: Commission meetings are held via a hybrid model – the in-person option held in a wheelchair accessible facility and also by teleconference. Individuals requiring special accommodations to participate in this meeting are requested to contact the LAFCo office at (707) 463-4470 or by e-mail to eo@mendolafco.org. Notification 48 prior to the meeting will enable the Commission to make reasonable arrangements to ensure accessibility to this meeting. If attending by teleconference, if you are hearing impaired or otherwise would have difficulty participating, please contact the LAFCo office as soon as possible so that special arrangements can be made for participation, if reasonably feasible.

Fair Political Practice Commission (FPPC) Notice: State Law requires that a participant in LAFCo proceedings who has a financial interest in a Commission decision and who has made a campaign contribution to any Commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission before the hearing.

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolafo.org | Web: www.mendolafo.org

Agenda Item 3a

DRAFT Executive Committee Meeting Minutes

March 2, 2022, 11:00 a.m.

Meeting held remotely via Zoom due to pandemic.

COMMISSIONERS

Tony Orth, Chair

Special District Member

Scott Ignacio, Vice-Chair

City Member

Gerald Ward, Treasurer

Public Member

Matthew Froneberger

Special District Member

Glenn McGourty

County Member

Maureen Mulheren

County Member

Mari Rodin

City Member

Jenifer Bazzani, Alternate

Special District Member

Gerardo Gonzales, Alternate

City Alternate Member

John Haschak, Alternate

County Alternate Member

Richard Weinkle, Alternate

Public Alternate 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

1. CALL TO ORDER & ROLL CALL

Chair Orth called the meeting to order at 11:00 a.m.

Members Present: Chair Orth, Vice Chair Ignacio, and Treasurer Ward

Staff Present: Executive Officer Hinman, Analyst Feiler, Legal Counsel Marsha Burch

2. PUBLIC EXPRESSION

None.

3. MATTERS FOR DISCUSSION & POSSIBLE ACTION

3a) Approval of the September 23, 2021 Executive Committee Minutes

Upon motion by Commissioner Ignacio and second by Commissioner Ward, the September 23, 2021 Executive Committee Meeting Minutes were approved unanimously with no changes.

3b) Approach to Remaining Fiscal Year 2021-22 Work Plan Tasks

EO Hinman presented the item regarding changes in approach to the remaining tasks for the FY 2021-22 Work Plan and noted that written public comment was received from Alan Nicholson with the Inland Mendocino County Land Trust and was distributed to the Committee and posted on LAFCo's website. The following local agency staff participated in the discussion: Wing-See Fox, Interim General Manager for the Ukiah Valley Sanitation District (UVSD or District), and Craig Schlatter, Community Development Director for the City of Ukiah (City).

Following is a brief summary of the discussion organized by topic for ease of review:

MSR/SOI History

The Sphere of Influence (SOI) for the City and District dates back to 1984 and there has not been comprehensive consideration of service area expansions for either agency in modern times based on reliable information from a Municipal Service Review (MSR). The last MSR process for the District was in 2014 and for the City was in 2012. In 2013, there was an effort to update the City's sphere that stalled out in the CEQA phase. There were years of litigation between the District and City that delayed completing studies. There is no clear record of the District's 1984 SOI boundary and the District's SOI needs to be updated for the Commission to consider annexation applications. The District has received new service requests for areas outside their boundary and the MSR/SOI Update process is delaying development needing public sewer instead of on-site septic.

RFP Status

In 2020, a Request for Proposals (RFP) was released to solicit proposals for consultant-prepared MSR/SOI studies for the City and UVSD, due to limited LAFCo staff capacity. The cost estimates received significantly exceeded the Work Plan budget and would have required multiple fiscal years for LAFCo to fund. In order to expedite the process, the City offered to fund the City's study and the Commission approved consultant selection and directed staff to negotiate and execute agreements on December 7, 2020. The contract negotiation process between LAFCo and City Attorney's stalled out in 2021. A tentative plan for UVSD upfront funding with multi-year reimbursement for the District's consultant-prepared study also stalled out in 2021.

Proposed Change in Approach

LAFCo, District, and City staff have been supporting each other through coordination meetings and have a good team assembled for the collaborative development of both studies. The City's General Plan Update (GPU) is proceeding on a schedule that supports the MSR/SOI Update in 2022. LAFCo law supports coordinating GPU and SOI planning processes, including CEQA, and will result in significant time, public outreach, and cost efficiencies and will ultimately result in better planning for the communities these agencies serve. The District and City have committed staff to work with LAFCo on the MSR/SOI Update process to facilitate a coordinated approach that will build interagency relationships. Therefore, LAFCo staff is requesting approval to change the approach from consultant-prepared studies to the in-house development of the MSR/SOI Updates for both the City and UVSD.

