
**SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION**

LAFCo

44 N. SAN JOAQUIN STREET SUITE 374 □ STOCKTON, CA 95202

**Local Agency Formation Commission Notice and Call of Regular Meeting Agenda
Thursday, November 10, 2022 9:00 A.M.**

In accordance with the Governor's Executive Order N-33-20, and for the period in which the Order remains in effect, the San Joaquin Local Agency Formation Commission's office will be closed to the public.

To accommodate the public during this period of time that the Board's Chambers are closed to the public, the San Joaquin Local Agency Formation Commission has arranged for Commission Members and members of the public to observe and address the meeting virtually.

TO ATTEND:

Join Zoom Meeting:

<https://us02web.zoom.us/j/85102723978?pwd=QjJyYk1EeVNNVzVzWE84NGR6NFBLQT09>

Meeting ID: 851 0272 3978

Passcode: 116026

Dial by phone 669 900 6833 US

Note: If you don't have access to a smart device or a computer with a webcam & a mic, you can dial in using the teleconference number and meeting ID above.

Attention Callers: Please mute the call unless speaking.

*****To be recognized to speak, please use the "raise hand" or chat feature in Zoom.*****

We have also provided a call-in number, as identified on this Agenda, and encourage you to attend by telephone.

*****To be recognized to speak, press *9 to signal the moderator.*****

Download Agenda Packet and Materials at: www.sjgov.org/commission/lafco

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Call to Order

Announce Date and Time of Meeting for the Record

Roll Call

Pledge of Allegiance

CONSENT ITEMS

1. SUMMARY OF MINUTES OF OCTOBER 13, 2022
(Action by All Members)
Approve Summary Minutes of the Regular Meeting.
2. OUT-OF-AGENCY SERVICE REQUEST
(Action by Regular Members)
Requests from the City of Stockton to provide out-of-agency sewer service outside the City boundary under Government Code §56133 to 928 Taft E. Taft Avenue and 936 E. Taft Avenue in Stockton.
3. DISCUSSION AND POSSIBLE ACTION REGARDING MEETINGS OF THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION UNDER AB 361 USING TELECONFERENCE DURING A PROCLAIMED STATE OF EMERGENCY
(Action by All Members)
Consider Resolution to conduct meetings of the San Joaquin Local Agency Formation Commission using teleconferencing pursuant to Government Code 54953 as amended by Assembly Bill 361 for the period November 10, 2022 to December 10, 2022.

PUBLIC COMMENTS

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

EXECUTIVE COMMENTS

5. Comments from the Executive Officer

COMMISSIONER COMMENTS

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

CLOSED SESSION

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

8. CLOSED SESSION

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)

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

ADJOURNMENT

LAFCo

44 N. SAN JOAQUIN STREET □ SUITE 374 □ STOCKTON, CA 95202

**SUMMARY MINUTES
October 13, 2020**

**BOARD OF SUPERVISORS CHAMBERS
44 NORTH SAN JOAQUIN STREET, 6TH FLOOR
STOCKTON, CALIFORNIA
AND VIDEO CONFERENCE**

Chairman Breitenbucher called the meeting to order at 9:06 a.m.

MEMBERS PRESENT: Commissioners Johnson, Villapudua, Winn and Chairman Breitenbucher

MEMBERS ABSENT: Commissioner Lincoln

ALTERNATE MEMBERS PRESENT: Commissioner Morowit and Patti

ALTERNATE MEMBERS ABSENT: Commissioners, Diallo

OTHERS PRESENT: J.D. Hightower, Executive Officer; James Glaser, Executive Officer; Elizabeth Contreras, LAFCo Analyst; Rod Attebery, Legal Counsel; and Mitzi Stites, Commission Clerk

Chairman Breitenbucher presented Mr. James Glaser, Executive Officer, with a plaque and thanked him for his dedication and his years of service to LAFCo.

Mr. Glaser, Executive Officer, addressed the Commission. Jim Glaser thanked the Commission for the opportunity to work for LAFCo. He stated that it has been an honor and a privilege to serve LAFCo for the past 15 years. He thanked the Staff of LAFCo including Mr. Rod Attebery, LAFCo Counsel, for always wanting the best for the community, their dedication and their loyalty. Mr. Glaser, Executive Officer, went on to thank the Commissioner, both past and present, City Staff, Special Districts, Fire Chiefs, and San Joaquin County Staff. It has been a rewarding experience working with them all and there is a mutual respect for each other, even when we did not always agree. In closing, Mr. Glaser asked that the Commission please place priorities on developing long-term public policies and a vision for the future.

