SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION

LAFCo

509 W. WEBER AVENUE SUITE 420 STOCKTON, CA 95203

AGENDA

Thursday, February 13, 2020 9:00 A. M.

BOARD OF SUPERVISORS CHAMBERS
44 NORTH SAN JOAQUIN STREET, 6TH FLOOR
STOCKTON, CALIFORNIA

* * * *

Call to Order
Announce Date and Time of Meeting for the Record
Roll Call
Pledge of Allegiance

CONSENT ITEMS

1. MEETING MINUTES OF DECEMBER 12, 2019
   (Action by All Members)
   Approve Summary Minutes of the regular meeting.

2. OUT-OF-AGENCY SERVICE REQUEST
   Request from the City of Stockton to provide out-of-agency sewer service outside the City boundary under Government Code §56133 to 440 Clayton Avenue and 3221 S. El Dorado Street in Stockton.

PUBLIC HEARING

3. DISSOLUTION OF RECLAMATION DISTRICT 2116 – HOLT STATION (LAFC 33-19)
   (Action by Regular Members)
   Request from Reclamation District 2116 – Holt Station to dissolve.

ACTION ITEMS

4. APPROVAL OF IMPARTIAL ANALYSIS FOR THE TRACY VILLAGE REORGANIZATION TO THE CITY OF TRACY ELECTION (LAFC 24-19)
   (Action by Regular Members)

Commission consideration of the draft impartial analysis that will be on the ballot for the election of Tracy Village Reorganization to the City of Tracy.

5. ELECTION OF CHAIR AND VICE-CHAIR
   (Action by All Members)
   Election of Chair and Vice-Chair to serve during the 2020 calendar year.

6. RECRUITMENT FOR A PUBLIC MEMBER COMMISSIONER
   (Action by All Members)
   Request to the Commission to initiate the recruitment process for a Public Member to serve on the Commission.

SPECIAL MATTERS

7. MID-FISCAL YEAR BUDGET REPORT

8. COMMISSION MEETING CALENDAR FOR 2020

PUBLIC COMMENTS

9. Persons wishing to address the Commission on matters not otherwise on the agenda

CORRESPONDENCE

10. Court Order from Honorable Carter P. Holly, Judge of the Superior Court, Superior Court of California, County of San Joaquin, dated December 13, 2019.

EXECUTIVE OFFICER COMMENTS

11. Comments from the Executive Officer

COMMISSIONER COMMENTS

12. Comments, Reports, or Questions from the LAFCO Commissioners

CLOSED SESSION

13. Open Session Disclosure Regarding Closed Session Items pursuant to Government Code Section 54957.7

14. CLOSED SESSION

    A. Conference with Legal Counsel-Existing Litigation pursuant to Government Code Section 54956.9(a)
    Name of Case: Pacific Gas and Electric v. San Joaquin LAFCo and South San Joaquin Irrigation District (San Joaquin County Superior Court Case No. 39-2015-00321743-CU-JR-STK)

B. Conference with Legal Counsel-Existing Litigation pursuant to Government Code Section 54956.9(a)
Name of Case: Tracy Rural County Fire Protection District with the City of Tracy as named Real Party of Interest v. San Joaquin LAFCo (San Joaquin County Superior Court Case No. 2019-9687)

15. Open Session Report on Closed Session pursuant to Government Code Section 54957.1

ADJOURNMENT

SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION

LAFCo

509 W. WEBER AVENUE SUITE 420 STOCKTON, CA 95203

Agenda Item No. 1

SUMMARY MINUTES
December 12, 2019

BOARD OF SUPERVISORS CHAMBERS
44 NORTH SAN JOAQUIN STREET, 6TH FLOOR
STOCKTON, CALIFORNIA

Chairman Peter Johnson called the meeting to order at 9:04 a.m.

MEMBERS PRESENT:	Commissioners Andrade, Johnson, Krumeich, Patti, and Villapudua. Commissioner Andrade arrived at 9:06 a.m.
MEMBERS ABSENT:	None
ALTERNATE MEMBERS PRESENT:	Commissioners Bretenbucher and Winn
ALTERNATE MEMBERS ABSENT:	Commissioner Morowit
OTHERS PRESENT:	James Glaser, Executive Officer; Rod Attebery, Legal Counsel; and Mitzi Stites, Commission Clerk

CONSENT ITEMS

A motion was made by Commissioner Villapudua and seconded by Commissioner Krumeich to approve the Consent Calendar.

The motion for approval of the Summary Minutes of October 10, 2019 meeting was passed by a unanimous vote of the Commission.

The motion for approval for the out-of-agency service requests to properties located at 2375 E. Willow Street, 5210 Hobart Avenue, 3604 Utah Avenue, 4325 E. Washington Street, 509 S. Anteros Avenue, 146 Del Mar Avenue, and 1225 College Avenue, Stockton, was passed by a unanimous vote of the regular voting members of the Commission.

The motion for approval for the out-of-agency service request to the property located at Henderson School, 13451 North Extension Road, Lodi, was passed by a unanimous vote of the regular voting members of the Commission.

ACTION ITEMS

4. RESOLUTION ORDERING THE TRACY VILLAGE REORGANIZATION TO THE CITY OF TRACY SUBJECT TO CONFIRMATION BY THE REGISTERED VOTERS (LAFC 24-19)
(Action by Regular Members)

Mr. James Glaser, Executive Officer, gave a PowerPoint presentation on the results of the Protest Hearing held on November 14, 2019. He stated that the area did not have 100% consent from the landowners for the reorganization and there were more than 12 registered voters. This situation requires a Protest Hearing. There are 44 landowners and 61 registered voters. LAFCo received 32 written protests from registered voters and one from a landowner, with four written protests determined to be invalid. The final count of written protests was 47.5%. If more than 50% of the voters residing in the territory provide written protests, the project would be terminated. If less than 50% but more than 25% of the voters provided written protests, the annexation is subject to an election.

The Commission must direct the Executive Officer to inform the Board of Supervisors, that the Tracy Village annexation is subject to confirmation of the registered voters and request that the Board direct its election official to conduct the necessary election. LAFCo will be responsible to approve a 500-word impartial analysis to be used in the election process.

Staff recommended that the Commission approved Resolution No. 1420 ordering the Tracy Village Reorganization to the City of Tracy subject to an election.

Chairman Johnson opened the floor to Commissioner Comments.

Commissioner Krumeich inquired why the four written protests were invalid.

Mr. Glaser, Executive Officer, stated that two of the written protests were voters that registered after the application was accepted as complete. The last two invalid written protests were from registered voters that own property in the affected area but reside outside the area. Mr. Glaser also stated that within C-K-H policies, once an election process is started it must finished. An applicant cannot withdraw the project and re-apply in whole or in part until the election process has been completed.

Commissioner Patti inquired if this election will be a citywide election or separate from the other ballot issues.

Mr. James Glaser, Executive Officer, stated that this election only involves the area affected by the annexation. Ballots will be mailed to the register voters within the area.

Commissioner Patti stated that once this goes to the election process LAFCo is not the governing body. However, should LAFCo reach out to the community to address any concerns that they may have on this annexation?

Executive Officer, James Glaser, stated that LAFCo needs to be impartial regarding all aspects of this annexation going forward. Staff is always available to answer any

questions that the community may have. At the Protest Hearing, there were representatives from the City of Tracy, the community, and the developer. During discussion, community members expressed concerns regarding this project.

Commissioner Patti stated that in past meetings there have been discussions regarding cities annexing islands.

Executive Officer, Mr. Glaser, stated during preparation of the unincorporated islands report, LAFCo reached out to the cities for their comments. There was not overwhelming support for the annexation of unincorporated islands without financial assistance to bring these areas up to city standards.

Commissioner Winn stated he understands LAFCo's role in this annexation is complete. If there were to be a community meeting, the City of Tracy and the developer are capable to have an informational meeting on this annexation. Commissioner Winn inquired about the hook up cost for sewer and water service.

Executive Officer, Mr. Glaser, stated that the costs varies depending on the date the permit is issued but an average cost is estimated to be between $7,000 - $9,000 each for sewer and water service, or approximately $16,000 per residence.

Commissioner Winn stated that the lack of low-income housing is an issue in San Joaquin County. Low-income housing is needed but no one wants it next to them and trying to find a middle ground is difficult.

Rod Attebery, Legal Counsel, stated that LAFCo has provided information to the developer and City, including options to address community concerns. LAFCo will continue to provide any information they made need.

Commissioner Winn stated that LAFCo has no control on the outcome of this election process. There is nothing more to be done by LAFCo. The City of Tracy and the developer can answer questions. LAFCo should not go out to the community on this project.

Executive Officer, Mr. James Glaser, stated that during the Protest Hearing on November 14, 2019 extensive time was spent discussing the concerns of the community. Staff attempted to facilitate a dialog to reach an agreement on key concerns, unique to this project, but the issues were not resolved.

Chairman Johnson stated that this is not a procedural issue, therefore, not a LAFCo issue. The concerns that the community have regarding this annexation is how this annexation will affect them directly. This is an issue between the developer, City of Tracy and the residents.

Commissioner Krumeich congratulated the residents for showing up and voicing their concerns regarding this project.

Chairman Johnson opened the floor to Public Comments.

Jeff Schroeder, Ponderosa Homes, thanked the staff for working with him on this project. His firm heard the concerns from the neighbors and are addressing them.

Chairman Johnson closed Public Comments.

Commissioner Patti inquired about the time line to get this in front of the Board of Supervisors.

Mr. Glaser, Executive Officer, stated that the next step is for LAFCo to request the County Administrator to put the matter on the agenda for Board of Supervisors.

Chairman Johnson inquired that if LAFCo approved this resolution and the Board of Supervisors approve to move forward, how soon can LAFCo start to work the 500-word impartial analysis.

Mr. Glaser, Executive Officer, stated that he will start to work on the impartial analysis but will wait to finish it in hopes of receiving any additional information from the developer and the City of Tracy to see if they were able to work out some of the concerns from the residents.

A motion was made by Commissioner Villapudua and seconded by Commissioner Andrade to approve Resolution No. 1420, ordering the Tracy Village Reorganization to the City of Tract subject to Confirmation by the Registered Voters.

Roll Call Vote:
Ayes: Commissioners Andrade, Patti, Villapudua, Krumeich, and Chairman Johnson
Nos: None
Absent: None

PUBLIC COMMENTS

5. Persons wishing to address the Commission on matters not otherwise on the agenda.

Bob Bentz addressed the Commission.

CORRESPONDENCE

6. Written communication received from David P. Hale, General Counsel, San Joaquin County Fire Authority, dated October 10, 2019.

EXECUTIVE OFFICER COMMENTS

7. Comments from the Executive Officer

James Glaser, Executive Officer, informed the Commission that there will be no January meeting. There are currently two applications that are being reviewed: the consolidation of Bryon Bethany Irrigation District (B.B.I.D) and The West Side Irrigation District (T.W.S.I.D.) and the dissolution of Holt Reclamation District. Staff is in communication with the City of Tracy regarding the Alvarez and the Avenues annexations to the City of

Tracy. Staff will bring the matter of the recruitment for Public Member to the Commission in February.

COMMISSIONER COMMENTS

8. Comments, Reports, or Questions from the LAFCO Commissioners

Commissioner Winn made a comment on the correspondence letter regarding the county not having fire service. There are 12 fire districts in his district alone. There is fire service in the county.

