

SUTTER LAFCO

LOCAL AGENCY FORMATION COMMISSION

1201 Civic Center Blvd
Yuba City, CA 95993 (530) 822-4700

REGULAR MEETING AGENDA

Yuba City Council Chambers
1201 Civic Center Blvd, Yuba City, California

Thursday, January 11, 2024

COMMISSION MEMBERS

Regular Members

County Member – Mat Conant, **Chair**
County Member – Mike Ziegenmeyer
City Member – Marc Boomgaarden, **Vice-Chair**
City Member – Bob Woten
District Member – Larry Munger

District Member - Don Cochran
Public Member - Enita Elphick

Commissioner Alternates:

County Alternate – Karm Bains
City Alternate – Jeremy Chapdelaine
District Alternate – Vacant
Public Alternate – Manny Cardoza

LAFCo Staff:

Doug Libby, Executive Officer
Deborah Micheli, LAFCo Counsel
Shirina Manes, Clerk

Meeting will begin at 2:00 PM

The Council Chambers will be open for public attendance and participation.

- 1. Call to Order: Roll Call and Pledge of Allegiance**
- 2. Approval of the Agenda**
- 3. Public Comment:**

Members of the public are invited to address the Commission on any matter of interest to the public that is not on the agenda for a period of time not exceeding 5 minutes. Pursuant to the Brown Act, the Commission cannot take any action on items not listed on the posted agenda but may add to a future agenda matters brought up under public comments for appropriate action at a future meeting.

- 4. Election of a Chair and Vice-Chair for Calendar Year 2024**
 - a. Elect Chairperson for 2024
 - b. Elect Vice-Chairperson for 2024

5. **Consideration of an amendmen to the Commission’s Policies, Standards, and Procedures and the Commission’s Bylaws regarding noticing of proposals pursuant to Government Code Section 56662 and establishing a requirement for public notification signs for pending proposals**

Recommendation: Adopt a resolution of the Sutter County Local Agency Formation Commission amending the Commission’s Policies, Standards, and Procedures and the Commission’s Bylaws regarding noticing of proposals pursuant to Government Code Section 56662 and establishing a requirement for public notification signs for pending proposals.

6. **A discussion regarding the status and next steps for the Fire Services Municipal Service Review and Sphere of Influence Update**

7. **Executive Officers Report**

8. **Correspondence**

a. 2024 CALAFCO Events Calendar

9. **Adjournment:**

Adjourn to the next regular meeting

The Commission may take action upon any item listed on the agenda. Unless otherwise noted, items may be taken up at any time during the meeting.

Any member appointed on behalf of local government shall represent the interests of the public as a whole and not solely the interest of the appointing authority Government Code Section 56325.1

Commissioners - Please contact your alternate member if you are either unable to attend this meeting or unable to vote on a specific agenda item.

Pursuant to Government Code Section 54954.2, Commission members may make a brief announcement or report on activities. Commission members may also provide a reference to staff or other resources for factual information, request staff to report back to the Commission at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

Public Comment

Members of the public may address the Commission on items not appearing on the agenda, as well as any item that does appear on the agenda, subject to the following restrictions:

- Items not appearing on the agenda must be of interest to the public and within the Commission’s subject matter jurisdiction.
- No action shall be taken on items not appearing on the agenda unless otherwise authorized by Government Code Section 54954.2 (known as the Brown Act, or California Open Meeting Law).
- The total amount of time allotted for receiving public comment may be limited to 15 minutes.
- Any individual’s testimony may be limited to 5 minutes. Time to address the Commission will be allocated on the basis of the number of requests received.

Public Hearings

Members of the public may address the Commission on any item appearing on the agenda as a Public Hearing. The Commission may limit any person's input to 5 minutes. Written statements may be submitted in lieu of or to supplement oral statements made during a public hearing.

Agenda Materials

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda are available for review for public inspection in the Sutter County Development Services office located at 1130 Civic Center Blvd, Yuba City, CA. [such documents are also available on the Sutter LAFCO website as noted below to the extent practicable and subject to staff's ability to post the documents prior to the meeting].