Chief Ed Martel, Montezuma Fire Protection District , presented Mr. Glaser with a plaque and thanked him for all of his support he had given not only his district but all of the fire districts throughout the years.

Rod Attebery, LAFCo Counsel, thanked Mr. Glaser for his dedication and his ethical approach that he had brought to LAFCo. Mr. Attebery stated that he has known Jim for many years and considers him a mentor. If it were not for Mr. Glaser's intelligence and knowledge of LAFCo Law, there would not have been as many favorable outcomes on the lawsuits. He will be greatly missed.

Chairman Breitenbucher opened the floor to Commissioner Comments.

Commissioner Patti stated that Mr. Glaser has brought a level of influence and engagement to LAFCo. There is a level of efficiency, integrity and intellect that you have brought to your position within LAFCo. Over the years, we have had the pleasure to talk with your delightful, charming and lovely wife, Maryla. You both have been wonderful to get to know.

Commissioner Johnson stated that the one thing that is important when you retire is to leave a legacy. The legacy Jim Glaser left is that LAFCo has an enormous amount of respect. Mr. Glaser always had the respect from everyone, even those who did not agree with him. He is tremendous leader for the past 15 years and LAFCo is better now than it was when he started.

Commissioner Winn stated that elected officials think they are smarter than staff, but they are not. The elected officials get the best information from staff to make the best decisions. When Commissioner Winn was appointed to LAFCo in 2006, LAFCo was considered an esteemed position and it still is. This may cause a reluctance to serve because of the amount of time that is needed for this Commission and the time it takes to gain the knowledge of the guidelines of what LAFCo does. Another positive serving on this Commission is that Mr. Glaser is always willing to take criticism from the Commission, the cities, or the public. If you are always getting positive feedback from your staff with no criticism then something is wrong or you are in trouble. Hearing what you don't want to hear is how you grow and learn. Thank you for being someone that will make modifications. Commissioner Winn has always appreciated the professionalism shown by Mr. Glaser, Elizabeth Contreras, Mitzi Stites and Rod Attebery. Mr. Glaser, you are a person of integrity and work ethic, you are a mentor. Thank you for all that you have done for San Joaquin County. You have made LAFCo an agency that is well respected by you standing your ground with your ethics and principals.

Commissioner Villapudua thanked Mr. Glaser for everything that he has done over the last 15 years. When Villapudua was Chair of the Commission, he would receive phone calls to put a proposed project on the agenda, he would call Mr. Glaser, who would say no and list the reasons why a project was not ready to go before the Commission. Mr. Glaser is a bull dog, one who stands on principal. Commissioner Villapudua stated that he has been an honor to work with Mr. Glaser for the past six years and he has nothing but respect for Mr. Glaser. Commissioner Villapudua hoped that Mr. Glaser enjoys his retirement and now can spend quality time with his wife.

Commissioner Morowit stated that he first heard about Mr. Glaser in 2007 when he was on the Planning Commission for the City of Manteca. Every time there would be an annexation, the staff would be at the meeting holding their breath to see if they met all the requirements that Mr.

Glaser had given them. Commissioner Morowit thought that Mr. Glaser was a Hulk like figure that dictated to county and cities on what they can and cannot do. After Commissioner Morowit left the Planning Commission and his time as City Councilmember for the City of Manteca he was appointed to LAFCo. He met with Mr. Glaser he realized what LAFCo responsibilities were he was able to understand the rules. Mr. Glaser is tough and enforces a lot of rules but the rules are in place to make sure that the project will be an advantage to the community and not a disadvantage. Mr. Glaser makes sure that projects will have services for the community. When a project comes before the Commission, we know that Mr. Glaser has done his due diligence.

Elizabeth Contreras, LAFCo Analyst and Mitzi Stites, LAFCo Clerk, presented Mr. Glaser, Executive Officer with a Resolution. Mr. Glaser again expressed his admiration for LAFCo staff.

CONSENT ITEMS

Chairman Breitenbucher opened the floor for Commissioner Comments.

Chairman Breitenbucher closed the floor to Commissioner Comments.