Slow Work Plan Progress Concerns

MSR/SOI Update studies are taking longer and costing more than anticipated to complete and LAFCo is falling behind in the state-mandated schedule of completing MSR/SOI Updates every 5-years. To date, only 5-10% of the Work Plan budget has been expended on coordination meetings with no real progress made. Work Plan progress is getting bogged down and CSA 3 study costs have exceeded the budget with no clarity on who will pay the extra costs. The Rolling Work Plan was developed to allow flexibility in implementing MSR/SOI studies because the schedule and costs in the Work Plan budget are estimates and do not account for change. The studies must be completed and may require multiple fiscal years to be completed, especially when there is a high level of controversy. The behind-the-scenes coordination activities are critical to moving long-standing issues forward and will be worth the wait. The RFP approach was to address staff capacity limitations that remain and there appears to be a need to increase staff capacity to accomplish outdated tasks and get back on track.

Change in Work Plan Approach

LAFCo staff works towards preparing MSR/SOI studies for agencies providing water, sewer, fire, and police services every 5-years, as budget allows and as needed, consistent with our local policy. LAFCo has been under pressure to catch up on state-mandated first-round sphere updates and so focused efforts on the completion of a large number of abbreviated MSR/SOI Update studies in a relatively short period of time and within a very limited budget. LAFCo staff recommends moving towards a work plan model of preparing quality studies that require more time, funding, and interagency collaboration to prepare in order to address real issues facing our communities and lay meaningful groundwork for creating efficiencies of services. Higher quality studies do not necessarily require 5-year updates.

Agency Support for In-house Studies

LAFCo staff shares the frustration of the Commission, local agencies, and property owners that the MSR/SOI Update has not been completed for the District and City yet. LAFCo could rush the MSR/SOI Update process and not effectively address long-standing issues, but that will just perpetuate the historical conflict that brought us all here in the first place. A far superior outcome is for the agencies involved to reach agreement on how to resolve these issues than for the Commission to make the difficult decision for them. LAFCo, District, and City staff have been supporting each other in coordination meetings and have a good team assembled to dig in and develop a solution to address these long-standing issues. This interagency collaboration will take time and patience, but ultimately it will yield more lasting results to the benefit of the public whom we all serve.

Direction

Staff received direction to prepare an item for Commission reconsideration of the prior direction to negotiate and execute agreements for consultant-prepared MSR/SOI studies for the City and UVSD based on agency funding.

3c) Proposed Changes to Contract Staff Rates

EO Hinman presented the item regarding proposed changes to contract staff rates which have not been amended since 2018 and would take effect on July 1, 2022. No public comments were received. The Committee directed staff to proceed with an item for consideration of the Commission.

3d) Proposal for Establishing Weighted Staff Rates

EO Hinman presented the item regarding a proposal to establish weighted staff rates to offset administrative overhead and long-term planning costs intended to apply to services subject to the Mendocino LAFCo Fee Schedule which are currently zero sum or at cost items. The Committee supported Option 1 which provided a break-out by staff position and recommended a language change from staff rate to service rate in reference to weighted rates. No public comments were received. The Committee directed staff to proceed with an item for consideration of the Commission.

3e) Proposed Preliminary Budget and Work Plan for Fiscal Year 2022-23

EO Hinman presented the item regarding a preliminary Fiscal Year 2022-23 budget and work plan. It was clarified that the apportionment fees table on page 19 of the packet intentionally included missing information because data received from the County report was incomplete, and the information that was included is accurate and reliable.

There was discussion of a current Grand Jury investigation on the Mendocino Coast Health Care District (MCHCD) related to Board of Directors management. It was clarified from LAFCo Counsel that the Grand Jury does not have the authority to require LAFCo to expedite an MSR/SOI Update. The Committee discussed that a Grand Jury Report will support a future MSR on the District and should be completed first, and also noted that the District has not contributed to LAFCo apportionment fees for many years based on a statutory exemption and directed staff to confirm with the Auditor whether the District is still operating in the red and subject to the exemption. Staff confirmed that MCHCD is still a public agency even with current arrangements for private operation of the hospital.

LAFCo staff recommended establishing a work plan contingency that would: allow unutilized work plan budget to accumulate between fiscal years, support flexibility in implementing the work plan, and help fund CEQA review for proposed non-coterminous spheres. It was confirmed that the estimated end of year \$38,000 cash balance would roll into the work plan contingency.

The Committee discussed potentially adding Point Arena to the FY 2022-23 Work Plan budget, local agencies are under pressure so it is not a good time to increase the budget again, the need to increase staff capacity and concentrate on Work Plan completion, and to table a \$5,000 proposal for logo design and branding to make LAFCo more visible in the community consistent with a recommendation from the Little Hoover Commission.

The Committee directed staff to proceed with an item for consideration of the Commission.