Accessibility

An interpreter for the hearing-impaired may be made available upon request to the Executive Officer 72 hours before a meeting. The location of this meeting is wheelchair-accessible.

Disclosure & Disqualification Requirements

Pursuant to Government Code Sections 56100.1, 56300(b), 56700.1, and 81000 et seq., Disclosure of Contributions and Expenditures in Support of and Opposition to Proposals, any person or combination of persons who directly or indirectly contribute \$1000 or more or expend \$1000 or more in support of or opposition to a change of organization or reorganization that has been submitted to Sutter LAFCO must comply with the disclosure requirements approved by Sutter LAFCO

A LAFCO Commissioner must disqualify herself or himself from voting on an application involving an "entitlement for use" (such as an annexation or sphere amendment) if, within the last twelve months, the Commissioner has received \$250 or more in campaign contributions from the applicant, any financially interested person who actively supports or opposes the application, or an agency (such as an attorney, engineer, or planning consultant) representing the applicant or an interested party. The law (Government Code Section 84308) also requires any applicant or other participant in a LAFCO proceeding to disclose the contribution amount and name of the recipient Commissioner on the official record of the proceeding.

Contact LAFCO Staff LAFCO staff may be contacted at (530) 822-3231 or by mail at Sutter LAFCO 530.822.3231 or by email dlibby@yubacity.net

Webpage Reports, agendas, minutes and general information about LAFCO are available on the LAFCO Webpage at www.sutterlafco.org

SUTTER LAFCO

LOCAL AGENCY FORMATION COMMISSION

1201 Civic Center Blvd.
Yuba City CA 95993 (530) 822-4700

Staff Report

Date: January 11, 2024
To: Local Agency Formation Commission
From: Doug Libby, AICP, Executive Officer

Summary

Subject: Consideration of an amendment to the Commission's Policies, Standards, and Procedures and the Commission's Bylaws regarding noticing of proposals pursuant to Government Code Section 56662 and establishing a requirement for public notification signs for pending proposals

Recommendation: Adopt a resolution of the Sutter County Local Agency Formation Commission amending the Commission's Policies, Standards, and Procedures and the Commission's Bylaws regarding noticing of proposals pursuant to Government Code Section 56662 and establishing a requirement for public notification signs for pending proposals

Fiscal Impact: No additional fiscal impact will result from amending the Commission's Procedures and Bylaws to revise the standards discussed.

Purpose:

To consider amendments to the Sutter LAFCO Policies, Standards and Procedures and Bylaws, to require noticed public hearings for all changes of organization and reorganization considered by the Commission and to require the public notification signs for proposals.

Background:

This item was initiated by the Commission at its November 9, 2023, regular meeting.

Government Code 56662 provides for LAFCOs to approve certain LAFCO proposals without providing public notice or holding a public hearing when certain conditions are met. These include situations having the following circumstances:

1. A territory is uninhabited (having fewer than 12 registered voters).
2. All owners within the affected territory have given written consent to the proposal.
3. An affected city or district has not submitted written opposition to a waiver of protest proceedings.

In previous years, Sutter LAFCO utilized this provision to approve proposals but later received negative public feedback because citizens living proximate to an annexation was not provided notice and was unaware an annexation was being processed.

Analysis:

Although the State law provides LAFCO's an opportunity to waive noticing requirements under specific circumstances, LAFCOs retain the authority to adopt more stringent standards if it finds it better serves a local community.

The following amendment to Section 5.3 a) of the Commission's Bylaws is proposed and is reflected by the underlined text:

5.3 Notice of Meetings

a) General Notice

The Executive Officer shall provide notice of all regular and special meetings in accordance with the Ralph M. Brown Act, Section 54954.1 of the Government Code, and applicable provisions of the LAFCO Act. Written or faxed notice of regular and special meetings of the Commission shall be sent in the form of a meeting agenda to at least the following:

- i) Each LAFCO member, alternate and staff.
- ii) Local news media, including but not limited to:
 - The Appeal Democrat
- iii) To any person or entity requesting a copy of the agenda in writing.
- iv) By posting the agenda of each meeting at least 72 hours in advance of the meeting.
- v) By posting on the LAFCO website.
- vi) Proposals shall be provided notice in accordance with this section. Government Code Section 56662 shall not be utilized as a mechanism to approve proposals without notice and conducting a public hearing unless previously authorized by the Commission.