Chairman Johnson commented that CALAFCo Conference was a great opportunity to learn that what we do does matter and to get more education on LAFCo. Thank you to everyone who attended.

CLOSED SESSION

9. Open Session Disclosure Regarding Closed Session Items pursuant to Government Code Section 54957.7

10. CLOSED SESSION

    A. Conference with Legal Counsel-Existing Litigation pursuant to Government Code Section 54956.9(a)
    Name of Case: Pacific Gas and Electric v. San Joaquin LAFCo and South San Joaquin Irrigation District (San Joaquin County Superior Court Case No. 39-2015-00321743-CU-JR-STK)

    B. Conference with Legal Counsel-Existing Litigation pursuant to Government Code Section 54956.9(a)
    Name of Case: Tracy Rural County Fire Protection District v. San Joaquin LAFCo, City of Tracy Real Party in Interest. (San Joaquin County Superior Court Case No. 2019-9687)

11. Open Session Report on Closed Session pursuant to Government Code Section 54957.1

There was no Closed Session. Rod Attebery, Legal Counsel, reported public information regarding Tracy Rural County Fire Protection District v San Joaquin LAFCo. The Court ruled in favor of LAFCo for the temporary restraining order but the ruling hasn't come back regarding the preliminary injunction as of yet. Staff is working on the administrative record and once that is completed and submitted, a briefing schedule will be set. The Commission will be informed as the case progresses.

The meeting adjourned at 9:55 a.m.

SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION

AGENDA ITEM NO. 2

LAFCo

509 W. WEBER AVENUE SUITE 420 STOCKTON, CA 95203

EXECUTIVE OFFICER'S REPORT

February 13, 2020

TO: LAFCo Commissioners

FROM: James E. Glaser, Executive Officer

SUBJECT: **CITY OF STOCKTON OUT-OF-AGENCY SERVICE REQUESTS**

Recommendation

It is recommended that the Commission approve the requests from the City of Stockton to provide out-of-agency sewer service under the Government Code §56133 to properties located at 440 Clayton Avenue and 3221 S. El Dorado Street, Stockton.

Background

Government Code Section §56133 states that the Commission may authorize a city or special district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization and that prior to providing new or extended service, the city or district must first receive approval from LAFCo. The Commission adopted a policy that conditions their approval for out-of-agency service requiring the recordation of an agreement with the landowner consenting to annexation of their property when annexation becomes feasible.

The City of Stockton submitted requests for approval to extend sanitary sewer services to single family residences outside the city limits but within the City's sphere of influence. A vicinity map is attached showing the locations of each out-of-agency request. Connections to City sewer lines are available to the properties and the property owners have paid the appropriate connection fees to the City. The requests for out-of-agency service are in compliance with the Government Code §56133 and Commission policies. Staff recommends approval of the attached Resolution 1421 approving out-of-agency services.

Attachment: Resolution No. 1421
Vicinity Map

Resolution No. 1421

BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION APPROVING AN OUT-OF-AGENCY SANITARY SEWER SERVICE FROM THE CITY OF STOCKTON TO 440 CLAYTON AVENUE AND 3221 S. EL DORADO STREET, STOCKTON.

WHEREAS, the above-reference requests have been filed with the Executive Officer of the San Joaquin Local Agency Formation Commission pursuant to §56133 of the California Government Code.

NOW THEREFORE, the San Joaquin Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. Said out-of-agency service request is hereby approved.

Section 2. The proposal is found to be Categorically Exempt from CEQA.

Section 3. The proposal is subject to the following conditions:

a. Prior to connection to the city sewer or water, the City of Stockton shall record a covenant and agreement with the property owners to annex to the City of Stockton in a form acceptable to the Executive Officer.

b. This approval and conditions apply to current and future property owners.

PASSED AND ADOPTED this 13th day of February, by the following roll call votes:

AYES:

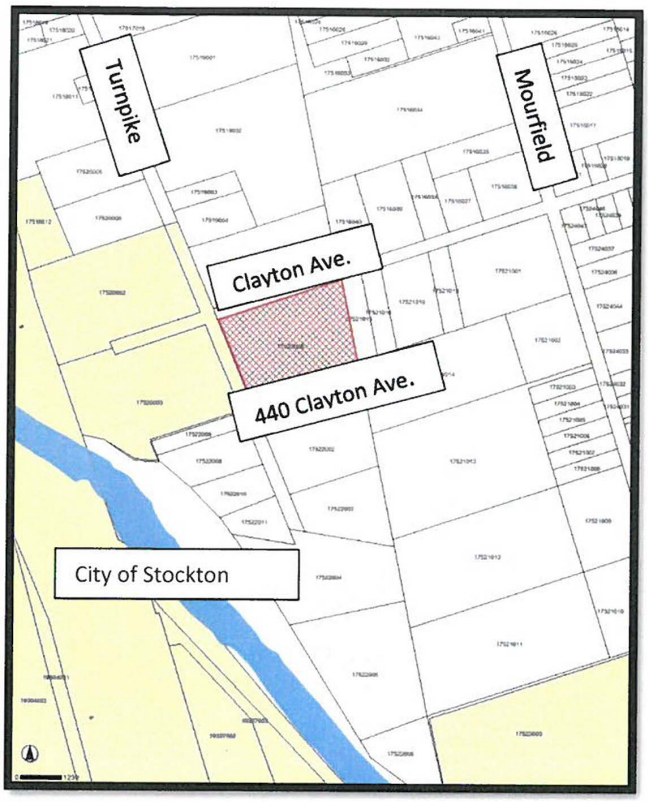
NOES:

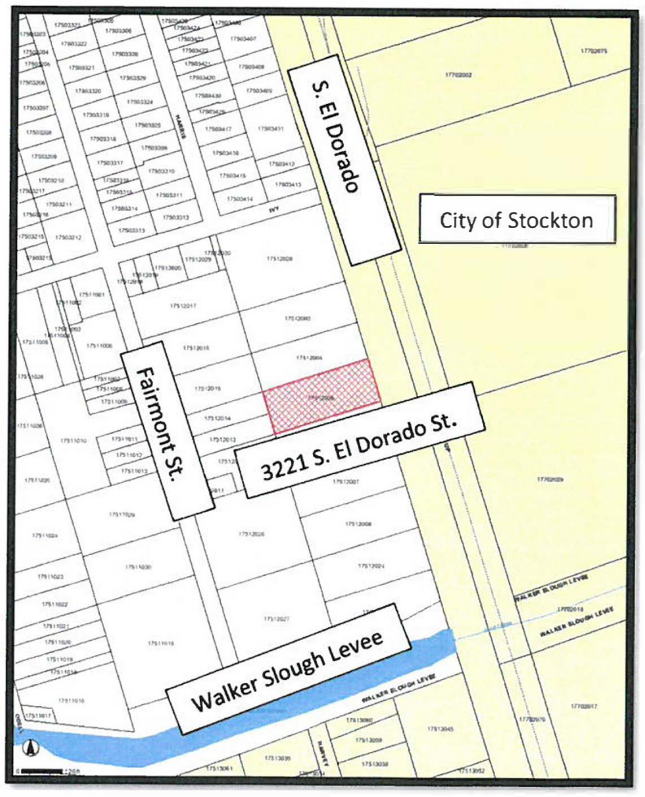
ABSENT:

_____

Peter M. Johnson, Chairman
San Joaquin Local Agency
Formation Commission

Res. No. 1421
02-13-20


Turnpike
Mourfield
Clayton Ave.
440 Clayton Ave.
City of Stockton


S. El Dorado
City of Stockton
Fairmont St.
3221 S. El Dorado St.
Walker Slough Levee

SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION
LAFCo
509 West Weber Avenue Suite 420 STOCKTON, CA 95203

AGENDA ITEM NO. 3

EXECUTIVE OFFICER'S REPORT

PROJECT:	**DISSOLUTION OF RECLAMATION DISTRICT 2116-HOLT STATION (LAFC 33-19)**
APPLICANT:	RD 2116 (Exhibit A-Justification of Proposal)
LOCATION:	Highway 4 and Holt Road, west of Stockton (Exhibit B-Vicinity Map)
PURPOSE:	Dissolution of an inactive district

RECOMMENDATION

It is recommended that the Commission approve Resolution No. 1422 approving the Dissolution of Reclamation District 2116-Holt Station (RD 2116).

BACKGROUND

RD 2116 was formed in April, 1983 for the purpose of improving and maintaining a levee system to protect the adjacent land from flooding and to improve and maintain a drainage and irrigation system for that land. The reclamation district consists of four parcels of about 35 acres. There are two owners of land owning the four parcels.

Sometime in the 1990's the land within the district was filled in with soil and other materials to the top of the levees which in effect merged the levees into the land thereby eliminating the levees and creating a large un-leveed land mass. On September 8, 2019 the Trustees and Landowners passed a Resolution stating that with the elimination of the levees there was no longer a need to improve or maintain a levee system or a need to improve or maintain the drainage and irrigation systems, therefore, the District should be formally dissolved (Exhibit C).

On December 3, 2019 the Board of Trustees adopted a Resolution (Exhibit D) declaring the following:

(1) The District has had no financial transactions in the current fiscal year or in the previous fiscal year;
(2) The District's only known asset is the thirty-four (34) dollars that is deposited in the District's general fund held with the San Joaquin County Treasurer (Fund No. 54401); and
(3) The District has no known liabilities and no known outstanding debts, judgements, litigation, contracts, liens or claims.

ENVIRONMENTAL

Dissolution of an inactive special district is categorically exempt under CEQA Section 15301 (h) as the action to dissolve will have no significant impact on the environment.

DISCUSSION

Based on the information provided by RD 2116 it appears the District has met the criteria for dissolution (Government Code Section 57102):

- The district's corporate powers have not been used and there is a reasonable probability that those powers will not be used in the future.
- The board of directors of the district has, by unanimous resolution, consented to the dissolution of the district.

In addition, the District Board of Trustees has certified that it has no financial transactions, no assets and liabilities, and no debts, judgements or litigation matters pending. Staff recommends that the reclamation district by dissolved.

Attachments: Resolution No. 1422
Exhibit A: Justification of Proposal
Exhibit B: Vicinity Map
Exhibit C: Resolution of Board of Trustees dated September 8, 2019
Exhibit D: Resolution of Board of Trustees dated December 3, 2019

RESOLUTION NO. 1422

BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION APPROVING THE DISSOLUTION OF RECLAMATION DISTRICT 2116-HOLT STATION (LAFC 33-19)

WHEREAS, the above entitled proposal was initiated by filing by the Board of Trustees of Reclamation District 2116 and on January 6, 2020 the Executive Officer certified the application filed for processing in accordance with the Local Government Reorganization Act; and

WHEREAS, the Commission held a public hearing on the proposed dissolution of Reclamation District 2116 on February 13, 2020 in the Board of Supervisors Chambers, 44 North San Joaquin Street, 6th Floor, Stockton, CA pursuant to notice of hearing which was published and posted in accordance with State law; and

WHEREAS, at said hearing the Commission heard and received evidence, both oral and written regarding the proposal, and all persons present were given an opportunity to be heard; and

NOW THEREFORE, the San Joaquin Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. Reclamation District 2116-Holt Station is inactive as defined by Government Code Section 56042;

Section 2. The corporate powers of the Reclamation District have not been used and there is a reasonable probability that those powers will not be used in the future;

Section 3. The Board of Trustees has, by unanimous resolution, consented to the dissolution of the districts; and

Section 4. Approves the dissolution of Reclamation District 2116 with the map of the boundaries attached hereto as Exhibit A.

