

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

Tony Orth, Chair
Brooktrails Township CSD

Scott Ignacio, Vice-Chair
Point Arena City Council

Gerald Ward, Treasurer
Public Member

Matthew Froneberger
Regular Special District

Gerardo Gonzalez
Willits City Council

Glenn McGourty
County Board of Supervisors

Maureen Mulheren
County Board of Supervisors

Jenifer Bazzani, Alternate
Ukiah Valley Fire District

John Haschak, Alternate
County Board of Supervisors

Mari Rodin, Alternate
City Member

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

Executive Committee Meeting

A G E N D A

August 10, 2021, 1:00 p.m.

Meeting to be held remotely via Zoom and teleconference due to pandemic.

Important Notice

Pursuant to State Executive Order N-29-20 pertaining to the convening of public meetings in response to the COVID-19 pandemic, effective March 20, 2020, the Mendocino Local Agency Formation Commission (LAFCo) meetings will be conducted via Zoom and will not be available for in person public participation until further notice. See website [meeting documents](#) webpage for participation information.

Zoom meeting link: <https://mendocinocounty.zoom.us/j/81980220574>

By phone: (669) 900-9128; Meeting ID: 819 8022 0574

Submit **written comments** electronically to eo@mendolafo.org by 12:00 p.m. on August 10. In the subject line, specify the agenda item number for your comments, "To be read aloud" if desired, and in the body of the email include your name. If to be read aloud, please keep your comments to 500 words or less. All written comments will be provided as soon as feasible to the Commission and posted on the [meeting documents](#) webpage.

1. CALL TO ORDER & ROLL CALL

Chair Tony Orth, Vice Chair Scott Ignacio, and Treasurer Gerald Ward

2. PUBLIC EXPRESSION

3. MATTERS FOR DISCUSSION & POSSIBLE ACTION

3a) Approval of the March 30, 2021 Executive Committee Minutes

3b) Drought Emergency Response and Out of Agency Water Transfers

The Committee will receive a report from staff on drought emergency plans and out of agency water transfers including notice to the Mendocino County Water Agency and special districts in the County.

3c) Applications and Work Load

The Committee will receive a report from staff on workload including applications, Work Plan efforts, and policy updates.

3d) Anticipated Expiration of State Executive Order N-29-20

The Committee will discuss the September 2021 expiration of State Executive Order N-29-20 and options for potential in-person/remote participation hybrid model.

4. EXECUTIVE OFFICER REPORT

5. CLOSED SESSION

5a) Conference with Legal Counsel – Potential for Exposure to Litigation; 1 case

Pursuant to Government Code §54956.9(d)(2), the Commission will hold a closed session for a conference with Legal Counsel regarding potential exposure to litigation.

ADJOURNMENT

The next Regular Commission Meeting is scheduled for
September 13, 2021
Meeting to be held remotely via Zoom and teleconference due to pandemic.

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Agenda Item 3a

DRAFT Executive Committee Meeting Minutes

March 30, 2021, 11:00 a.m.

Meeting held remotely via Zoom due to pandemic.

COMMISSIONERS

Tony Orth, Chair

Brooktrails Township CSD

Scott Ignacio, Vice-Chair

Point Arena City Council

Gerald Ward, Treasurer

Public Member

Matthew Froneberger

Regular Special District

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Executive Officer

Uma Hinman

Analyst

Larkyn Feiler

Commission Clerk

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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 11:01 a.m.

Members Present: Commissioners Orth, Ignacio, and Ward

Staff Present: Executive Officer Hinman, Analyst Feiler, Legal Counsel Browne

2. PUBLIC EXPRESSION

Elizabeth Salomone, General Manager of the Mendocino County Russian River Flood Control and Water Conservation Improvement District, provided an update on current activities, resources, and education opportunities related to water supply conditions and conservation efforts in the Ukiah Valley due to forecasted drought conditions.