The following amendment to Section 6.2 of the Commissions Policies, Standards and Procedures is proposed:

6.2. Notice and Public Participation

a) Public Participation Encouraged. LAFCO encourages participation in its decision-making process. The Cortese-Knox-Hertzberg Act provides for a wide dissemination of notice. LAFCO shall not necessarily be limited to the minimums required by law and policy. The Commission will provide an opportunity to the public to be heard at LAFCO meetings in accordance with the procedures set forth in the By-Laws.

~~b) Unnecessary Public Hearings Eliminated. Where LAFCO is authorized by Cortese-Knox-Hertzberg to consider a proposal without public hearing, the proposal will be considered by the Commission without a public hearing, unless the Executive Officer or the Commission determines that the matter is of sufficient public interest or controversy to warrant a public hearing~~

b) Public Notification Signs. In addition to other noticing requirements, applicants for proposals shall establish, at their own expense, public notification sign(s) as required by this section. Sign(s) shall be established within thirty (30) days after submitting a proposal to the Executive Officer. A Certificate of Filing shall not be issued for a proposal unless the required sign(s) have been established in compliance with the following standards:

1. Signs shall be sized a minimum of four (4) feet tall by four (4) feet wide and shall not exceed four (4) feet tall by eight (8) feet wide and shall be mounted on four (4) inch by four (4) inch posts and shall not be illuminated.

2. A sign shall be established adjacent to each public right-of-way street frontage the project abuts in a manner that does not create a sight distance hazard within the public right-of-way.

3. All sign text shall be approved by the Executive Officer. Each sign shall include the wording "Sutter County Local Agency Formation Commission (Sutter LAFCO)" and "Pending Proposal" and shall include contact phone number(s), website information, a brief description of the approvals sought, and a sleeve that will be used to hold public notices.

4. Applicants shall be responsible for all costs associated with constructing, maintaining and removal of all signs within (30) days after a final determination on a proposal is made by the Commission.

5. Public notification signs shall be considered temporary Governmental Signs as allowed by Zoning Codes.

c) Proposals shall be provided notice in accordance with this section, the Commission's adopted Bylaws and State law. Government Code Section 56662 shall not be utilized as a mechanism to approve proposals without notice and conducting a public hearing unless previously authorized by the Commission.

Fiscal Impact:

Existing budgeted monies are being utilized to make the revisions discussed. There will not be an additional fiscal impact to the Commission's adopted budget.

Alternatives:

The Commission may determine not to revise its policies and bylaws and follow the requirements of statute as it has historically done.

Recommendation:

Adopt a resolution of the Sutter County Local Agency Formation Commission amending the Commission's Policies, Standards, and Procedures and the Commission's Bylaws regarding noticing of proposals pursuant to Government Code Section 56662 and establishing a requirement for public notification signs for pending proposal.

Attachments:

- 1 Proposed Resolution
- 2 Government Code Section 56662

ATTACHMENT 1
Proposed Resolution

Sutter County Local Agency Formation Commission

Resolution No. 2024-001

A Resolution of the Sutter County Local Agency Formation Commission Amending Section 5.3 of the Commission's Bylaws and Section 6.2 of the Commission's Policies, Standards and Procedures regarding the noticing of proposals pursuant to Government Code Section 56662 and establishing a requirement for public information signs for pending proposals before the Commission

WHEREAS, the Sutter County Local Agency Formation Commission has adopted Bylaws and separately adopted Policies, Standards and Procedures, and

WHEREAS, the Commission has determined it desires to amend its Bylaws, and Policies, Standards and Procedures to provide for improved noticing and communication to the public on pending proposals before the Commission; and

WHEREAS, the Commission held a public meeting on the proposed amendment to its Bylaws and Policies, Standards and Procedures on January 11, 2024, and at the meeting, the Commission heard and received all oral and written comments provided by the public which were made, presented, or filed and all persons present were given an opportunity to hear and be heard with respect to the proposed amendment to the Bylaws and Policies, Standards, and Procedures and the report of the Executive Officer.