PASSED AND ADOPTED this 13th day of February 2020 by the following roll call vote:

AYES:

NOES:

ABSENT:

_____

CHAIRMAN
Local Agency Formation Commission

San Joaquin
Local Agency Formation Commission

509 West Weber Avenue Stockton, CA 95203
209-468-3198 FAX 209-468-3199

JUSTIFICATION OF PROPOSAL

Please complete the following information to process an application under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: (Indicate N/A if Not Applicable)

SHORT TITLE OF THE PROPOSAL: Dissolution of Reclamation District No. 2116 (Holt Station)

TYPE OF PROPOSAL

- ☐ City Incorporation
- ☐ Consolidation
- ☐ Detachment
- ☐ Sphere of Influence Amendment
- ☐ Sphere of Influence Update
- ☐ Addition of Services
- ☐ Reorganization (involving an Annexation and Detachment(s))
- ☐ District Formation
- ☐ Annexation
- ☑ District Dissolution

AGENCY CHANGES RESULTING FROM THIS PROPOSAL

Agency or Agencies gaining territory: N/A

Agency or Agencies losing territory: N/A

NOTIFICATION

Please indicate the names, addresses and telephone numbers of all Applicants, Applicant's Agents, and all affected Agencies who are to receive the hearing notice and the Executive Officer's Report:

Name	Mailing Address	Telephone
Kimberlyn M. Keeney (Landowner & Trustee of RD 2116)	5604 N. Sutherlin St., Spokane, WA 99205	(509) 994-2730
Devon S. DePaoli (Landowner & Trustee of RD 2116)	8356 Terrace Dr., Stockton, CA 95212	(209) 479-9795

(Attach a separate sheet if necessary.)

PROJECT INFORMATION

Please provide project-related information for the following questions:

1. Do the proposed boundaries create an island of non-agency territory? ☐ Yes ☑ No
2. Do the proposed boundaries split lines of assessment or ownership? ☐ Yes ☑ No
3. Does the proposal involve public rights-of-way or easements? ☐ Yes ☑ No
4. Does the proposal involve public land or land assessed by the State? ☐ Yes ☑ No
5. Does any part of the proposal involve land under a Williamson Act Contract or Farmland Security Zone? ☐ Yes ☑ No
6. Does any part of the proposal involve land with a Wildlife/Habitat Easement or Agricultural Land Conservation Easement? ☐ Yes ☑ No
7. List the affected Assessor Parcel Numbers, Owners of record and Parcel Sizes:

APN	Owner	Acreage
See Attachment "A"		

(Attach a separate sheet if necessary)

8. Physical Location of Proposal: See Attachm ert "A"
(Street or Road, distance from and name of Cross Street, quadrant of City)

9. Has an application been filed for an underlying project (such as Development Plan, Conditional Use Permit, or Tentative Subdivision Map)? [ ] Yes ☑ No
If Yes, please attach a Project Site Plan or Tentative Subdivision Map.
If No, please provide an estimate of when development will occur: N/ A

10. List those public services or facilities which will be provided to the affected territory as a result of the proposed action:

N/A

11. Indicate which of these services or facilities will require main line extensions or facility up-grades in order to serve the affected territory:

N/A

12. Provide any other justification that will assist the Commission in reviewing the merits of this request. (Attach a separate sheet if necessary)

See Attachment "B": RD 2116 Resolution re Dissolution of District.

INDEMNIFICATION AGREEMENT

As part of this application, applicant and real property in interest, if different, agreed to defend, indemnify, hold harmless, and release the San Joaquin Local Agency Formation Commission, its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against any of the above, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent passive or active negligence on the part of the San Joaquin Local Agency Formation Commission, its agents, officers, attorneys, or employees.

Executed at Stockton, California, on September 8, 2019.

APPLICANT

Signature: Devon S. DePaoli

Title: Devon S. DePaoli

Trustee of RD 2116 & Landowner

CO-APPLICANT: Executed at Spokane, Washington on September 1, 2019

Signature: Kimberlyn M. Keeney

Title: Kimberlyn M. Keeney

Trustee of RD 2116 & Landowner

SUBMITTALS

In order for this application to be processed, the following information needs to be provided:

1. Two copies of this Justification of Proposal, completed and signed with original signatures;
2. Five prints of a full-scale proposal map showing the affected territory and its relationship to the affected jurisdiction (Refer to Guide for Preparation):
3. Five copies of an 8.5" x 11" or 11" x 17" reduction of the proposal map;
4. Three copies of a metes and bounds description of the affected territory;
5. One certified copy of the City Council and/or Special District Board Resolution of Application, or a petition making application to LAFCo (as appropriate);
6. Written permission from each affected property owner (or signature form);
7. One copy of the project environmental document (One Compact Disc if more than 25 pages);
8. One copy of the project Notice of Determination;
9. Three 8.5" x 11" copies of the Vicinity Map (if not included on the proposal map);
10. One copy of the plan for providing services along with a schematic diagram of water, sewer and storm drainage systems (refer to Government Code Section 56653);
11. One copy of the Pre-Zoning map or description (as required by Section 56375);
12. One copy of the Statement of Open Space (Ag) Land Conversion (refer to Section 56377);
13. One Copy of the Statement of Timely Availability of Water Supplies (refer to Section 56668(k);
14. One copy of the Statement of Fair Share Housing Needs (if residential land uses are included in the proposal) (refer to Section 56668(l));
15. One copy of the project design (site plan, development plan, or subdivision map);
16. One copy of the Residential Entitlement matrix form (if residential land uses are included in the proposal); and
17. Filing and processing fees in accordance with the LAFCo Fee Schedule and the State Board of Equalization Fee Schedule.

Additional information may be required during staff review of the proposal.

CERTIFICATION

The undersigned hereby certifies that all LAFCo filing requirements will be met and that the statements made in this application are complete and accurate to the best of my knowledge.

(Signature)

Date: 9/20/2019

Print or Type Name: Dante J. Nomellini, Jr.

Daytime Telephone: (209) 465-5883

Attorney for RD 2116

Attachment "A"

to Justification of Proposal re Dissolution
of Reclamation District No. 2116 (Holt Station)

1. **Project Information, Question No. 7:** List the affected Assessor Parcel Numbers, Owners of Record and Parcel Sizes":

   APN 131-090-02 (3.50 acres)
   APN 131-090-12 (0.33 acres)
   APN 131-090-14 (2.06 acres)
   APN 131-090-22 (30.74 acres)

   The Owners of Record for all four (4) of the above parcels are the following:

   KIMBERLYN M. KEENEY AND DEVON S. DEPAOLI, AKA DEVON S. OLIVER, CO-TRUSTEES OF AVONNE M. DEPAOLI 2000 REVOCABLE TRUST

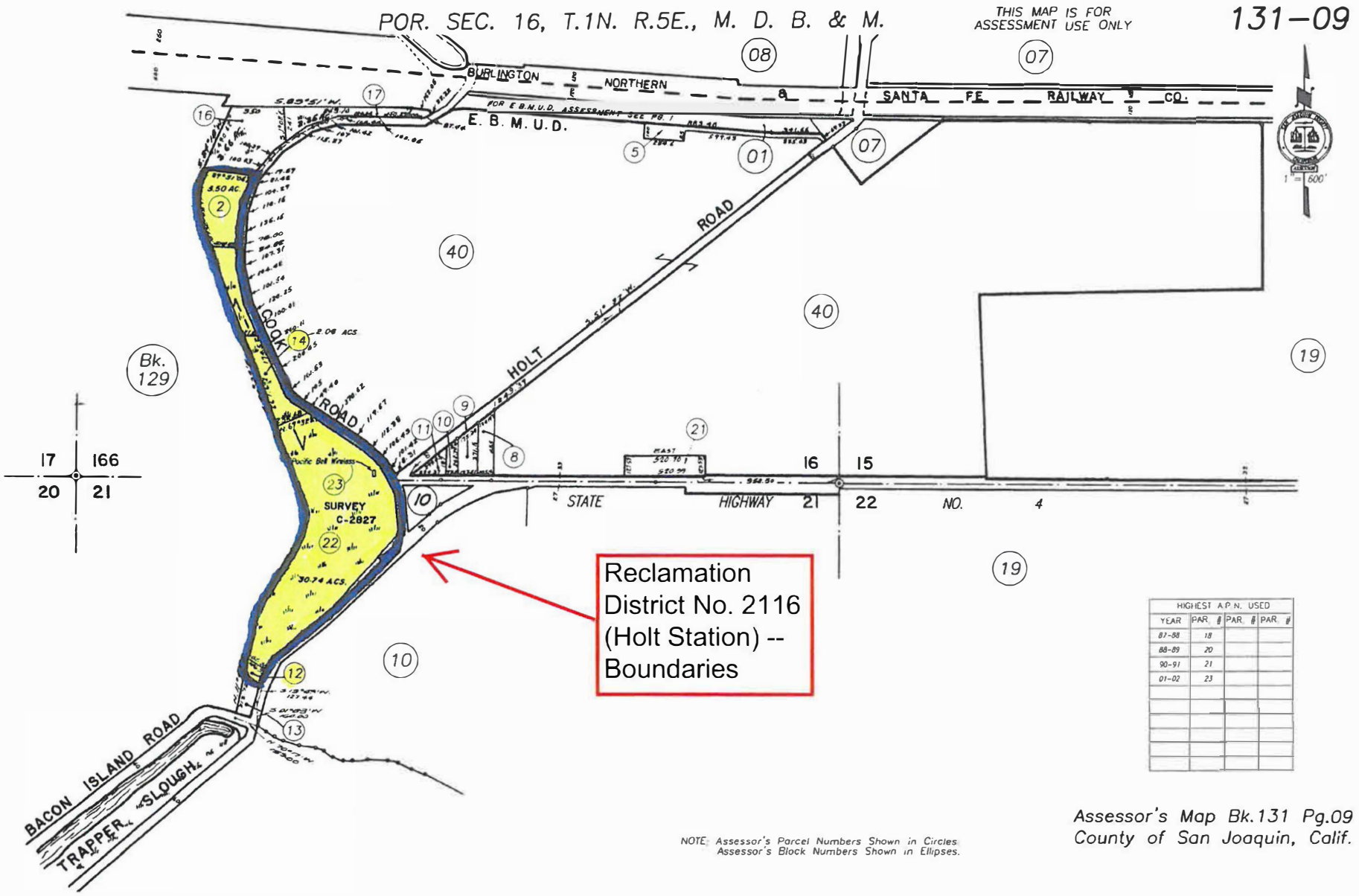
2. **Project Information, Question No. 8:** Physical location of proposal:

   APN 131-090-02: 3991 S. Whiskey Slough Rd., Stockton, CA 95206
   APN 131-090-14: 4301 S. Whiskey Slough Rd., Stockton, CA 95206
   APN 131-090-22: 4401 S. Whiskey Slough Rd., Stockton, CA 95206

   APN 131-090-12: 10121 W. Trapper Rd., Stockton, CA 95206

(End of Attachment "A")

Attachment "D"
to Justification of Proposal re Dissolution of
Reclamation District No. 2116 (Holt Station)



ATTACHMENT B

Attachment
to Justification of Proposal re Dissolution of Reclamation District No. 2116 (Holt Station)

RESOLUTION OF THE BOARD OF TRUSTEES OF RECLAMATION DISTRICT NO. 2116 (HOLT STATION)

Dissolution of the District

WHEREAS, Reclamation District No. 2116 (District) was formed on April 19, 1983 pursuant to San Joaquin County Board of Supervisors' Resolution No. R-83-690 for the purpose of improving and maintaining a levee system to protect the land within the District from flooding, and to improve and maintain drainage and irrigation systems for that land;

WHEREAS, said the levee system was thereafter improved and maintained;

WHEREAS, by the end of the 1990's or thereabouts the land within the District was filled in with soil and other material to the top of the levees thereby, in effect, merging such levees into the land itself thereby eliminating the levees and creating a large un-leveed land mass;

WHEREAS, as a result of said filling in of the land, there was no longer a need to improve or maintain a levee system to protect the land within the District from flooding, and no longer a need to improve or maintain drainage and irrigation systems for that land; and

WHEREAS, despite the lack of a need to provide the services for which the District was formed, and despite the lack of performing any flood control, drainage or irrigation service for many years, the District nevertheless remained in existence;

NOW THEREFORE, BE IT RESOLVED that the District hereby finds that in light of the filling in of the lands within the District there is no longer a need for the District to perform the services for which the District was formed and, hence, no longer a need for the District to exist; therefore, the District hereby determines that the District should be formally dissolved and that the District's attorneys are hereby authorized and directed to file and process an application with the San Joaquin County LAFCO to formally dissolve the District.