Chairman Breitenbucher opened the floor for Public Comments.

Chairman Breitenbucher closed Public Comments.

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

The motion for approval of the Summary Minutes of September 8, 2022 meeting was passed by a unanimous vote of the Commission.

The motion for approval to adopt Resolution 1493 regarding out-of-agency service request to property located at 5312 Hobart Avenue, 2015 Myran Avenue and 2003 Myran in Stockton, was passed by a unanimous vote of the regular voting members of the Commission.

The motion for approval to adopt Resolution 1494 authorizing the San Joaquin Local Agency Formation Commission to conduct meetings using teleconferencing pursuant to Government Code 45953 as amended by AB 361 for the period of October 13, 2022 to November 15, 2022 was passed by a unanimous vote of the regular voting members of the Commission.

PUBLIC HEARING ITEMS

4. LUMINA REORGANIZATION TO THE CITY OF MANTECA (LAFC 19-22)
(Action by Regular Members)
Request to annex approximately 183.48 acres to the City of Manteca.

Mr. J.D. Hightower, Executive Officer, presented a PowerPoint presentation, which provided a background on the City of Manteca's proposal to annex approximately 183.48 acres with concurrent detachments from the Lathrop Manteca Fire District and the San Joaquin County Resource District.

The proposed annexation site consists of three areas:

A vacant 161.19-acre parcel known as the Development Area and 3.16 acres of dedication areas along Woodward Road and Airport Way. The applicant proposes to develop the vacant parcel into 827 residential units (Lumina at Machado Ranch), two parks, and public infrastructure.

Non-Development Area 1 consisting of six 1-acre lots with existing residential homes.

Non-Development Area 2 consisting of nine lots ranging from 1.3 acre to 1.8 acre lots (13.11 acres total) with existing residential homes.

This annexation is required to extend city services for the proposed development. This project is inhabited and does not have 100% owner consent. Staff received letters of opposition and a Protest Hearing will apply.

Staff recommends that the Commission approve Resolution No. 1495 approving the Lumina Reorganization to the City of Manteca with the concurrent detachments from the Lathrop Manteca Fire District and the San Joaquin Resource Conservation District and to direct LAFCo Staff to proceed with a Protest Hearing.

Chairman Breitenbucher opened the floor to Commissioner Comments.

Commissioner Johnson inquired to how many properties and the location of them.

Mr. J.D. Hightower stated that there are approximately 20 properties and they are located on Woodward and Airport Way.

Chairman Breitenbucher closed the floor to Commissioner Comments.

Chairman Breitenbucher opened the floor to Public Comments.

Mr. Manuel Souza, representing Terra Ranch Home Owners, stated that there are 40 homes on the west side of the project zone. Mr. Souza is concerned about the 2016 police response times that were in the Environmental Impact Report. When these numbers were published they were already outdated. The homes off south 120 were not built when that data was collected. There is one fire – EMS station serving the residents off Woodward Road. Mr. Souza had called 911 which was a 3.2 mile radius from the fire station and it took 12-14 minutes for them to arrive. Approving this project will only put a strain on the city services.

Mr. Bill Ludwig, a resident within the annexation are, stated that LAFCo is supposed to be impartial and a neutral. He is very concerned that this will not happen because two Commissioners are from Manteca and the Executive Officer just left a position in the City of Manteca. Mr. Ludwig stated concern over the fairness of a Protest Hearing and needing over 50% to stop this proposal. He also informed that the developer was giving money to the residents and having them sign papers for them not to object to the project.

Trevor Smith, Consultant, Signature Homes, stated that there has been many letters sent to residents over the past few years regarding this development. The money that Mr. Ludwig is referring to is to prepay the sewer and water line connection fees that each home will need to pay to connect to city services.

A resident along Woodward stated that the city is unwilling to cooperate with the residents. The city put a median in front of his house and his driveway. Alex cannot get his truck in and out of his drive way and he needs to move his driveway.

Chairman Breitenbucher closed the floor to Public Comments.

Commissioner Winn commented on the high cost incurred by the homeowners in county pockets to connect to city services. There is an island in his district and the residents will never go into the City. Commissioner Winn also stated that there are several approved developments south of 120 and when you develop, traffic does increase. An example would be Airport Road interchange. All homeowners that are around this proposed project will receive an increase in traffic, which is a concern to all people.