3. MATTERS FOR DISCUSSION & POSSIBLE ACTION

3a) Approval of the March 10, 2021 Executive Committee Minutes

Philip Williams, City of Ukiah Special Counsel, noted discussion at the prior Committee meeting regarding the recent case *SLO LAFCo v. City of Pismo Beach* related to fees incurred in legal challenges to LAFCo actions. Mr. Williams reiterated that the City of Ukiah has been agreeable to indemnify LAFCo for third party legal challenges related to applications, the City has no desire to sue LAFCo, and the City is interested in moving forward with a transparent process. Mr. Williams requested that LAFCo update the indemnification agreement in light of this case.

Chair Orth noted a correction to the minutes in the third paragraph related to the Mendocino Coast HCD which was stated by Chair Orth instead of Chair Ward. Commissioner Ward noted a correction to the minutes under the motion to approve the August minutes as seconded by Chair Orth instead of Commissioner Ward. Commissioner Ignacio noted a correction to minutes to clarify that Commissioner Ward abstained from voting on the August minutes. Upon motion by Commissioner Ward and second by Commissioner Ignacio, the March 10, 2021 Executive Committee Meeting Minutes were approved unanimously, with the noted corrections.

4. CLOSED SESSION

4a) Conference with Legal Counsel – Potential for Exposure to Litigation; 3 cases

Pursuant to Government Code §54956.9(d)(2), at 11:14 a.m. the Committee entered into closed session for a conference with Legal Counsel regarding potential exposure to litigation. The Committee returned to open session at 1:17 p.m. and Counsel Browne reported out from the closed session as follows: no reportable action other than staff received direction.

5. Executive Officer Report

EO Hinman had no items to report.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:19 p.m. by motion from Commissioner Ignacio.

DRAFT

MENDOCINO Local Agency Formation Commission

Staff Report

MEETING August 10, 2021
TO Mendocino Local Agency Formation Commission Executive Committee
FROM Uma Hinman, Executive Officer
SUBJECT **Drought Emergency Response and Out of Agency Water Transfers**

RECOMMENDATION

Executive Committee will receive a report on drought emergency plans, out of agency water transfers, and staff activities.

DISCUSSION

The Mendocino County Board of Supervisors assigned a Drought Ad Hoc Committee and has activated the Mendocino County Water Agency to coordinate identification of need and options to support communities experiencing water supply emergencies due to the drought. The agencies have been supporting each other by coordinating on development of plans for inter-agency aid through deliveries of water to communities in need, particularly to the coastal communities.

The State requires LAFCo to review and authorize any provision of services outside an agency's boundaries per [Government Code \(GC\) §56133](#). LAFCo review involves a number of steps, first of which is to determine whether the services to be extended qualify as an exemption. For example, while transfer of raw, non-potable or untreated water is an exemption under §56133(e)(2), the transfer of potable water outside a provider's jurisdiction requires LAFCo approval. Both GC §56133 and [Mendocino LAFCo Policy 12.2.5](#) requires LAFCo to review any proposal for either a determination of exemption or approval before any such extensions of service are provided.

While the agencies and County have met regularly to address water supply issues during this drought emergency, LAFCo has not been involved in the dialogue. To communicate LAFCo's State-mandated responsibilities, on July 23, 2021, staff distributed written notice of these requirements and requested participation in future discussions as plans to address the water emergencies are developed. It will be important for LAFCo to be involved in the development of plans involving temporary out-of-agency supplemental water deliveries to address emergency conditions.

To facilitate and support the processing of the necessary out of agency service applications, Staff has undertaken the following activities:

1. Outreach and coordination with affected agencies
2. Development of application materials specific to out of agency agreements
3. Fees

Attachments: Letters to agencies regarding Government Code Section 56133

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July 23, 2021

Josh Metz, Program Manager
Mendocino County Water Agency
County of Mendocino
501 Low Gap Road
Ukiah, CA 95482

RE: Out of Agency Services and Government Code §56133

Dear Mr. Josh Metz:

As agencies seek solutions to continue providing adequate water to their customers during the unprecedented drought conditions we are experiencing, we applaud the County and water service agencies' efforts to support each other in addressing water shortages for residents in our County. We are aware that a number of options are being considered for inland agencies to support some of our coastal neighbors in providing hauled water, as well as inter-agency support for some of the inland water agencies.