Dated: 9/8/19.

Kimberlyn M. Keeney
RD 2116 Trustee & Landowner

Devon S. DePaoli
RD 2116 Trustee & Landowner

RESOLUTION OF THE BOARD OF TRUSTEES OF RECLAMATION DISTRICT NO. 2116 (HOLT STATION)

Assets, Liabilities, Etc.

WHEREAS, Reclamation District No. 2116 (District) and the sole landowner within the District submitted a joint "Justification of Proposal" to San Joaquin County LAFCO on September 20, 2019 requesting the dissolution of the District; and

WHEREAS, the District hereby makes the following resolution and declarations in support of that dissolution:

NOW THEREFORE, BE IT RESOLVED that the District hereby declares the following:

(1) The District has had no financial transactions in the current fiscal year or in the previous fiscal year;

(2) The District's only known asset is the thirty-four (34) dollars that is deposited in the District's general fund held with the San Joaquin County Treasurer (Fund No. 54401); and

(3) The District has no known liabilities and no known outstanding debts, judgments, litigation, contracts, liens or claims.

Dated: 12/3/19

Kimberlyn M. Keeney
Kimberlyn M. Keeney
RD 2116 Trustee

Devon S. DePaoli
Devon S. DePaoli
RD 2116 Trustee

SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION

LAFCo

509 West Weber Avenue Suite 420 STOCKTON, CA 95203

AGENDA ITEM NO. 4

EXECUTIVE OFFICER'S REPORT

February 13, 2020

TO: LAFCo Commissioners

FROM: James E. Glaser, Executive Officer

SUBJECT: Impartial Analysis for Election
Tracy Village Reorganization to the City of Tracy (LAFC 24-19)

Recommendation

It is recommended that the Commission either approve or modify the impartial analysis of the proposed Tracy Village Reorganization to the City of Tracy prepared by the Executive Officer.

Background

As directed by the Commission at its meeting of December 12, 2019, the Executive Officer informed the San Joaquin County Board of Supervisors of the order of annexation subject to the confirmation by the registered voters and requested the Board of Supervisors to direct the elections official to conduct the necessary election as required by Government Code Section 57000 (d). Section 57144 of the Government Code requires the Executive Officer to submit to the commission, for its approval or modification, a maximum 500-word impartial analysis of the proposed change of organization (annexation). The election official will conduct an election of the registered voters (approximately 64) by mailed ballot at the expense of the City of Tracy.

Among the concerns raised by the residents regarding the Tracy Village annexation to the City was the cost to connect to the City's infrastructure for water and sewer. The applicant, Ponderosa Homes worked with the City to resolve the resident's concerns regarding this issue and has prepaid, in full, water and wastewater connection fees for the 37 properties that are occupied by the residents on Valpico and Corral Hollow Roads. This information has been included in the attached impartial analysis.

Attached is a motion for Commission's consideration.

Attachment: Motion
Impartial Analysis for Election-Tracy Village Reorganization to the City of Tracy (LAFC 24-19)
Letter from City of Tracy
Letter from Green Escrow Services

Motion

Moved by Commissioner _____, seconded by Commissioner _____ that the Commission approve the impartial analysis for the election of Tracy Village Reorganization to the City of Tracy (LAFC 24-19)

AYES:

NOES:

ABSENT:

Impartial Analysis

Tracy Village Reorganization to the City of Tracy (LAFC 24-19)

San Joaquin Local Agency Formation Commission (LAFCo) has ordered the Tracy Village Reorganization to the City of Tracy subject to confirmation by the registered voters. The proposal involves the annexation of 180 acres to the City of Tracy with concurrent detachment from the Tracy Rural Fire District and the San Joaquin County Resource Conservation District. The purpose of the annexation is to provide municipal services to a gated-and age-restricted subdivision consisting of 590 single-family homes on 135.2 acres. The general description of the boundaries of the territory includes vacant land (135.2 acres) and 42-lots of mostly rural residential homes along the north side of Valpico Road and the east side of Corral Hollow Road.

Essential governmental services which are provided to the subject area at the present time, and which will be provided after annexation, are indicated in the following chart:

SERVICE	CURRENT PROVIDER	AFTER ANNEXATION
Law Enforcement	County Sheriff's Office	City
Fire Protection	Tracy Rural Fire District	City
Water	None	City
Sewer	None	City
Drainage	None	City
Schools	Tracy Joint Unified School District Jefferson Elementary School District	Tracy Joint Unified School District Jefferson Elementary School District
Planning	County	City

There will be no increase in property tax nor method of assessment due to annexation. The tax that is collected will be distributed differently. An assessment presently levied by Tracy Rural Fire District ($0.03 per square foot for improvements) would be eliminated since the area would no longer be in the District.

Improvements which were lawfully constructed and uses allowed by the County may be continued after annexation under a provision commonly referred to as a non-conforming status. The non-conforming

status allows uses and standards to be continued and the status may be transferred to subsequent owners.

New private water wells and septic systems are not allowed on individual lots in the City. If an existing well or septic system fails, the property owner must connect to the City's infrastructure. The City of Tracy charges a development impact fee for connections to water and sewer. In this case, the developer (Ponderosa Homes) has prepaid these fees to the City of Tracy for the thirty- seven (37) properties, which are presently occupied by residences along Valpcio and Corral Hollow Roads applicable upon annexation. The City of Tracy has officially recognized that the fees paid by Ponderosa Homes constitutes full and complete payment of fees. In addition, Ponderosa Homes has opened an escrow account with Green Escrow Services, San Ramon Ca., to disburse $5000.00 per property owner for the thirty-seven (37) properties upon presentation of a copy of an encroachment permit for costs associated with the physical connection of sewer and water services. The escrow account is valid for a 10-year period following the opening of the account.

A count of the ballots returned will determine if the annexation is approved. An affirmative vote (yes) would support the annexation.

The above statement is an impartial analysis of Tracy Village Reorganization to the City of Tracy (LAFC 24-29). If you desire a copy of the election question, please call the election office at (209) 468-2890 and a copy will be mailed to you at no cost.

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

CITY MANAGER'S OFFICE

MAIN 209.831.6000
FAX 209.831.6120
www.cityoftracy.org

February 3, 2020

Jim Glaser, Executive Officer
Local Agency Formation Commission (LAFCo)
509 W. Weber Avenue, Suite 420
Stockton, CA 95203

Dear Mr. Glaser,

The City of Tracy has accepted from the Tracy Village developer, Ponderosa Homes, funds totaling $822,009.00 for the prepayment in full of water and wastewater connection fees for the 37 properties that are occupied by residents on Valpico and Corral Hollow Roads, which are subject to the pending annexation application (LAFC 24-19). These funds will be held as a deposit with the City for the benefit of the subject parcels if and when the owners ever choose to connect to these City services. Once the property is annexed to the City, these funds will serve as a full credit for water and wastewater fees for each property owner.

Should the protest vote not be approved and the annexation is denied, these funds will be returned to Ponderosa Homes. Please let me know if you have any questions regarding this information. We request that this process be expedited and completed as quickly as possible.

Sincerely,

Jennifer D. Haruyama
City Manager

Green Escrow Services, Inc.

2010 Crow Canyon Place, Suite 212 San Ramon, CA 94583
Phone: (925) 523-3232 Fax: (925) 397-3114

January 29, 2020

San Joaquin County LAFCO
509 W. Weber Avenue Ste 420
Stockton, CA 945203

Attn: Jim Glaser

RE: Escrow No. 20916-KL
Ponderosa Homes II, Inc
Tracy Project

Dear Mr. Glaser:

With regards to the above reference, we are enclosing a copy of the receipt for the funds that have been deposited along with a copy of the escrow instructions with Exhibit "A". The escrow account will be governed by the escrow instructions.

Should you have any questions, please don't hesitate to contact us.

Very truly yours,

Kathy Lozano, CSEO, CEI
Certified Senior Escrow Officer

kl

Enclosures

Green Escrow Services, Inc.
2010 Crow Canyon Place, Ste 212
San Ramon, CA 94583
(925) 523-3232 fax (925) 397-3114

Date: January 28, 2020
Escrow No. 020916-KL
RE: Ponderosa Homeward Partners – Tracy Project

HOLDING ESCROW INSTRUCTIONS

Green Escrow Services, Inc is licensed by the State of California under the Department Of Business Oversight License No. 963-5090

Escrow Holder is hereby instructed to deposit the sum of Two Hundred Thousand Dollars ($200,000.00) into a holding account for the benefit of the undersigned parties.

The fee shall be $5,025.00 for this holding account payable at the time of opening the escrow holding account. The base fee is $950.00. A per disbursement charge of $25.00 will be due and payable for any disbursements over five (5). Said fee for an additional 37 disbursements has already been collected in the initial fee. An annual fee of $350.00 will be due and payable on the anniversary date of the deposit. Said funds are already included in the initial fee being collected.

Said funds are to be held and disbursed as follows:

The deposited Sum of Two Hundred Thousand Dollars ($200,000.00) is deposited for disposition in one-time increments of Five Thousand Dollars ($5,000.00) to each of the record owners (each, an "Owner", together, the "Owners") of the thirty-seven (37) properties which are occupied by residences (each, a "Property", together, the "Properties") identified on Exhibit A attached hereto. For purposes of clarity, the Owner of any Property at the time of disbursement from the account is deemed to include all record Owners at the time of disbursement. For example, if 3 parties own a Property at the time of disbursement, such parties shall collectively be entitled to a $5,000 distribution. Once a disbursement has been made to an Owner of a Property, neither that Owner or a subsequent Owner of that Property shall be entitled to a further disbursement (e.g., each Property shall be entitled to only one disbursement of $5,000 from the account).