NOW, THEREFORE, the Sutter County Local Agency Formation Commission **DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

1. The amendment to the Commission's Bylaws and Policies, Standards and Procedures, attached as Exhibit "A," shall guide the Commission in the review of proposals and in complying with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and
2. The amendment to the Commission's Bylaws and Policies, Standards and Procedures, attached as Exhibit "A" is hereby adopted and incorporated into LAFCO's Bylaws and Policies, Standards and Procedures; and
3. Any previously adopted conflicting Bylaw, or Policies, Standards and Procedures are hereby repealed in favor of this amendment.

The foregoing resolution was presented at a Regular Meeting of the Sutter County Local Agency Formation Commission on the 11th day of January, 2024 and adopted by the following vote of the Commission:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair

Attest:

Doug Libby, Executive Officer
Sutter County Local Agency Formation Commission

EXHIBIT "A"

Section 5.3 (a) of the Commission's Bylaws is amended to read in its entirety as follows:

5.3 Notice of Meetings

a) General Notice

The Executive Officer shall provide notice of all regular and special meetings in accordance with the Ralph M. Brown Act, Section 54954.1 of the Government Code, and applicable provisions of the LAFCO Act. Written or faxed notice of regular and special meetings of the Commission shall be sent in the form of a meeting agenda to at least the following:

- i) Each LAFCO member, alternate and staff.
- ii) Local news media, including but not limited to:
 - The Appeal Democrat
- iii) To any person or entity requesting a copy of the agenda in writing.
- iv) By posting the agenda of each meeting at least 72 hours in advance of the meeting.
- v) By posting on the LAFCO website.
- vi) Proposals shall be provided notice in accordance with this section. Government Code Section 56662 shall not be utilized as a mechanism to approve proposals without notice and conducting a public hearing unless previously authorized by the Commission.

Section 6.2 of the Commissions Policies, Standards and Procedures is amended to read in its entirety as follows:

6.2. Notice and Public Participation

a) Public Participation Encouraged. LAFCO encourages participation in its decision-making process. The Cortese-Knox-Hertzberg Act provides for a wide dissemination of notice. LAFCO shall not necessarily be limited to the minimums required by law and policy. The Commission will provide opportunity to the public to be heard at LAFCO meetings in accordance with the procedures set forth in the By-Laws.

b) Public Notification Signs. In addition to other noticing requirements, applicants for proposals shall establish, at their own expense, public notification sign(s) as required by this section. Sign(s) shall be established within thirty (30) days after submitting a proposal to the Executive Officer. A Certificate of Filing shall not be issued for a proposal unless the required sign(s) have been established in compliance with the following standards:

1. Signs shall be sized a minimum of four (4) feet tall by four (4) feet wide and shall not exceed four (4) feet tall by eight (8) feet wide and shall be mounted on four (4) inch by four (4) inch posts, or equivalent, and shall not be illuminated. Signs shall be maintained throughout the application review process.
2. A sign shall be established adjacent to each public right-of-way street frontage the project abuts in a manner that does not create a sight distance hazard within the public right-of-way.
3. All sign text shall be approved by the Executive Officer. Each sign shall include the wording "Sutter County Local Agency Formation Commission (Sutter LAFCO)" and "Pending Proposal" and shall include contact phone number(s), website information, a brief description of the approvals sought, and a sleeve that will be used to hold public notices.
4. Applicants shall be responsible for all costs associated with constructing, maintaining and removal of all signs within (30) days after a final determination on a proposal is made by the Commission.
5. Public notification signs shall be considered temporary Governmental Signs as allowed by Zoning Codes.
6. Proposals shall be provided notice in accordance with this section, the Commission's adopted Bylaws and State law. Government Code Section 56662 shall not be utilized as a mechanism to approve proposals without notice and conducting a public hearing unless previously authorized by the Commission.

ATTACHMENT 2

Government Code Section 56662

Government Code Section 56662

Determinations without notice and hearing

56662. (a) If a proposal for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or - 77 - both, or formation of a county service area meets all of the following criteria, the commission may make determinations upon the proposal without notice and hearing and may waive protest proceedings entirely pursuant to Part 4 (commencing with Section 57000):

(1) The territory is uninhabited.