As you may not be aware of the regulations under which Local Agency Formation Commissions (LAFCo) operate, [Government Code \(GC\) §56133](#) mandates that LAFCo review and provide authorization for any provision of services outside an agency's boundaries. LAFCo review pursuant to GC §56133 involves a number of steps, first of which is to determine whether the services to be extended qualify as an exemption. For example, while transfer of raw, non-potable or untreated water is an exemption under §56133(e)(2), the transfer of potable water outside a provider's jurisdiction requires LAFCo approval. Please be advised that GC §56133 and [Mendocino LAFCo Policy 12.2.5](#) requires LAFCo review for either a determination of exemption or approval before any such extensions of service are provided.

Please understand that LAFCo is supportive of the important effort to expeditiously provide temporary water deliveries to agencies and their customers affected by the emergency drought conditions. I request a meeting with you to discuss the current efforts being considered for supplemental delivery of out-of-agency water supply and to develop a plan that meets the needs of all affected agencies and LAFCo requirements.

It is important to note that while the agencies and County have met regularly to address water supply issues during this drought emergency, LAFCo has not participated in this dialogue. I am confident that if the County, LAFCo and the agencies work together, a plan can be developed that will allow temporary out-of-agency supplemental water deliveries to address emergency conditions.

I look forward to working with the County and water service agencies in addressing these emergency conditions. In the meantime, it is a State mandate that the County and agencies seek necessary LAFCo review and approval before providing out-of-agency water deliveries.

Regards,



Uma Hinman
Executive Officer

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Date: July 23, 2021

To: Cities and Independent Special Districts of Mendocino County

From: Uma Hinman, Executive Officer

RE: **Emergency Water Supplies, Out of Agency Services and Government Code §56133**

As local agencies seek solutions to continue providing adequate water to their customers during the unprecedented drought conditions we are experiencing, we applaud the County and water service agencies' efforts to support each other in addressing water shortages for residents in our County. We are aware that a number of options are being considered for inland agencies to support some of their coastal neighbors in providing hauled water, as well as inter-agency support for some of the inland water agencies.

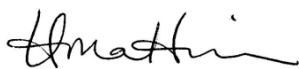
As you may not be aware of the regulations under which Local Agency Formation Commissions (LAFCo) operate, [Government Code \(GC\) §56133](#) mandates that LAFCo review and provide authorization for any provision of services outside an agency's boundaries. LAFCo review pursuant to GC §56133 involves a number of steps, first of which is to determine whether the services to be extended qualify as an exemption. For example, while transfer of raw, non-potable or untreated water is an exemption under §56133(e)(2), the transfer of potable water outside a provider's jurisdiction requires LAFCo approval. Please be advised that GC §56133 and [Mendocino LAFCo Policy 12.2.5](#) requires LAFCo review for either a determination of exemption or approval before any such extensions of service are provided.

Please understand that LAFCo is supportive of the important effort to expeditiously provide temporary water deliveries to agencies and their customers affected by the emergency drought conditions. If your agency is considering providing or receiving supplemental water supply outside of your jurisdiction, please contact me to discuss options being considered so that we may advise on LAFCo process and requirements.

It is important to note that while the agencies and County have met regularly to address water supply issues during this drought emergency, LAFCo has not participated in this dialogue. I am confident that if the County, LAFCo and the agencies work together, a plan can be developed that will allow temporary out-of-agency supplemental water deliveries to address emergency conditions.

I look forward to working with the County and water service agencies in addressing these emergency conditions. In the meantime, it is a State mandate that the County and agencies seek necessary LAFCo review and approval before providing out-of-agency water deliveries. Please contact me at eo@mendolafco.org or (916) 813-0818 with any questions.