The conditions for a disbursement shall be as follows:

1. The Properties will be the subject of a public election to annex the Properties and other unincorporated areas into the City of Tracy. If the results of the election are negative such that the Properties are not annexed into the City of Tracy, Ponderosa Homewood Partners ("Ponderosa") shall be entitled to a return of the entire Two Hundred Thousand Dollars ($200,000.00) upon delivery by Ponderosa of (a) evidence indicating the negative vote and (b) a written and

notarized statement signed on behalf of Ponderosa addressed to Escrow Holder and the Owners confirming that the result of the election was negative and that Ponderosa is entitled to the return of the entire Two Hundred Thousand Dollars ($200,000.00) held by Escrow Holder.

2. An Owner shall be entitled to a one-time disbursement of Five Thousand Dollars ($5,000.00) upon presentation to Escrow Holder and Ponderosa of (a) a copy of an encroachment permit to connect the water and sewer service serving the Property to the City of Tracy's facilities, and (b) a written and notarized statement by such Owner addressed to Escrow Holder and Ponderosa, signed by the Owner of the Property confirming that Owner is the owner of the Property and that it is entitled to the Five Thousand Dollar ($5,000.00) disbursement under these escrow instructions.

3. Any funds remaining in the escrow account on the tenth (10^{th}) anniversary of the opening of the escrow account shall be returned to Ponderosa upon Ponderosa's delivery to Escrow Holder and the Owner of any Property that has not received a disbursement pursuant to item 2., above, indicating that the ten (10)-year term of these escrow instructions has expired.

Escrow Holder shall comply with any request for a distribution as provided in items 1-3, above, unless the party not receiving the requested disbursement delivers to Escrow Holder an objection to such distribution.

Disputes:

No notice, demand or change of instruction shall be of any effect in this escrow unless given in writing by all parties affected thereby. In the event a demand for funds and/or documents deposited with Escrow Holder in connection with this escrow is made and which is not concurred in by all parties hereto, Escrow Holder, not withstanding which party made such demand, may elect to do any of the following:

(i) Take no further action in connection with this escrow and continue to hold such funds and/or documents until receipt of mutual concurring instructions from all parties to this escrow as to the disposition of such funds and/or documents;

(ii) Commence an action in interpleader and obtain an order from the court allowing Escrow Holder to deposit such funds and/or documents with the court, in which case Escrow Holder shall have no further liability or obligation with respect to this escrow; or

(iii) In the event that any party commences an action against any other party with respect to this escrow, deposit such funds and/or documents with the court, in which case Escrow Holder shall have no further liability or obligations with respect to this escrow.

In the event Escrow Holder interpleads any funds and/or documents with any court pursuant to either subparagraphs (ii) or (iii) above, Escrow Holder shall be entitled to reimbursement of its reasonable attorney's fees and expenses of litigation in connection with such action.

FAXED INSTRUCTIONS:

In the event the undersigned utilize "facsimile" transmitted signed documents, the undersigned hereby agree to accept and instruct the Escrow Holder to rely upon such

documents as if they bore original signatures. The undersigned hereby acknowledge and agree to provide to Escrow Holder, within 72 hours of transmission, such documents bearing the original signatures. The undersigned further acknowledge and agree that documents necessary for recording with non-original (facsimile) signatures will not be accepted for recording by the County Recorder, thus delaying the close of escrow.

Deposit of funds:

(i) All funds received in this escrow will be deposited with other escrow funds in one or more non-interest-bearing escrow accounts of Escrow Holder in a financial institution selected by Escrow Holder. Escrow Holder shall not be responsible and shall have no liability for any delay in closing this escrow if the funds deposited in this escrow are not available for immediate withdrawal as a matter of right following deposit in such financial institution.

(ii) You have the opportunity to earn interest on the funds you deposit with us through a deposit account arrangement that Escrow Holder has established with one of its financial institutions. The interest rate for these accounts varies between financial institutions, fluctuates periodically based on market conditions and other factors, and may change prior to or during the time your funds are on deposit. You will not have an opportunity to earn interest on any funds deposited by a lender.

(iii) If you elect to earn interest through this special account arrangement, Escrow Holder will prepare additional instructions and charge you an additional fee of $50.00 for the establishment and maintenance of the account. This fee compensates Escrow Holder for the costs associated with opening and managing the interest-bearing account, preparing correspondence/documentation, transferring funds, maintaining appropriate records for audit/reconciliation purposes and filing any required tax withholding statements. It is important that you consider this costs in your decision since the costs may exceed the interest you earn. If you are interested in having your funds deposited in an interest-bearing account, please contact your escrow officer.

(iv) If you do not elect to have your funds deposited in an interest-bearing account, your funds (together with any funds deposited by a lender) will be held in Escrow Holder's general escrow trust account. The general escrow trust account is restricted and protected against claims by third parties or creditors of Escrow Holder. Escrow Holder may receive certain direct and indirect financial benefits from the financial institution as a result of maintaining the general escrow trust account. These benefits may include, without limitation, credits allowed by such financial institution on loans to Escrow Holder and earnings on investments made with the proceeds of such loans, as well as accounting, reporting and other services and products of such financial institution. Escrow Holder shall have no obligation to account to the parties to this escrow in any manner for the value of, or to pay to any party, any benefit received by Escrow Holder. Any such benefits shall be deemed additional compensation of Escrow Holder for its services in connection with this escrow. Some or all of these benefits may be deemed interest due you under California Insurance Code Section 12413.5. As indicated above, you may elect to have your funds placed in a separate, interest bearing account and receive the benefits therefrom, but you will be required to pay Escrow Holder an additional fee for this service. Alternatively, you may leave your funds in the general escrow trust account and thereby authorize Escrow Holder to keep the benefits it receives from the financial institution. In either

event, you understand and agree that Escrow Holder may receive and retain for their sole benefit any and all benefits derived from the general escrow trust account prior to the deposit of your funds in an interest-bearing account and following the withdrawal of your funds from such interest-bearing account (normally two business days prior to the close of escrow).

(v) All parties depositing funds in connection with this escrow are hereby notified that the funds so deposited are insured only to the limit provided by the Federal Deposit Insurance Corporation.

(vi) Funds deposited by a lender are ordinarily deposited to escrow one or two days prior to closing. You should be aware that your lender may begin charging interest on your loan from the date loan funds are deposited into Escrow Holder's escrow trust account.

GOOD FUNDS LAW – CALIFORNIA INSURANCE CODE 12413.1

All parties are aware and understand that California Insurance Code 12413.1 mandates that funds deposited into an escrow must be collected and available for withdrawal PRIOR TO DISBURSEMENT. The determination of the availability of funds is set forth as follows:

(i) CASH AND ELECTRONIC TRANSFERS ("wired funds") are available for SAME DAY disbursement.

(ii) CASHIER'S CHECKS AND CERTIFIED CHECKS are available for disbursement THE NEXT BUSINESS DAY. In order to comply with the Good Funds Law and avoid unnecessary delays of two to seven days, or more, please use wire transfers or California cashier's check whenever possible.

PONDEROSA HOMEWOOD
PARTNERS,
a general partnership

By: PONDEROSA HOMES II, INC,
a California corporation
Its: Managing General Partner

By: _____
Name: Jeffrey C. Schroeder
Its: Senior Vice President

Address: 5020 Franklin Drive, Suite 200
Pleasanton, CA 94588
Phone No. 925-460-8900
Email address: jschroeder@ponderosahomes.com

Exhibit "A"

Parcel Number **Property Address** **Parcel Acreage per Assessor's Parcel**	**Property Owner**	**Mailing Addresses**
Assessor's Parcel Number 244-030-21 27784 S Corral Hollow Rd, Tracy, CA, 95377 1.828 acres	Cox Joseph	27784 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-20 27766 S Corral Hollow Rd, Tracy, CA, 95377 1.481 acres	Aziz Farzad	27766 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-19 27680 S Corral Hollow Rd, Tracy, CA, 95377 1.339 acres	3T Properties & Investment	1137 Roosevelt Ave, Tracy, CA, 95376
Assessor's Parcel Number 244-030-18 27600 S Corral Hollow Rd, Tracy, CA, 95377 1.339 acres	Mark & Deborah L Tr Weberski	27600 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-17 27550 S Corral Hollow Rd, Tracy, CA, 95377 1.339 acres	Ramos Pedro, Maria Ofelia	27550 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-16 27510 S Corral Hollow Rd, Tracy, CA, 95377 1.167 acres	Dela Cruz Katharine M & Herbiefred Antonio	27510 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-15 27488 S Corral Hollow Rd, Tracy, CA, 95377 1.167 acres	Martinez Katherine	27488 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-14 27452 S Corral Hollow Rd, Tracy, CA, 95377 1.167 acres	Rocha Amber	27452 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-13 27350 S Corral Hollow Rd, Tracy, CA, 95377 2 acres	Carter Bonny	27350 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-12 27310 S Corral Hollow Rd, Tracy, CA, 95377 1.502 acres	Serpa Arthur J & Dolores B Tr	27310 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-11 27290 S Corral Hollow Rd, Tracy, CA, 95377 0.875 acres	Betschart June Mary	27290 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-10 27220 S Corral Hollow Rd, Tracy, CA, 95377 0.875 acres	Dahud Hisham	27220 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-09 27162 S Corral Hollow Rd, Tracy, CA, 95377 0.875 acres	Luis Antonio & Rosa Montez	27162 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-08 27110 S Corral Hollow Rd, Tracy, CA, 95377 0.875 acres	Doerr Frank, Lei Lani	27110 S Corral Hollow Rd, Tracy, CA, 95377

Assessor's Parcel Number 244-030-07 27124 S Corral Hollow Rd, Tracy, CA, 95377 1.167 acres	Daniel & Anita Cruz	27104 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-06 27088 S Corral Hollow Rd, Tracy, CA, 95377 1.167 acres	Richard Z & Rebecca M Lanza	27088 S Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-05 27022 5 Corral Hollow Rd, Tracy, CA, 95377 1.167 acres	Henshall Kevin	27022 5 Corral Hollow Rd, Tracy, CA, 95377
Assessor's Parcel Number 244-030-04 11950 W Valpico Rd, Tracy, CA, 95376 2.21 acres	John & Paul Zambetti	1852 Ashmeade Ct, San Jose, CA, 95125
Assessor's Parcel Number 244-030-03 11900 W Valpico Rd, Tracy, CA, 95376 1.243 acres	John & Paul Zambetti	1852 Ashmeade Ct, San Jose, CA, 95125
Assessor's Parcel Number 242-050-01 11955 W Valpico Rd, Tracy, CA, 95376 0.659 acres	Dabandan Daisy Hernandez	11955 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-02 11925 W Valpico Rd, Tracy, CA, 95376 0.717 acres	Dabandan Daisy Hernandez	11925 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-03 11899 W Valpico Rd, Tracy, CA, 95376 0.681 acres	William & Perpetua Fritchie	11899 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-04 11851 W Valpico Rd, Tracy, CA, 95376 0.502 acres	Pena Aurora	11851 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-05 11819 W Valpico Rd, Tracy, CA, 95376 0.572 acres	Juelke Debra M	11818 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-06 11821 W Valpico Rd, Tracy, CA, 95376 0.456 acres	Mosby Gordon E Living Trust	11821 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-21 11241 W Valpico Rd, Tracy, CA, 95376 0.5 acres	Hayes Joan	11241 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-08 11797 W Valpico Rd, Tracy, CA, 95376 0.346 acres	Sanchez Francisco	11797 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-09 11683 W Valpico Rd, Tracy, CA, 95376 0.345 acres	Flores Nelson	11683 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-10 11661 W Valpico Rd, Tracy, CA, 95376 0.346 acres	Jimmie W & Suzanne L Shaw	11661 W Valpico Rd, Tracy, CA, 95376