(2) An affected local agency has not submitted a written demand for notice and hearing during the 10-day period as described in subdivision (c).

(3) The proposal meets either of the following criteria:

(A) The petition accompanying the proposal is signed by all of the owners of land within the affected territory.

(B) The proposal is accompanied by proof, satisfactory to the commission, that all the owners of land within the affected territory have given their written consent to the proposal.

(b) Except for the determinations authorized to be made by subdivision (a), the commission shall not make any determinations upon any proposal, plan of reorganization, or report and recommendation of a reorganization committee until after public hearing by the commission on that proposal, plan of reorganization, or report and recommendation of a reorganization committee.

(c) The commission shall not take any action on the petition or resolution of application for 10 days following the mailed notice required under subdivision (b) of Section 56658. Upon written demand by an affected local agency, filed with the executive officer during that 10-day period, the commission shall make determinations upon the petition or resolution of application only after notice and hearing on the petition or resolution of application.

(d) If a proposal for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, or formation of a county service area meets all of the following criteria, the commission may make determinations upon the proposal and waive protest proceedings entirely pursuant to Part 4 (commencing with Section 57000):

(1) The territory is uninhabited.

(2) The proposal is accompanied by proof, satisfactory to the commission, that all the owners of land within the affected territory, exclusive of land owned by a private railroad company, have given their written consent to the proposal and a private railroad company that is an owner of land within the affected territory has not submitted written opposition to the waiver of protest proceedings prior to the conclusion of the commission hearing.

(3) A subject agency has not submitted written opposition to a waiver of protest proceedings.

2024 Events Calendar

JANUARY

- 5 CALAFCO Board of Directors Meeting (Virtual)*
- 12 CALAFCO Legislative Committee (Virtual)†
- 24-26 League New Mayor & Council Academy
- 24-26 CA Assn. of Sanitation Agencies Winter Conference (Palm Springs)

FEBRUARY

- 10-13 NACo Legislative Conference
- 16 CALAFCO Legislative Committee (Virtual)†

MARCH

- 22 CALAFCO Legislative Committee (Virtual)†

APRIL

- 12 CALAFCO Board of Directors Meeting (Virtual)*
- 17-19 CA State Assn. of Counties Leg Days (Sacto.)
- 23-26 Fire District Assn. Annual Meeting (Seaside)
- 24-26 CALAFCO Staff Workshop (Pleasanton)

MAY

- 7-9 Assn. of CA Water Agencies Conference (Sacto.)
- 10 CALAFCO Legislative Committee (Virtual)†
- 21-22 CA Special Districts Assn. Leg Days (Sacto.)

JUNE

- 14 CALAFCO Legislative Committee (Virtual)†

JULY

- 12 CALAFCO Legislative Committee (Virtual)†
- 19 CALAFCO Board of Directors Meeting (Virtual)*
- 31 CA Assn. of Sanitation Agencies Annual Conference (Monterey)

AUGUST

- 1-2 CA Assn. of Sanitation Agencies Annual Conference (Monterey)
- 23 CALAFCO Legislative Committee (Virtual), if needed†

SEPTEMBER

- 9-12 CA Special Districts Assn. Conference (Monterey)
- 18-20 Regional Council of Rural Counties Annual Meeting (Sonoma)

OCTOBER

- 16-18 League Annual Conference (Long Beach)
- 16-18 CALAFCO Annual Conference (Yosemite)
- 17 CALAFCO Annual Business Meeting (Yosemite)
- 18 CALAFCO Board of Directors Meeting (Yosemite)

NOVEMBER

- 1 CALAFCO Legislative Committee (Virtual)†
- 18-22 CA State Assn. of Counties Annual Conference (Pasadena)

DECEMBER

- 3-5 Assn. of CA Water Agencies Conference (Palm Desert)
- 6 CALAFCO Legislative Committee (Virtual), if needed†

*Regular Board Meetings start at 10:00 AM

†Legislative Committee Meetings start at 9:00 AM

For current information and other CALAFCO resources please visit www.calafco.org