J.D. Hightower, Executive Officer, stated that the McKinley Interchange would take approximately 30 months to complete which is the same amount of time that it will take to complete the proposed subdivision. This interchange is consistent with the Regional Transportation Plan and will alleviate much of the congestion.

Commissioner Winn stated that he understood the frustration regarding the Protest Hearing process but mentioned that he has seen several projects that have been disapproved during these hearings.

Commissioner Johnson thanked the residents who spoke. A significant role of LAFCo is to make sure that infrastructure and city services grow as the city grows. There are challenges, as county residents do not want development that takes away from their views. Commissioner Johnson informed Mr. Ludwig that LAFCo sends out Affected Agency Letters to see if anyone has any concerns.

Chairman Breitenbucher has a side bar with Rod Attebery, Legal Counsel, regarding if he should recuse himself from the vote.

Rod Attebery, Legal Counsel, stated that there was no need have anyone recuse himself or herself. If you are on a city council and vote yes on a proposed project because it would be good for the city, you may vote no on LAFCo as you are looking at the project from a different point of view or one may vote yes. A LAFCo Commissioner is responsive to the County.

The motion was made by Commissioner Villapudua, seconded by Commissioner Johnson to approve Resolution No. 1495, approving the Lumina Reorganization to the City of Manteca with concurrent detachment from the Lathrop Manteca Fire District and the San Joaquin County Resource Conservation Center and for staff to proceed with the Protest Hearing process.

Roll Call Vote:

Ayes: Commissioner Johnson, Villapudua, Winn and Chairman Breitenbucher

Nos: None

Absent: Commissioner Lincoln

5. CITY OF LODI MUNICIPAL SERVICE REVIEW (MSR) AND SPHERE OF INFLUENCE PLAN (SOI) UPDATE (LAFC 24-22)

(Action by Regular Members)

The Commission will review and discuss the MSR Report and SOI Update for the City of Lodi.

J.D. Hightower, Executive Officer, provided a PowerPoint presentation, which gave an overview of the process to update the MSR and the SOI. He stated that LAFCo is required to prepare an MSR for each of its incorporated cities and special districts and update the SOI's at least every five years. LAFCo requires that the SOI delineate where development is expected to occur within 5-10 year and 30-year periods and that future annexations must be consistent with the SOI.

The Sphere of Influence and Municipal Service Review for the City of Lodi was last updated in 2007. The only proposed amendment to the current Lodi SOI is the addition of the East Study Area that includes 851 acres of land which is generally bound by East Kettleman Lane to the north, East Hogan Lane to the south, Curry Avenue to the east, and Highway 99 to the west.

Staff recommends that the Commission approve Resolution No. 1496 approving the City of Lodi Municipal Service Review and Resolution 1497 approving the City of Lodi Sphere of Influence Update.

Chairman Breitenbucher opened the floor to Commissioner Comments.

No comments were made.

Chairman Breitenbucher closed the floor to Commissioner Comments.

Chairman Breitenbucher opened the floor to Public Comments.

John Della Monica, Community Development Director, City of Lodi stated he was available to answer any questions.

Chairman Breitenbucher closed the floor to Public Comments.

The motion was made by Commissioner Johnson seconded by Commissioner Villapudua to approve Resolution 1496, approving the City of Lodi Municipal Service Review.

Roll Call Vote:

Ayes: Commissioner Johnson, Villapudua, Winn and Chairman Breitenbucher

Nos: None

Absent: Commissioner Lincoln

The motion was made by Commissioner Villapudua, seconded by Commissioner Johnson to approve Resolution 1497, approving the City of Lathrop Sphere of Influence Update.

Roll Call Vote:

Ayes: Commissioner Johnson, Villapudua, Winn and Chairman Breitenbucher

Nos: None

Absent: Commissioner Lincoln

PUBLIC COMMENTS

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

EXECUTIVE OFFICER COMMENTS

7. Comments from the Executive Officer

No Comments were made/

COMMISSIONER COMMENTS

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

Commissioner Johnson welcomed J.D. Hightower to LAFCo.

CLOSED SESSION

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

10. CLOSED SESSION

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)

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

There is no need for a Closed Session.

ADJOURNMENT

Meeting Adjourned at 10:41 a.m.