Assessor's Parcel Number 242-050-11 11625 W Valpico Rd, Tracy, CA, 95376 0.357 acres	Alcocer Angelia	11625 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-12 11585 W Valpico Rd, Tracy, CA, 95376 0.345 acres	Juan D & Elodia T Huerta	11585 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-13 11545 W Valpico Rd, Tracy, CA, 95376 0.345 acres	Manthey John	11545 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-14 11505 W Valpico Rd, Tracy, CA, 95376 0.5 acres	Chavez Ezequiel Landa	11505 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-15 11461 W Valpico Rd, Tracy, CA, 95376 1 acres	Sistrunk Mary E	11461 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-16 11453 W Valpico Rd, Tracy, CA, 95376 0.5 acres	Sistrunk Mary E	11461 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-17 11441 W Valpico Rd, Tracy, CA, 95376 0.53 acres	Radillo Pedro J	11441 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-18 11423 W Valpico Rd, Tracy, CA, 95376 0.544 acres	Delgado Eleucario	11423 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-19 11407 W Valpico Rd, Tracy, CA, 95376 0.151 acres	Luiz Leroy J & Barbara C Tr	11407 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-20 11299 W Valpico Rd, Tracy, CA, 95376 0.5 acres	Felix & Margarita Flores	11299 W Valpico Rd, Tracy, CA, 95376
Assessor's Parcel Number 242-050-07 11803 W Valpico Rd, Tracy, CA, 95376 0.396 acres	Monteiro Stone I P	17148 Von Sosten Rd, Tracy, CA, 95304

SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION

LAFCo

509 W. WEBER AVENUE SUITE 420 STOCKTON, CA 95203

AGENDA ITEM NO. 5

EXECUTIVE OFFICER'S REPORT

February 13, 2020

TO: LAFCo Commissioners

FROM: James E. Glaser, Executive Officer

SUBJECT: **ELECTION OF CHAIR AND VICE-CHAIR**

At the beginning of each year the Commission selects its Chair and Vice-Chair. Rotation of the Chair has traditionally been City-County-City-County-Public Member. Although this has been the usual order for selection, the Rules of the Commission policy does not specify the order of the rotation. If the Commission chooses to follow past practice, a City Member would serve as Chairperson and a County Member will serve as Vice-Chair in 2020.

	Chair		Vice-Chair	
2015	Mike Maciel	City	Chuck Winn	County
2016	Chuck Winn	County	Doug Kuehne	City
2017	Doug Kuehne	City	Tom Patti	County
2018	Tom Patti	County	Peter Johnson	Public
2019	Peter Johnson	Public	Jesus Andrade	City

SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION

LAFCo

509 W. WEBER AVENUE SUITE 420 STOCKTON, CA 95203

AGENDA ITEM No. 6

EXECUTIVE OFFICER'S REPORT

February 13, 2020

TO: LAFCo Commissioners

FROM: James E. Glaser, Executive Officer

SUBJECT: **RECRUITMENT OF PUBLIC MEMBER**

According to the Commission's policy, the term of a commissioner is four years and the expiration date of the term of office is the first Monday in May of the year in which a term expires. Commission policy also states that a commissioner may hold no more than two four-year terms on the Commission as either a Public Member or an Alternate Public Member. The first four-year term for Commissioner Peter Johnson ends in May 2020 but is eligible for a second term.

The Commission opens recruitment to fill the public member seat as a term ends by directing the Executive Officer to initiate the recruitment process in February. Availability of the Public Member seat will be announced by posting the vacancy, a mail out to all local agencies, and a post on the LAFCo website. In addition, if directed by the Commission the Executive Officer will issue a press release. Per Commission policy, applications will be accepted through the close of business on the Wednesday prior to the April Commission meeting and eligible candidates will be considered for selection.

Attached for your information is the Public Member Application and a sample press release.

Attachments

SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION

LAFCo

509 W. WEBER AVENUE SUITE 420 STOCKTON, CA 95203

CALL FOR APPLICATIONS
PUBLIC MEMBER COMMISSIONER

Applications are being accepted to fill the Public Member seat on the San Joaquin Local Agency Formation Commission (LAFCo). Any person wishing to apply may request an application by calling LAFCo at 468-3198 or from the LAFCo website at www.sjgov.org/commission/lafco. Applications must be completed and returned to LAFCo at 509 West Weber Avenue, Suite 420, Stockton, CA 95203 by **Wednesday, April 8, 2020.**

Description of LAFCo

The Commission, established by state law, has regulatory power over the formation and boundary changes of cities and special districts (e.g., annexation). The Commission conducts municipal service reviews and sphere of influence studies to plan for the future boundaries of cities and special districts. The Commission is composed of five voting members including two County Board of Supervisors, two City Council members, a representative of the general public and three alternate members from each category. The term of office for the Public Member is four years shall not be appointed to more than two four-year terms. The Commission will appoint the Public Member seat at the April 9, 2020 meeting. Applicants will be invited to attend the Commission meeting to briefly present their qualifications to the Commissioners. The Commission meets on the second Thursday of each month at 9:00 a.m. in the Board of Supervisors Chambers, 44 North San Joaquin Street, 6th Floor, Stockton, California.

Qualifications

Those interested must be a county resident and may not be an officer or employee of the county or any city or special district with territory within the County at their time of appointment.

For more details on the appointment, please call the Executive Officer of San Joaquin LAFCo at 468-3198.

Dated: January __, 2020

James E. Glaser, Executive Officer

SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION

LAFCo

509 West Weber Avenue Suite 420 STOCKTON, CA 95203

APPLICATION FOR PUBLIC MEMBER
SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION

Name:_____

Telephone:_____ _____
(Residence) (Business)

Residence
Address:_____

Business
Address:_____

Occupation:_____

Please state briefly your reason for wanting to serve on this Commission:

_____

_____

_____

Please state briefly your experience which you feel will be helpful when you serve on this Commission:

_____

_____

_____

Other information you would like to submit (A Resumé may be attached, if you wish):

_____

_____

_____

Applicants must be a County resident and shall not be an officer or employee of the county or any City or District with territory within the County at the time of appointment. Commission meetings are held the second Thursday of each month at 9:00 a.m. Applications must be submitted by the close of business day, Wednesday, April 8, 2020.

_____ _____
SIGNATURE Date

SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION

AGENDA ITEM NO. 7

LAFCo

509 West Weber Avenue Suite 420 STOCKTON, CA 95203

EXECUTIVE OFFICER'S REPORT

February 13, 2020

TO: LAFCo Commissioners

FROM: James E. Glaser, Executive Officer

SUBJECT: MID-FISCAL YEAR 2019-2020 BUDGET REPORT

Background

Each year in June the Commission approves an operating budget for LAFCo for the next fiscal year. The budget anticipates the annual costs for staff salaries, commissioner stipends, office space, computers, conference costs, and funds set aside for contracts for services. The County and the seven cities each provide one-half share of the operational costs. In San Joaquin, each of the seven cities share is apportioned by the population in each city. The Fiscal Year 2019-2020 budget anticipated revenues of $474,600 and expenditures of $750,356. Although LAFCo revenues will fall short in covering all of the operating expenses, the Commission expects to use a portion of the $804,853 in the Contingency/Reserves. The purpose of this Staff Report is to update the Commission on the budget activity during the first six months of the fiscal year (July 1 to December 31, 2019).

Revenues

The FY 2019-2020 budget anticipates receiving $474,600 in revenue including the County and Cities contribution of $445,600, application filing fees of $15,000 and quarterly interest payments of $14,000. During the first six months of the budget year LAFCo received $509,443, more than $34,843 than expected. Most of this additional revenue was received from application filing fees for four large projects including municipal service reviews and sphere of influence updates and a consolidation project.

The table below shows the revenues budgeted for FY19-20, total amounts received to date, and percentage above or below the budgeted amount.

FY 2019-2020 Revenues

	Budgeted Amount	Received July 1-Dec 31	Over/Under Budget	Percent
Filing Fees	$ 15,000	$ 52,507	+ $37,507	250%
County/City Contribution	445,600	445,600	0	0%
Interest	14,000	11,336	- 2,664	19%
Total	$474,600	$457,388	- $34,843	7%

Expenditures

Staff Salaries/Benefits and Commission Stipends

The Commission budgeted $469,653 for 2 full-time staff and 1 part-time Commission Clerk. As of December 31, 2019, $161,062 or 35% of the budgeted amount has been expended. LAFCo is not fully staffed which provides savings in salaries and benefits.

Services and Supplies

The Commission budgeted $80,703 for operating costs which includes rent, CALAFCo membership dues, annual conference costs for Commissioners and Staff, legal fees, and other miscellaneous expenses to operate the office. An additional $200,000 is set aside for "Contract for Services" which may include Commission initiated projects such as municipal service reviews, special studies, or other unexpected projects.

FY2017-2018 Expenditures

	Budgeted	Expended July 1-Dec 31	Over/Under Budget	Percent
Legal Fees	$ 15,000	$ 62,166*	+$47,166	+314%
Office Supplies	5,000	5,620	+ 620	+12%
Communications	3,000	1,329	- 1,671	-56%
CALAFCO Membership	6,249	6,780	+ 531	+8%
Rents/Leases-Copier & Usage	2,400	997	-1,403	-58%
Lease-County Computers	1,398	910	- 488	-35%
Commissioner Conference	10,068	5,289	- 4,779	-47%
Staff Conference	6,338	1,375	-4,963	-78%
Data Processing Direct Charges	4,159	3,345	-814	-20%
Auditors Payroll Charges	300	0	-300	-100%
Registrar of Voters	200	200	0	0
Recorders Fees	450	0	-450	-100%
Publications & Legal Notices	3,000	887	-2,113	-70%
Worker's Compensation Ins.	191	191	0	0
Insurance-Special Property	950	0	-950	-100%
Office Space/Utilities	22,000	10,080	-11,920	-54%
Contract for Services	200,000	0	-200,000	+65%
Total	$280,703	$99,169	-$181,534	-35%

*The County recently reimbursed LAFCo $58,000 for legal fees stemming from the matter of Tracy Rural Fire District v. LAFCo.

As of December 31, 2019, LAFCo's cash balance was $1,143,332.

Work Program

LAFCo's work program includes application processing for annexations, other organizational changes, municipal service reviews and sphere of influence updates and out-of-agency service requests. During the first six months LAFCo processed 18 Out-of-Agency Requests and completed three annexations projects including Carmax to the City of Stockton; the BNSF and EBMUD annexation to Reclamation District 2039; and Tracy Village Reorganization to the City of Tracy. The Tracy Village annexation required a protest hearing that was held in November resulting in receipt of sufficient protests to move to a ballot election. The election will be held sometime in 2020. A Final Municipal Service Review (MSR) and Sphere of Influence (SOI) was updated for the City of Tracy and an Amendment was made to the South San Joaquin Irrigation District's MSR and SOI Plan.