Regards,



Uma Hinman
Executive Officer

cc: Josh Metz, Program Manager, Mendocino County Water Agency

MENDOCINO Local Agency Formation Commission

Staff Report

MEETING August 10, 2021
TO Mendocino Local Agency Formation Commission Executive Committee
FROM Uma Hinman, Executive Officer
SUBJECT **Applications and Work Load**

RECOMMENDATION

Informational report.

BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 delegates Local Agency Formation Commissions (LAFCo) with regulatory and planning duties to coordinate the logical formation and development of local government agencies. This includes approving or disapproving proposals for reorganizations (i.e., annexations, detachments, dissolutions, etc.), activation of latent powers, sphere of influence amendments, and outside service agreements.

APPLICATIONS

Following is a summary of active and future proposals.

Active Proposals

There are currently five (5) active proposals.

Applications

Ukiah Valley Fire District Annexation of the City of Ukiah (LAFCo File No. A-2021-02)

On June 29, 2021, LAFCo received a portion of the UVFD's application proposing annexation of the City of Ukiah into the District and a concurrent Sphere Amendment. In recognition of the time sensitive nature of the application, LAFCo staff had agreed to initiated the RTC §99(b) Tax Share Agreement process with the District's submittal of a prima facie application. The deadline for the State Board of Equalization is December 1st of each year in order to process the jurisdictional changes for the year after the following (i.e., complete BOE submittal by December 1, 2021 changes will reflect in the 2023 tax year).

The Notice of Filing that initiates the Tax Share Agreement process was distributed to the County Assessor, Auditor-Controller and CEO on July 2, 2021. The Agency Referral soliciting initial comments from affected agencies was also distributed on July 2nd.

LAFCo is coordinating with City staff to facilitate a transparent and responsive sharing of information regarding the application to ensure an expeditious process.

LAFCo staff is working on an Administrative Draft of the UVFD Municipal Service Review (MSR) that is tracking concurrently with the application. The Administrative Draft will be shared with UVFD and City staff to further develop the Plan for Services necessary for the application.

City of Ukiah Annexation of City-Owned Properties (LAFCo File No. A-2021-01)

On February 22, 2021, LAFCo received an application from the City of Ukiah proposing to annex City-owned parcels that are used for government purposes and consisting of approximately 446 acres in total. Parcels include the City's Wastewater Treatment Plant, solid waste transfer station, a portion of the municipal airport and open space. The application referral and notice to the County to initiate the tax share negotiation were routed and comments received. An incomplete letter identifying additional information needs was sent to the City of Ukiah on March 23, 2021. No further information has been received.

City of Ukiah Detachment of UVSD Served Areas (LAFCo File No. D-2020-01)

In April 2020, the City of Ukiah submitted a request to restart a 2014 application for detachment of Ukiah Valley Sanitation District (UVSD) served areas from the City that had been deemed incomplete and placed on-hold by the City in 2015. LAFCo staff responded to the City in May, requiring a new application submittal due to the lapse of time and change in conditions, as well as noting the application as premature pending completion of the UVSD SOI Update. The application will be processed concurrently with the City of Ukiah Municipal Service Review and Sphere of Influence Update. The City submitted an Appeal to the Commission of the Executive Officer's determination that the application is incomplete (letter dated April 26, 2021). The Commission continued the item to June 7, 2021 (Item 5d). The Appeal has been temporarily placed on hold by the City, pending progress on sphere policy amendments that are currently underway.

An accounting of the application costs to date has been provided to the City along with a request for additional deposit to cover processing costs.

Pre-Applications

City of Ukiah Pre-Application for Annexation of Areas North of the City (LAFCo File No. P-2020-02)

Pre-Application request for consultation on the process and potential issues regarding the City's proposal to annex the Brush Street Triangle and Masonite area properties. Staff is coordinating with City staff regarding appropriate process and timing of application processing.