EXECUTIVE OFFICER'S REPORT

October 13, 2022

TO: LAFCo Commissioners

FROM: Jeffery Hightower, 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 926 E. Taft Avenue and 936 E. Taft Avenue in 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 1462 approving out-of-agency services.

Attachment: Resolution No. 1498
Vicinity Map

Resolution No. 1498

**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION
APPROVING AN OUT-OF-AGENCY SANITARY SEWER SERVICE FROM THE
CITY OF STOCKTON TO 928 E. TAFT AVENUE AND 936 E. TAFT AVENUE IN
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 10th day of November 2022, by the following roll call votes:

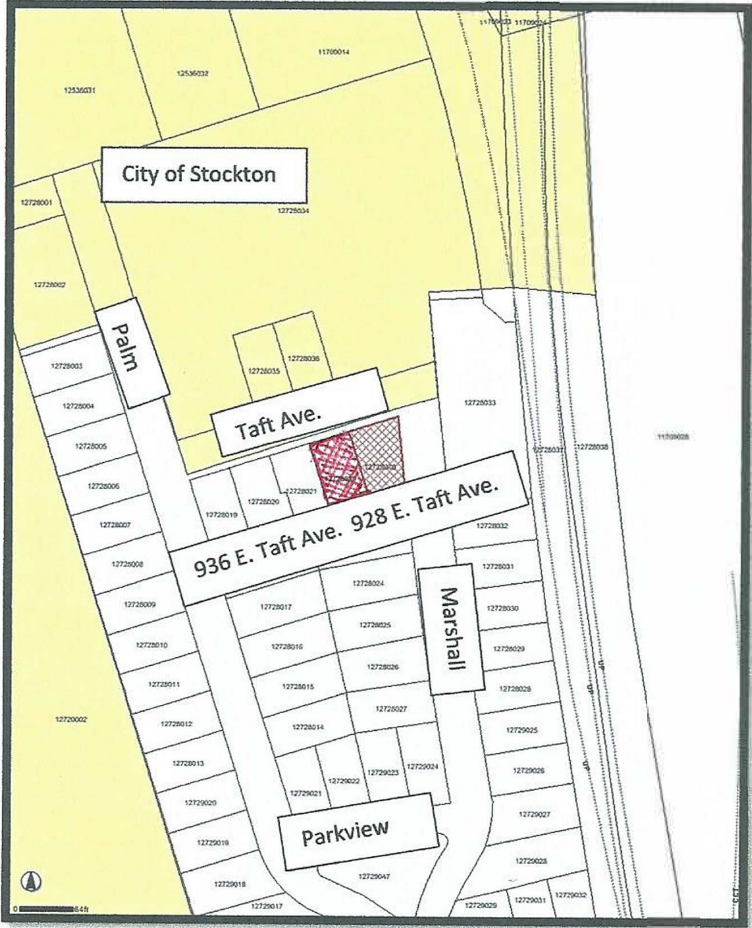
AYES:

NOES:

ABSENT:

DAVID BREITENBUCHER, Chairman
San Joaquin Local Agency
Formation Commission

Res. No. 1498
11-10-22



LAFCo

44 NORTH SAN JOAQUIN STREET, SUITE 374 □ STOCKTON, CA 95202

EXECUTIVE OFFICER'S REPORT

DATE: November 10, 2022

FROM: Rod Attebery, General Counsel

SUBJECT: Discussion and Possible Action Regarding Meetings of the San Joaquin Agency Formation Commission Under AB 361 Using Teleconference During a Proclaimed State of Emergency

Recommendation

It is recommended that the Commission approve the attached LAFCo resolution 1498 authorizing Commission to conduct meeting of the San Joaquin Local Agency Formation Commission using teleconferencing pursuant to Government Code 45942 as amended by AB 361 for the period of November 10, 2022 to December 10, 2022.

Background

On September 16, 2021, Governor Gavin Newsom signed Assembly Bill 361 ("AB 361") into law, amending the Ralph M. Brown Act (Gov. Code, § 54950 *et seq.*) (the "Brown Act"). AB 361 codified certain modified requirements for teleconference meetings held by public agencies, similar to those previously authorized and extended by executive order during the COVID-19 State of Emergency.

