

MENDOCINO

Local Agency Formation Commission

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

COMMISSIONERS

Tony Orth, Chair

Brooktrails Township CSD

Scott Ignacio, Vice Chair

Point Arena City Council

Gerald Ward, Treasurer

Public Member

Matthew Froneberger

Special District Member

Gerardo Gonzalez

Willits City Council

Glenn McGourty

County Board of Supervisors

Maureen Mulheren

County Board of Supervisors

Jenifer Bazzani, Alternate

Ukiah Valley Fire District

John Haschak, Alternate

County Board of Supervisors

Mari Rodin, Alternate

City Member

Richard Weinkle, Alternate

Public Member

STAFF

Executive Officer

Uma Hinman

Analyst

Larkyn Feiler

Commission Clerk

Kristen Meadows

Counsel

Scott Browne

REGULAR MEETINGS

First Monday of each month

at 9:00 AM in the

Mendocino County

Board of Supervisors

Chambers

501 Low Gap Road, Ukiah

Approved by Commission on May 3, 2021

DRAFT MINUTES

Local Agency Formation Commission of Mendocino County

Regular Meeting of Monday, April 5, 2021

Meeting held via Zoom due to COVID-19 Pandemic Emergency Conditions

1. **CALL TO ORDER and ROLL CALL** (Video Time 4:40)

Chair Orth called the meeting to order at 9:03 a.m.

Regular Commissioners Present: Tony Orth, Gerald Ward, Gerardo Gonzalez, Scott Ignacio, Matthew Froneberger, Maureen Mulheren, and Glenn McGourty

Regular Commissioners Absent: none

Alternate Commissioners Present: Jenifer Bazzani and Mari Rodin

Alternate Commissioners Absent: John Haschak and Richard Weinkle

Staff Present: Uma Hinman, Executive Officer; Larkyn Feiler, Analyst; Kristen Meadows, Clerk; and Scott Browne, Legal Counsel

2. **PUBLIC EXPRESSION** (Video Time 6:44)

Elizabeth Salomone, General Manager for the Russian River Flood Control and Water Conservation Improvement District, provided an update on current water supply conditions and announced the launch of the District's Facebook page designed to inform and educate the public on local water conditions. A written update is included under Item 8b.

3. **OTHER BUSINESS** (Video Time 9:14)

3a) Announcement of Alternate City Member and Oaths of Office

On March 3, 2021, the City Select Committee appointed Mari Rodin to serve as the Alternate City Member on the LAFCo Commission. After reading her Oath of Office, she immediately assumed her seat on the Commission.

4. **CONSENT CALENDAR** (Video Time 10:39)

4a) Approval of the January 4, 2021 Regular Meeting Summary

4b) Ratification of the February 2021 Claims & Financial Report

February 2021 Claims totaling:	\$ 16,533.00
Hinman & Associates Consulting	\$ 10,762.00
Ukiah Valley Conference Center	\$ 468.50
P. Scott Browne	\$ 5,152.50
Streamline	\$ 100.00
Commissioner Stipends	\$ 50.00

4c) Approval of the March 2021 Claims & Financial Report

March 2021 Claims totaling:	\$ 17,756.82
Hinman & Associates Consulting	\$ 13,159.00
Ukiah Valley Conference Center	\$ 464.00
P. Scott Browne	\$ 2,102.90
County of Mendocino	\$ 240.92
Streamline	\$ 50.00
Pheling CPA	\$ 1,690.00
Commissioner Stipends	\$ 50.00

4d) Acceptance of the Fiscal Year 2019-20 Audit

4e) Legislative Support Letter for AB 1581 (Local Government Committee Omnibus Bill)

There were no comments from the Commission.

Motion by Commissioner Gonzalez: Approve the Consent Calendar Items

Second by Commissioner Froneberger.

Approved by roll call vote: unanimous.

Ayes: (7) Ignacio, Gonzalez, Ward, Froneberger, Mulheren, McGourty, Orth

5. PUBLIC HEARING ITEM None.

6. WORKSHOP ITEMS (Video Time 12:37)

6a) Preliminary Fiscal Year 2021-22 Budget and Work Program

EO Hinman gave a presentation of the preliminary Budget as recommended by the Executive Committee. The Budget is based on a July 1 to June 30 fiscal year.