Millview County Water District Pre-Application for Annexation of Masonite Properties (LAFCo File No. P-2020-04)

Pre-Application request for consultation on process and draft documents associated with the MCWD's proposal to annex the Masonite area properties. LAFCo staff have participated in several conference calls with the District and its consultants regarding the proposal and has provided feedback on draft CEQA and application materials.

Potential Future Proposals

City of Ukiah Annexation of Western Hills (Hull Properties)

The City has routed a project referral package stating its intent to acquire and annex approximately 695 acres in the Western Hills for open space preservation, while allowing the potential for future low density residential development on the approximately 55 easternmost acres, consistent with existing development in the Western Hills within the City of Ukiah limits. LAFCo received and provided written comments on the project referral in February and a revised referral in March. Staff also provided written comments on the Draft Initial Study/Mitigated Negative Declaration for the project in May.

Elk Community Services District Activation of Latent Powers for Wastewater Services

The ECSD is preparing an application to activate latent powers for the provision of wastewater services. The District will be assuming ownership and operation of a community leach field within the community of Elk. It is anticipated that the application will be submitted within the next month. Staff has been coordinating with District representatives in development of the application materials.

WORK PLAN

Local policy directs the Commission to annually adopt a Work Plan for purposes of providing a comprehensive overview of municipal service reviews and sphere of influence updates over the course of the fiscal year. This report provides an update on progress made in terms of accomplishing the activities scheduled in the Work Plan. This report also serves to inform the Commission of any changes in circumstances or priorities.

Covelo Community Services District (Covelo CSD)

A public workshop on the Draft MSR/SOI was held on June 12, 2021. The Commission will be holding a public hearing on the Draft MSR/SOI study on September 13, 2021.

Ukiah Valley Fire District (UVFD)

The Administrative Draft MSR is being developed, which will track with the application for annexation of the City and concurrent Sphere Amendment (LAFCo File No. A-2021-02).

County Service Area (CSA) No. 3

This will be the first MSR/SOI report for the CSA. Due to the COVID-19 emergency, there have been delays in receiving a response to requests for information from the County. However, staff is working with County GIS to develop a current map of the CSA and will be performing outreach with the County regarding next steps.

The County is considering utilizing CSA 3 for a number of local and regional needs including the Sherwood Road secondary access for Brooktrails. The County Board of Supervisors' (BOS) August 3, 2021 agenda included an item to consider establishing a benefit zone for the Sherwood Road secondary access for Brooktrails Township. LAFCo staff submitted a comment letter to the BOS requesting a continuation of the item to allow time to coordinate with LAFCo regarding the current authorized services for CSA 3.

Staff has been researching the history of CSA 3 to identify what, if any, current powers are active for the CSA. While the County has the authority to establish benefit zones within the CSA, it is LAFCo's authority to activate powers, which must be in place before benefit zones for specific services may be established.

City of Ukiah

On December 7, 2020, the Commission approved a consultant selection for the City of Ukiah MSR/SOI Update and directed staff to negotiate and execute agreements with the City of Ukiah for funding and the Planwest Partners Team for preparing the City's MSR/SOI Update. The City has offered to fully fund the Update in order to expedite the process, which would otherwise have required a minimum of two years for LAFCo to fund through its normal budget cycles. An MOU agreement between the City and LAFCo for funding the MSR/SOI Update will need to be developed. City and LAFCo staff are coordinating the next steps for the SOI Update.

Ukiah Valley Sanitation District (UVSD)

The UVSD has provided a response to the Request for Information (RFI) and staff has been collecting available documentation for the MSR/SOI report. The RFP Ad Hoc Committee has postponed selection of

a consultant for this study pending additional feedback from the District on schedule for the Update. Staff has been discussing funding options and timing with UVSD staff. The UVSD Board has provided direction to its staff to work with LAFCo to develop funding terms for consideration by the Board and Commission. District and LAFCo staff are coordinating next steps for the SOI Update.