AB 361 was introduced to provide a longer-term solution for teleconference meetings during states of emergency, effective until January 1, 2024. AB 361 amends Section 54953 of the Government Code to allow the legislative body of a local agency to meet remotely without complying with the normal teleconference rules for agenda posting, physical location access, or quorum rules. To do so, one of three scenarios must exist, all of which require that the Governor has proclaimed a State of Emergency pursuant to Government Code section 8625:

- A. State or local officials have imposed or recommended measures to promote social distancing;
- B. The agency is holding a meeting for the purpose of determining whether meeting in person would present imminent risks to the health or safety of attendees; or
- C. The agency is holding a meeting and has determined that meeting in person would present imminent risks to the health or safety of attendees.

(Gov. Code, § 54953(e)(1).)

An agency and any committee that is required to comply with the Brown Act, that holds a meeting under either of the three scenarios must continue to post its agenda in the time required by the Brown Act, and ensure that the public is able to address the agency or committee directly through teleconference means. (*Id.* at subd. (e)(2). If a disruption prevents the agency or committee from broadcasting the meeting or receiving public comments in real time, the agency or committee cannot take further action until those functions are restored; any actions taken during such a disruption are subject to legal challenge. (*Id.*)

Assuming the State of Emergency remains in effect, if the San Joaquin Local Agency Formation Commission (“LAFCo” or the “Commission”) or LAFCo committees wish to continue meeting under the modified rules, then the Commission, and each committee that wants to continue to meet using teleconference must each individually adopt an initial resolution within 30 days of the first teleconference meeting, and then must adopt an extension resolution at least every 30 days thereafter. (*Id.* at subd. (e)(3).) The resolutions must contain findings stating that the Commission or committee has reconsidered the circumstances of the State of Emergency and either (1) the State of Emergency continues to directly impact the ability of the members to meet safely in person; or (2) State or local officials continue to impose or recommend measures to promote social distancing. (*Id.*)

Where consecutive regular meetings fall outside the 30-day time frame, the Commission or committee should hold a special “AB 361” remote meeting within the 30-day window simply to reauthorize the AB 361 exceptions. Without the AB 361 exceptions, the Commission or committee will be required to return to normal in-person meetings or provide public access at each remote location under the traditional teleconference rules, as of October 1, 2021. Therefore, if the AB 361 authorization lapses and the Commission or a committee wishes to hold a teleconference meeting, it will be required to post agendas and provide public access at each remote location, identify those locations in the agenda, and maintain a quorum of the Commission within agency boundaries. If a meeting is not held in conformity with AB 361, commissioners may not teleconference from their residences or other locations, which are not open and accessible to the public.

FISCAL IMPACT:

None.

Attachment: Resolution 1499

Resolution No. 1499

**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION
AUTHORIZING COMMISSION TO CONDUCT MEETINGS OF THE SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION USING TELECONFERENCING
PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED BY AB 361 FOR THE
PERIOD NOVEMBER 10, 2022 TO DECEMBER 10, 2022**

WHEREAS, the San Joaquin Local Agency Formation Commission (“LAFCo”) is committed to preserving and nurturing public access and participation in meetings of the Commission; and

WHEREAS, all meetings of LAFCo’s legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch LAFCo’s legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), as amended by AB 361 (2021), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, Cal-OSHA adopted emergency regulations (Section 3205) imposing requirements on California employers, including measures to promote social distancing; and

WHEREAS, an Order of the San Joaquin County Public Health Officer acknowledges that close contact to other persons increases the risk of transmission of COVID-19; and

WHEREAS, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations, therefore, meeting in person would present imminent risks to the health or safety of attendees.

NOW, THEREFORE, BE IT RESOLVED, that the San Joaquin Local Agency Formation Commission approves

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Finding of Imminent Risk to Health or Safety of Attendees. LAFCo does hereby find that the current dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations has caused, and will continue to cause, conditions of peril to the safety of persons, thereby presenting an imminent risk to health and/or safety to LAFCo's employees and attendees of the Commission's public meetings; and

Section 3. Teleconference Meetings. LAFCo does hereby determine as a result of the State of Emergency proclaimed by the Governor, and the recommended measures to promote social distancing made by State and local officials that the Commission may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e)(1)(A) and (B) of section 54953, and shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

Section 4. Direction to Staff. The Executive Officer and LAFCo staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED this 10th day of November 2022, by the following roll call vote:

AYES:

NOES:

ABSENT:

DAVID BREITENBUCHER, Chairman
San Joaquin Local Agency
Formation Commission