During the first six months, litigation continued in the case PG&E v. San Joaquin LAFCo and SSJID. In October 2019, LAFCo was sued by Tracy Rural Fire District and the City of Tracy in regards to the Commission's decision to detach the rural fire district upon city annexations. Many hours of work and staff resources were dedicated in responding to the court case during the six month reporting period.

Upcoming work in LAFCo's Work Program include a consolidation proposal for Byron Bethany Irrigation District and The West Side Irrigation District, dissolution of an inactive reclamation district, and the Alvarez and The Avenues annexations to the City of Tracy, and an annexation to the City of Stockton.

Staff will be prepared to answer further questions on the budget at the February 8, 2018 Commission Meeting.

SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION

AGENDA ITEM NO. 8

LAFCo

509 W. WEBER AVENUE SUITE 420 STOCKTON, CA 95203

"PROPOSED" 2020 MEETING SCHEDULE

SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION

The Commission generally meets on the second Thursday of each month at 9:00 A.M. in the Board of Supervisors Chambers, 6th Floor, 44 North San Joaquin Street Stockton, California. Occasionally, conflicts may arise that would require an adjustment to the schedule.

MEETING DATE

January 9, 2020

February 13, 2020

March 12, 2020

April 9, 2020

May 14, 2020

June 11, 2020

July 9, 2020

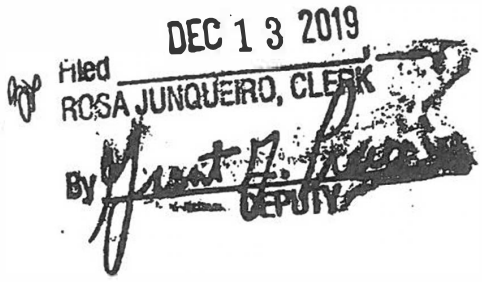
August 13, 2020

September 10, 2020

October 8, 2020

November 12, 2020

December 10, 2020



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

TRACY RURAL COUNTY FIRE PROTECTION DISTRICT, Plaintiff/Petitioner, vs. LOCAL AGENCY FORMATION COMMISSION of SAN JOAQUIN COUNTY, Defendant/Respondent. CITY OF TRACY, Real Party in Interest.	Case # STK-CV-UMW-2019-9687 **ORDER**

Petitioner, TRACY RURAL COUNTY FIRE PROTECTION DISTRICT (hereinafter "Tracy Rural"), made a motion to this Court for a preliminary injunction and more, specifically, asked the Court to restrain and enjoin Respondent, Local Agency Formation Commission of San Joaquin County (hereinafter "LAFCo"), from enforcing newly passed LAFCo Resolution 1402 pending the conclusion of this lawsuit which challenges the propriety

and/or legality of LAFCo Resolution 1402.

A hearing on the motion was held on October 22, 2019 in Department 10B of the above-entitled court, the Honorable Carter P. Holly presided. Tracy Rural was represented by the law firm of Bowman & Berreth. LAFCo was represented by the law firm of Neumiller & Beardslee. After due and full consideration of the arguments made in support and in opposition to the motion for preliminary injunction, **IT IS HEREBY ORDERED that the motion for preliminary injunction be denied**.

STANDARD OF REVIEW

Preliminary Injunction

In considering a motion for preliminary injunction, a trial court must evaluate "two interrelated factors ... (1) the likelihood that the plaintiff/petitioner will prevail on the merits at trial, and (2) the interim harm that the plaintiff/petitioner is likely to sustain if the injunction were denied as compared to the harm the respondent/defendant is likely to suffer if the preliminary injunction were issued." *Alliant Ins. Services, Inc. v. Gaddy* (2008) 159 Cal.App.4th 1292, 1299.

" 'The trial court's determination must be guided by a 'mix' of the potential-merit and interim-harm factors; the greater the plaintiff's showing on one, the less must be shown on the other to support an injunction. [Citation.]' (*O'Connell v. Superior Court* (2006) 141 Cal.App.4th 1452, 1463.) For example, when a plaintiff makes a strong showing of likelihood of success on the merits, the judge has the discretion to issue the injunction even though the plaintiff fails to show that the balance of harm tips in its favor. (*Take Me Home Rescue v. Luri* (2012) 208 C.A.4th 1342, 1350-51.) Contrarily, a judge may not grant a preliminary injunction, regardless of the balance of interim harm, unless there is some possibility that the plaintiff will

ultimately prevail on the merits of its claim." *White v. Davis* (2003) 30 C.4th 528, 561-562.

"A consideration of interim harm to the plaintiff includes (1) the inadequacy of other remedies (such as damages), (2) the degree of irreparable injury the denial of the injunction would cause, and (3) the necessity of preserving the status quo." Cal. Judges Benchbook Civ. Proc. Before Trial § 14.12 citing *Take Me Home Rescue v Luri, supra*, at 1350. The decision to grant or deny a preliminary injunction rests in the sound discretion of the trial court. *IT Corp. v. County of Imperial* (1983) 35 Cal.3d 63, 69.

LAFCo Decisions

"[C]ourts exercise limited review of legislative acts by administrative bodies out of deference to the separation of powers between the Legislature and the judiciary, to the legislative delegation of administrative authority to the agency, and to the presumed expertise of the agency within its scope of authority." *McBail & Co. v. Solano County Local Agency Formation Com.* (1998) 62 C.A.4th 1223, 1227.

Government Code, §56107 instructs:

> (a) This division[1] shall be liberally construed to effectuate its purposes. No change of organization or reorganization ordered under this division and no resolution adopted by the commission making determinations upon a proposal shall be invalidated because of any defect, error, irregularity, or omission in any act, determination, or procedure which does not adversely and substantially affect the rights of any person, city, county,

1 The "division" is Division 3 of the California Government Code, also known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

district, the state, or any agency or subdivision of the state.

(b) **All determinations made by a commission under, and pursuant to, this division shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion.**

(c) **In any action or proceeding to attack, review, set aside, void, or annul a determination by a commission on grounds of noncompliance with this division, any inquiry shall extend only to whether there was fraud or a prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the court finds that the determination or decision is not supported by substantial evidence in light of the whole record.** (Emphasis added.)

"LAFCO is an agency with large discretionary powers." *Bozung v. Local Agency Formation Commission* (1975) 13 Cal.3d 263, 289. Moreover, its actions are presumed to comply with [the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000]. *City of Agoura Hills v. Local Agency Formation Com.* (1988) 198 Cal.App.3d 480, 490.

ANALYSIS

"In 1963, the Legislature established a LAFCO in each county to discourage 'urban sprawl' and encourage the 'orderly formation and development' of local governments in each county. (See Knox–Nisbet Act, former Gov.Code §§ 54774 and 54774.5; Cortese–Knox Act, Gov.Code §§ 56300, 56301 and 56425.) One of LAFCO's important functions is the adoption for each city of a 'sphere of influence.' (§§ 56425 and 56426, formerly §§ 54774, 54774.1, 54774.2 of the Knox–Nisbet Act.) Another one of LAFCO's important duties is to approve or disapprove annexation

proposals submitted by cities within the county. (See *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 268; *Simi Valley Recreation & Park Dist. v. Local Agency Formation Com.* (1975) 51 Cal.App.3d 648, 668–669.)" *City of Agoura Hills v. Local Agency Formation Com.* (1988) 198 Cal.App.3d 480, 485.

The History and Progress of the Dispute

Generally, the City of Tracy Fire Department was established in 1910 and it initially consisted of nothing more than "bucket brigades" formed by volunteers. See, Declaration of Glaser, Exhibit B – Municipal Services Review for the City of Tracy, pp. 4-1 to 4-2.

"In 1945, Tracy Rural was established to provide fire protection services to the greater Tracy region, consisting of areas surrounding the Tracy City limits." See, Declaration of Glaser, Exhibit B – Municipal Services Review for the City of Tracy, p. 4-2.

Leading up to the joint authority model now in place, the City of Tracy was experiencing rapid growth and development, creating a need to construct new fire stations to meet response times. It was decided that a consolidation could significantly lower response times, eliminate the duplication of resources and provide better overall services. In 1999, after decades of talks and two previously unsuccessful attempts, the City of Tracy Fire Department joined with Tracy Rural to form the ***now-dissolved*** South County Fire Authority (SCFA). See, Declaration of Glaser, Exhibit B – Municipal Services Review for the City of Tracy, p. 4-2.

By 2011, the issue of whether annexations to the City of Tracy should detach or not detach from Tracy Rural was repeatedly raised before LAFCo. The Commission directed a Governance Report be prepared. The concerns raised were the organizational structure of SCFA, the

relationship of this joint powers authority to the City of Tracy and Tracy Rural and the fiscal implications of the present "no-detachment" policy. More and more information was needed to explore the options and consequences of each option. Extensions were liberally granted by the Commission in order to allow a full study of the issues. See, Declaration of Glaser, Exhibit D – Executive Officer's Report for the April 22, 2019 Special Meeting, pp. 1-4.

In 2013, the Governance Report prepared by the City of Tracy was submitted to the Commission. The Report included two options; that is, 1) to maintain the status quo, or, 2) annex City into Tracy Rural. LAFCo, however, returned the report to Tracy for further study and the inclusion of more options. See, Declaration of Glaser, Exhibit D – Executive Officer's Report for the April 22, 2019 Special Meeting, p. 3.

The City of Tracy also submitted a Fire Governance Implementation Plan, but LAFCo found that the Plan was incomplete and gave City of Tracy a two-year extension in order to complete the plan. Consultants were engaged and feasibility studies were initiated. LAFCo specifically instructed that "the fire study would include the feasibility of detachment and no detachment of Tracy Rural Fire District and the feasibility of a full consolidation of Tracy Rural and the City Fire service." See, Declaration of Glaser, Exhibit D – Executive Officer's Report for the April 22, 2019 Special Meeting, p. 3.

In 2014, more extensions are given for the completion of the studies and the reports. By October 2014, the Governance Report is submitted and three options are provided. "Each option examined its implications on property tax revenues, fire benefit assessment revenues, and governance structure." The problem, however, was that "Tracy City

Council ... did not provide a recommendation as to which option it favors." Because it was unclear as to which policy the City of Tracy preferred, LAFCo did not make a determination as to whether subsequent annexation should detach or not detach. Instead, LAFCo returned the report to the City. See, Declaration of Glaser, Exhibit D – Executive Officer's Report for the April 22, 2019 Special Meeting, p. 4.

On February 20, 2018, the member agencies of the SCFA moved to dissolve the existing SCFA and to establish a new joint powers authority (JPA) known as the South San Joaquin County Fire Authority (SSJCFA). The City of Tracy and Tracy Rural agreed that dissolving the SCFA and establishing a new joint powers authority would allow the entities to resolve outstanding financial and operational issues, which included a cumbersome cost-sharing plan and concerns of Tracy Rural regarding allocation of costs and adequate representation as part of the JPA, while allowing them to continue to combine their resources, revenues and personnel to address some operational and financial efficiencies. The new Authority has a simplified cost-sharing formula that ensures fairness in how costs to provide services are allocated to member agencies. The cost-sharing formula requires each member agency (the City of Tracy and Tracy Rural) to fund: 1) its pro-rata share of daily staffed positions, and 2) all capital improvements to real property owned by each member agency. ... Importantly, the SSJCFA also "settled outstanding debt balances between the member agencies of SCFA." More particularly, with the creation of SSJCFA, and as a condition of the same, the Tracy Rural Fire District's obligation to the City for $4.37 million [its contribution for costs for Station 92] was reduced to $0; ownership of Station 92 was transferred to the City. See, Declaration of Glaser, Exhibit B –Municipal Services Review

for the City of Tracy, p. 4-2 to 4-3; 5-17 to 5-18.