Staff is researching the original UVSD sphere of influence.

Attachments: August 2, 2021 Letter to Mendocino County Board of Supervisors regarding CSA 3

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August 2, 2021

Honorable Mendocino County Board of Supervisors
501 Low Gap Road, Room 1010
Ukiah, CA 95482

RE: Request to Postpone Agenda Item 6b and Direct Staff to Coordinate with LAFCo

Dear Board of Supervisors,

I am writing to request that you postpone Agenda Item 6b today related to next steps for implementing the County Service Area 3 Benefit Zone Pilot Program for the Sherwood Road Area and direct County staff to allow time to coordinate with LAFCo regarding the current authorized services for County Service Area (CSA) 3.

As background, LAFCo and County staff worked together in 2019 to maintain CSA 3 as an active district after many years of inactivity and LAFCo budgeted funds to prepare a Municipal Service Review (MSR) and Sphere of Influence (SOI) Plan to confirm the powers, or services, and boundary of this dependent district. The MSR/SOI process was waylaid by COVID-19 as County staff were necessarily focused on the critical service of responding to public health needs from the pandemic. LAFCo has again budgeted for the CSA 3 MSR/SOI process this fiscal year and LAFCo staff efforts are currently underway.

While LAFCo does not have authority over the creation of benefit zones within a CSA pursuant to GOV §25217.3, LAFCo does have authority over the powers, or services, of a CSA pursuant to GOV 25213.5(a). Services must be active in order for zones of benefit to be established for those services. Therefore, we respectfully request time to work with your staff to determine whether the services needed to effectuate the purposes of the CSA 3 Benefit Zone Pilot Program for the Sherwood Road Area first require an application to LAFCo for activation of latent powers.

As an observational note, it appears that this item has been agendized under the business of the Board of Supervisors instead of the CSA 3 Board of Directors. The proposed action we believe must be made by the Board, sitting as the Board of CSA 3.

We look forward to working with your staff to address the current authorized services for CSA 3 and finishing the MSR/SOI for this dependent district this fiscal year. Please feel free to contact me for additional information or with any questions.

Sincerely,



Uma Hinman
Executive Officer

Cc: Carmel J. Angelo, Mendocino County CEO
Howard Dashiell, Mendocino County Department of Transportation

**MENDOCINO
Local Agency Formation Commission**

Staff Report

MEETING August 10, 2021
TO Mendocino Local Agency Formation Commission Executive Committee
FROM Uma Hinman, Executive Officer
SUBJECT **Anticipated Expiration of State Executive Order N-29-20**

RECOMMENDATION

Executive Committee will discuss the anticipated expiration of State Executive Order N-29-20.

DISCUSSION

In March 2020, in response to the COVID-19 public health crisis, Governor Newsom issued Executive Order N-29-20, suspending open public meeting requirements under the Brown Act and Bagley-Keene Act thereby allowing state and local public agencies – including Boards of Supervisors, City Councils and Planning Commissions – to meet by teleconference without requiring a physical meeting place for members of the public to convene.

Executive Order N-29-20 was set to expire last month on June 15, 2021. However, in a letter to the Governor, an association of cities and other public agencies expressed concern that returning to conducting public hearings in person would require additional time and revamped logistics to ensure continued public health and safety.

To that end, the Governor’s office announced in a June 2, 2021 [response letter](#) that public agencies would be permitted to continue holding public meetings virtually, with no expiration date set at that time. The Governor’s office also committed to providing advance notice ahead of any termination of Executive Order N-29-20 to give state and local agencies sufficient time to transition and comply with applicable open meeting legal requirements.

On June 11, 2021, the Governor formalized this guidance through issuance of [Executive Order N-08-21](#), extending the public meeting exceptions through September 30, 2021. Until that time, or as otherwise extended, public agencies may continue to convene remotely and, if they do so, must allow members of the public to observe and participate in meetings telephonically or electronically through that date.

Attachments: None