Proposed Operating Expenses: \$205,150.

Summary of 2020-21 and Preliminary 2021-22 Fiscal Year Budgets

Budget Summary	FY 2020-21		FY 2021-22
	Amended (\$)	Projected (\$)	Preliminary Budget (\$)
Apportionment	150,000	150,000	225,000
Interest	450	70	100
Revenues Total	150,450	150,070	225,100
Staffing Total	92,060	95,000	95,000
Services and Supplies Total	49,633	45,133	58,650
Work Plan Total	34,500	20,000	51,500
Operations Total	176,193	160,133	205,150
Change in Reserves	(25,743)	(10,063)	19,950

Proposed Apportionment Fees and Reserves

The following table summarizes impacts on reserves resulting from two apportionment fee options.

	Projected FY 2020-21 (\$)	Preliminary FY 2021-22 (\$)
Budget	\$160,133	\$205,150
Revenue/Funds		
Apportionment fees	150,000	225,000
Interest	70	
Anticipated use of reserves	(10,063)	19,950
Anticipated Reserve Balances		
Balance at beginning of FY	90,484	80,421
Estimated balance at end of FY	80,421	100,371
<i>Target Reserves balance</i>	<i>75,033</i>	<i>101,288</i>
<i>Difference</i>	<i>7%</i>	<i>(1%)</i>

Preliminary FY 2021-22 Work Plan

Agency	Last MSR and/or SOI Update	Estimated Cost ¹
City of Ukiah ²	MSR 2012	\$12,500
Ukiah Valley Sanitation District	N/A	\$20,000
Ukiah Valley Fire District	MSR/SOI 2008	\$6,000
County Service Area No. 3	N/A	\$6,000
Covelo Community Services District	MSR/SOI 2010	\$7,000

Work Plan Notes:
¹Costs have been estimated for the identified Work Plan studies for this FY; however, actual costs may vary depending on timely receipt of requested information and issues that may arise during preparation of studies. Additionally, no CEQA costs have been included in the estimates beyond Exemptions.
²Under an MOU between LAFCo and the City of Ukiah, the City is funding the preparation of its MSR/SOI Update and associated CEQA document.

Commissioner McGourty asked for clarification of CSA 3. Chair Orth explained, the CSA includes all unincorporated areas of Mendocino County, is directed by the Board of Supervisors, and was created to provide enhanced services to those in its jurisdiction.

Commissioner Rodin asked for clarification of Basic Services and Work Plan tasks as it relates to the Executive Officer. EO Hinman explained that Work Plan refers specifically to time spent on MSR's & SOI's and is billed to account 7000. Conversely, time spent on Staff Reports, meetings, policy development etc., falls under Basic Services.

Budget Development Schedule:

Proposed Budget Public Hearing – May 3, 2021

Final Budget Public Hearing – June 7, 2021

Commissioner Gonzalez asked if the Special Districts are notified of their fee amount when the Preliminary Budget is distributed. EO Hinman answered, yes, the notice is scheduled for distribution this week.

Motion by Commissioner Ignacio: Direct staff to schedule a Proposed Budget and Work Program for Public Hearing for May 3, 2021.

Second by Commissioner Mulheren.

Approved by roll call vote: unanimous.

Ayes: (7) Ignacio, Gonzalez, Ward, Froneberger, Mulheren, McGourty, Orth

Following the vote, Commissioner Rodin asked if there is a master spreadsheet for tracking Work Plan Progress. EO Hinman answered yes, she will share with the Commission at the next meeting. Commissioner McGourty added that it would be helpful to the new Commissioners.