4. EXECUTIVE OFFICER REPORT

EO Hinman provided a brief report on the new office space, resubmittal of an application to annex City of Ukiah owned properties, and a pending application from Elk CSD to activate latent powers.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:03 p.m.

MENDOCINO
Local Agency Formation Commission

Staff Report

MEETING January 9, 2023
TO Mendocino Local Agency Formation Commission Executive Committee
FROM Uma Hinman, Executive Officer
SUBJECT **Assembly Bill 2449 – Open Meetings and Teleconferencing for State and Local Agencies**

RECOMMENDATION

Staff recommends the Executive Committee discuss and provide direction to the Policies & Procedures Committee and/or staff to develop policy addressing the new rules for virtual meetings under AB 2449, which go into effect in March 2023.

BACKGROUND

Effective January 1, 2023, AB 2449 provides additional remote access opportunities for Commission meetings. Those opportunities are subject to different justifications and procedures and require a technological platform that is available to the Commission through the County BOS Chambers. The three new avenues for virtual participation in meetings are: (1) meetings during a new state of emergency, (2) virtual participation due to “just cause” (personal reasons), and (3) virtual participation due to an “emergency circumstance” (a personal or family medical emergency). The American Disabilities Act still applies to Commission proceedings

Agencies conducting meetings under the Brown Act will have the choice to return to pre-COVID Brown Act meeting rules or follow the new Brown Act provisions under AB 2449, which allows for limited remote meeting capabilities for elected officials. See Attachment for detailed summary of AB 2449 provisions.

The Commission heard an information report on AB 2449 at its November 2022 meeting and directed the matter to the Executive Committee.

Attachment Summary of AB 2449

Summary of AB 2449 Requirements

The passage of AB 2449 allows for limited use of hybrid meetings in the absence of a declaration of state of emergency. Under the provisions of the recently signed AB 2449, agencies will not be obligated to post agendas at all teleconference locations, will not be obligated to identify all teleconference locations in the meeting agendas, and will not be obligated to make each teleconference location open to the public.

For an agency to proceed under the procedures established by AB 2449, meetings must have at least a quorum of the members of the legislative body participating in-person from a singular, physical location clearly identified on the agenda, be open to the public, and be situated within the boundaries of the territory over which the local agency exercises jurisdiction.

Remote participation under AB 2449 must be done for specified reasons — either because of a “just cause” or as a result of “emergency circumstances.” The two cases have different requirements that must be observed and have their own unique restrictions. See table on next page for more details. The agency must also be prepared to host a robust remote meeting — under the terms of AB 2449, an agency must provide at least one of the following so that the public may remotely observe the meeting and provide comments:

- A two-way audiovisual platform (defined to mean an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function); and/or
- A two-way telephonic service and a live webcasting of the meeting (defined to mean a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate)

Conditions under which AB 2449 may be used

Board/Commission members are individually tasked with observing certain requirements before they can make use of AB 2449’s terms. It is incumbent upon the individual board/commission members themselves to follow certain requirements laid out in the bill; save for some overlapping obligations, the requirements differ based on whether the member’s remote participation is arising out of a “just cause” or “emergency circumstances,” as shown in the table below:

“Just Cause”	“Emergency Circumstances”
<p>“Just cause” means any of the following:</p> <ul style="list-style-type: none"> • A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely • A contagious illness that prevents a member from attending in person • A need related to a physical or mental disability not otherwise accommodated • Travel while on official business of the legislative body or another state or local agency <p><u>Procedures</u></p> <p>➤ The member notifies the legislative body at the earliest opportunity possible (including at the</p>	<p>“Emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person.</p> <p><u>Procedures</u></p> <p>➤ The member requests the legislative body to allow them to participate in the meeting remotely due to “emergency circumstances” and the legislative body takes action to approve the request. The member shall make this request to participate remotely at a meeting as soon as possible. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting.</p>

"Just Cause"	"Emergency Circumstances"
<p>start of a regular meeting) of their need to participate remotely for "just cause," including a general description of the circumstances relating to their need to appear remotely at the given meeting.</p> <p>Remote participation for "just cause" reasons shall not be utilized by any member of the legislative body for more than two (2) meetings per calendar year.</p>	<p>The general description of the circumstances does not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act.</p> <p>➤ The member shall make a separate request for each meeting in which they seek to participate remotely.</p> <p>The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with existing law.</p>
<p>Should either case ("just cause"/"emergency circumstances") be declared, the member shall:</p> <ul style="list-style-type: none"> • Publicly disclose at the meeting, before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individual(s); <i>and</i> • Participate through both audio <i>and</i> visual technology. 	
<p>Under neither case ("just cause"/"emergency circumstances") do AB 2449's provisions permit any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of:</p> <ul style="list-style-type: none"> • More than three (3) consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, <i>or</i> • More than two (2) meetings if the legislative body regularly meets fewer than 10 times per calendar year. 	