Funding of Tracy Rural/Contributions to SSJCFA

The SSJCFA receives funding from various revenue sources including the City of Tracy's General Fund and Tracy Rural. General Fund allocations are derived from property taxes, sales tax revenue and user fees. Tracy Rural receives its funding through property taxes from San Joaquin County as well as a special assessment fee for those structures located in the Tracy Rural Fire District. 82% of its funding is derived from property taxes; 17% of its funding is derived from the special assessment.[2] See, Declaration of Glaser, Exhibit B –Municipal Services Review for the City of Tracy, p. 4-11.

The Executive Officer's Report for the Special Meeting of April 22, 2019 explained:

> The practice of not detaching from Tracy Rural has two implications. One is financial and one is related to governmental organization. From a financial perspective, the District continues to receive property tax at a rate of about 11.6% of the total property tax. The District is also allowed to continue to collect a special assessment for structures at a rate of 3 cents per square foot for improvements. Without detachment, the monies collected by the District are not available to the County or the City. By not detaching from Tracy Rural, the net fiscal impact to the County is that the County will receive about 9.3% less in property tax and the City will receive about 2.3% less (although the City would not be financially responsible for fire service). ... With detachment ..., the 11.6% share of the property tax received by the District would be shared with the County and City-resulting in an increased amount to these

2 Other funding comes from fees for service and development mitigation fees.

two agencies.

> While cities and counties exercise broad powers of taxation that are granted to general purpose governments by the State Constitution, special districts are limited to revenue sources authorized by the legislature. ... Unlike cities which can use a wider variety of sources in addition to property tax. ... [C]ities can be much more adaptive to respond to revenue shortfalls.
>
> The second implication is that from a governmental perspective the City is not providing full municipal services to its residents. ... Tracy Rural's Sphere of Influence would overlap into the City's sphere. The City's sphere would have two categories-one which provides full municipal services and one that provides municipal service minus fire protection. ... This means that the City Council is responsible for fire services in only a portion of the existing community. According to Commission Policy the hierarchy for the establishment of a sphere of influence is to give preference to the inclusion in a municipality sphere of influence, then within a multipurpose district (i.e., community service district), and lastly to a single-purpose district (e.g., fire district)." See, Declaration of Glaser, Exhibit D – Executive Officer's Report for the April 22, 2019 Special Meeting, pp. 8-9.

The Executive Officer's Report staff report further explained that the impact of detachment would only be for new annexes. The JPA would continue to service those areas previously annexed without detachment.[3] See, Declaration of Glaser, Exhibit D – Executive Officer's Report for the

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[3] The Report further advised that if a decision is made to completely detach Tracy Rural, that could be requested by any of the agencies involved. LAFCo, however, cannot initiate a detachment. Declaration of Glaser, Exhibit D – Executive Officer's Report for the April 22, 2019 Special Meeting, p. 6.

April 22, 2019 Special Meeting, p. 6.

The Resolution

"Revised" Resolution 1402 reads, in pertinent part:

> "WHEREAS, Section 56430 of the Government Code requires the Commission to conduct a service review of the municipal services provided in the county or other appropriate areas designated by the Commission; and
>
> ...
>
> WHEREAS, numerous studies have been prepared including a Fire Governance Implementation Plan (dated August 16, 2013), and Alternative Fire Governance Structures Report (dated September 2014) and a Governance Review Report (dated December 2018); and
>
> WHEREAS, such studies provided information regarding options including detachment and no detachment of Tracy Rural FPD from the City of Tracy upon annexation, the organizational structure, and financial implications of carryout various options; and
>
> WHEREAS, the Commission held a public meeting on the governance model on April 22, 2019 in the Board of Supervisors Chambers, ... and received comments; and
>
> WHEREAS, at said meeting the Commission heard and received evidence, both oral and written regarding the governance model, and all persons present were given an opportunity to be heard; and
>
> WHEREAS, this Commission has duly considered all materials submitted regarding governance model for Tracy City Fire Department and Tracy Rural Fire Protection District.
>
> NOW, THEREFORE, the San Joaquin Local Agency Formation

Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

...

Section 2. Adopts the model requiring that future annexations to the City of Tracy will detach from the Tracy Rural Fire Protection District."

Likelihood of Success of Tracy Rural's Challenge to Resolution 1402

As previously discussed, Government Code, §56107(c) instructs that "any inquiry shall extend only to whether there was fraud or a prejudicial abuse of discretion. *Prejudicial abuse of discretion is established if the court finds that the determination or decision is not supported by substantial evidence in light of the whole record.*" (Emphasis added.)

There is no argument or discussion of fraud. Thus, the inquiry is whether LAFCo's adoption of Resolution 1402 is supported by substantial evidence. It appears that it is.

The documents presented to the Court suggest that LAFCo considered the previously submitted reports; that is, the Fire Governance Implementation Plan, dated August 16, 2013; the Alternative Fire Governance Structures Report, dated September 2014; and, the Governance Review Report, dated 2019). Thus, LAFCo likely considered the three options offered in the 2019 Governance Report; that is, 1) City detach from Tracy Rural; 2) City annexes into Tracy Rural; or, 3) reconstitute and strengthen the current JPA. See, Executive Officer's Report for April 22, 2019 Special Meeting.

The record also indicates that LAFCo found that the Governance Review Report was not helpful because it was not objective and instead, it simply justified past actions taken, rather than assess the merits and

consequences of the options proposed. The Executive Officer's Report for the April 22, 2019 Special Meeting states that LAFCo found serious errors in the financial projections of the Governance Review Report and noted that the City of Tracy's own financial consultant, Susan Goodwin Consulting Group, Inc., did not support the Report's financial projections. The conflicting projections led LAFCo to question the "economic viability of Tracy Rural to provide the service." See, Declaration of Glaser, Exhibit D – Executive Officer's Report for the April 22, 2019 Special Meeting, p. 15. More particularly, "[t]he [Governance] Report states that initially there was early recognition that the District would not initially have the financial resources to maintain the current level of service under the JPA. This was due to District employees becoming City employees with greater pay and benefits and the addition of new positions. It was estimated that the revenue deficit would last approximately 18 months from the inception of the original JPA. ... The recent reconstituted JPA included a provision for the City to forgive a major portion of this debt. The debt lasted nearly 20 years. This brings into question whether Tracy Rural can add the needed fire stations if the growth does not materialize." See, Declaration of Glaser, Exhibit D – Executive Officer's Report for the April 22, 2019 Special Meeting, p. 15.

The record reflects that LAFCo distributed the Governance Review Report to County for its review and comments and LAFCo received and considered those comments. County's Office of Accounting offered other financial analysis and advised LAFCo that continuing fire services without detachment of Tracy Rural will cost County $55 million from 2019/2020 through 2026/2027. See, Declaration of Glaser, Exhibit D – Executive Officer's Report for the April 22, 2019 Special Meeting, p.15-17.

The Executive Officer's Report gave this recommendation:

> "The continuation of a model that requires a rural fire district to provide urban fire services is not in the best interest of the public. It allows for duplication of service including the overlapping of sphere of influence boundaries. It permits a tax structure that charges more for fire services for new residents and businesses than for others. The model has not been economically viable for Tracy Rural since its inception of the original JPA. It is questionable as to Tracy Rural's future sustainability. Continuation of this model may result in a decrease level of service for fire protection if new stations are not constructed as needed. The negative impact to County resources are substantial by using an archaic tax system to prevent the sharing of resources for the increased in demand from new development.
>
> If the Commission is inclined to continue the present organizational structure (annexation without detachment), it is recommended that LAFCo seek the services of a professional consulting firm to explore the consequences of carrying out that action and to explore whether Tracy Rural has the financial ability to provide the service." *Ibid* @ 17.

At the April 22, 2019 Special Meeting, LAFCo followed the Executive Officer's Report recommendation.

Given the record presented, and the scope of judicial review, Tracy Rural has not shown that it is likely to prevail on the merits of its Petition/Complaint which challenges LAFCo's adoption of Resolution 1402.

Moreover, the other challenges raised by Tracy Rural to the adoption of Resolution 1402 do not indicate a prejudicial abuse of discretion by LAFCo.

With particular attention to Tracy Rural's mitigation argument, this issue is specific to the Tracy Village annexation application which has already been approved. The Executive Officer's Report for the October 10, 2019 hearing on the annexation application suggests that LAFCo did consider the adverse effect of its decisions to annex *with detachment* upon Tracy Rural. *Ibid* @ p. 5. The Report specifically noted that the approval with detachment results in a "$16,707 loss in property tax and direct charge revenue to Tracy Rural." *Ibid*. LAFCo added that Tracy Rural did not show that the loss would negatively impact its "budget or services or require the provision of services without adequate funding." *Ibid*. Significantly, the decision also resulted in Tracy Rural no longer being responsible for fire services to the 180 acres. Thus, having considered the adverse impact of the annexation and weighed the same against the loss of responsibility for fire services, it appears that LAFCo complied with its standards. There is nothing in the record to suggest that there is anything else to consider.

With regard to Tracy Rural's fair hearing argument on the adoption of LAFCo Resolution 1402, all issues were addressed at a noticed and specially called meeting at which the public was invited and at which Tracy Rural appeared.

Finally, and with regard to Tracy Rural's change of boundaries argument, it is a completely new argument raised for the first time in Tracy Rural's Reply. As such, it is not appropriate for consideration. *WorldMark, The Club v. Wyndham Resort Development Corp.* (2010) 187 C.A.4th 1017, ftnt. 7 [Arguments raised for the first time in the reply brief are untimely and may be disregarded.]

Interim Harm

California Code of Civil Procedure § 526 provides that an injunction may be granted when there is some act that will produce "great or irreparable injury" or "[w]hen pecuniary compensation would not afford adequate relief."

The harm asserted by Tracy Rural is the loss of revenue for Tracy Rural County Fire Protection District which, in turn, negatively impacts Tracy Rural's contributions to SSJCFA and consequently, the provision of fire services. See, Tracy Rural's Ex Parte Application to Stay Enforcement of LAFCo Resolution 1402, or Alternatively, for Temporary Restraining Order and/or for Order to Show Cause re Preliminary Injunction, pp. 12:28-13:4.

But Tracy Rural's argument of loss and harm does not also factor in Tracy Rural's loss of responsibility for providing fire services to the area annexed with detachment. Thus, it appears there would be commensurate reduction of expenses for Tracy Rural. See, Declaration of Glaser, Exhibit B –Municipal Services Review for the City of Tracy, p. 5-19 ["Each member agency is responsible for all such costs within their jurisdictional fire boundaries. ... [The] formula allows each member agency to pay their pro-rata share of fire protection services without subsidizing other member agencies."].

Moreover, Resolution 1402 is prospective only; that is, all the previous annexations with non-detachment remain intact. Thus, Tracy Rural will continue to receive the funding it has received up to this point based upon its responsibilities for fire protection services for those properties.

Thus, Tracy Rural has not shown the required harm to it to warrant the imposition of a preliminary injunction.

CONCLUSION

For the reasons stated above, the motion for preliminary injunction is denied.

Date: December 13, 2019

CARTER P. HOLLY
Judge of the Superior Court