7. MATTERS FOR DISCUSSION AND POSSIBLE ACTION

7a) Direction to Policies & Procedures Committee (Video Time: 39:20)

Counsel Browne presented the staff report and his memo on the recent (March 3, 2021) case, *San Luis Obispo LAFCo v. City of Pismo Beach, et.al.*, which may have significant implications for how LAFCos handle indemnification for fees incurred while defending its actions. In summary, the city of Pismo Beach and its developer sued San Luis Obispo LAFCo (SLO LAFCo) for its denial of annexation and lost. Following the ruling, SLO LAFCo sued the City for its attorney fees. The Court of Appeal held that LAFCos have a statutory duty to process applications and therefore cannot require indemnification as a condition for processing applications. Although the case is not yet final, it could impact the current practice of requiring indemnification agreements as part of LAFCo applications. Counsel Browne detailed possible alternatives to indemnification – requiring a deposit from applicants, self-insuring for up to one year of litigation, or to not defend. Considering this issue, Staff recommended the Commission consider directing the Policies and Procedures Committee to review Mendocino LAFCo's policy and provide a recommendation to address the issue of indemnification for applications at the next regular meeting.

Chair Orth asked the Commissioners whether they desired to move up the closed session item for further discussion of the matter. Counsel Browne noted that discussion of legal vulnerability should be held in closed session.

Chair Orth invited public comment from Phil Williams, Attorney for the City of Ukiah. He stated that although the issue and ruling deserve discussion and consideration, he believes there are creative ways to craft adequate consideration for indemnification. In closing, he reminded the Commission that the City of Ukiah is willing to indemnify Mendocino LAFCo against lawsuits brought by third parties.

Motion by Commissioner McGourty: Direct the Policies & Procedures Committee to review Mendocino LAFCo's indemnification policies and recommend revisions to the Commission at the next regular meeting.

Second by Commissioner Ignacio.

Approved by roll call vote: unanimous.

Ayes: (7) Ignacio, Gonzalez, Ward, Froneberger, Mulheren, McGourty, Orth

7b) Ad Hoc Committee(s) (Video Time: 58:24)

EO Hinman presented the item. In September 2020, an Ad Hoc Committee (Commissioners Ward and Orth) was established to oversee the RFP process of selecting a consultant for MSR/SOI studies for the City of Ukiah and the Ukiah Valley Sanitation District. Recommendations were provided to the Commission, fulfilling the committee's purpose; therefore, staff recommends dissolving the committee and establishing a new committee to support implementation of the Work Plan.

Chair Orth appointed two Commissioners, Mulheren, Froneberger, along with EO Hinman, to the Work Plan Ad Hoc Committee, for ratification by the full Commission.

Treasurer Ward suggested adding a third Commissioner to the committee according to policy. EO Hinman asked Counsel Browne if adding a third commissioner would make the committee subject to the Brown Act. Mr. Browne answered, if the committee has less than a quorum of the legislative body, it is not subject to the Brown Act.

Commissioner Ignacio suggested adding Commissioner Rodin to the committee, and she agreed. Commissioners Mulheren and Froneberger also accepted the appointment.

Without further discussion the committee appointments were ratified.

7c) San Diego LAFCo's Initiative to Sponsor Legislation on Government Code 56133(e) (Video Time: 1:05:38)

EO Hinman presented the item. San Diego LAFCo is sponsoring legislation to clarify within Government Code Section 56133 that LAFCos should be the arbiter when determining service extension exemption under 56133(e). From a public policy standpoint, it would be better for each county to have a single, neutral body adjudicating the matter consistent with State Law and local policies rather than multiple agencies making this decision independently. San Diego LAFCo has taken the lead on proposed legislation and is soliciting support from all California LAFCos.

There were no comments from the Commission or the public.

Motion by Commissioner Gonzalez: Direction to staff to relay preliminary support to San Diego LAFCo on its initiative to sponsor legislation on Government Code §56133(e), retaining full support pending review of final bill language.

Second by Commissioner Mulheren.

Approved by roll call vote: unanimous.

Ayes: (7) Ignacio, Gonzalez, Ward, Froneberger, Mulheren, McGourty, Orth

8. INFORMATION/REPORT ITEMS

8a) Work Plan, Current, and Future Proposals (Video Time: 1:08:49)

EO Hinman presented the report:

5 Active Proposals:

1. City of Ukiah Detachment of Ukiah Valley Sanitation District (UVSD) Served Areas
2. City of Ukiah Annexation of City-Owned Properties
 - a. Commissioner Rodin asked about the incomplete letter sent to the City and if it is common practice to share with the Commission what was incomplete about an application. EO Hinman responded that staff could share the letter and details about the items that were deemed incomplete, noting that it is also part of public record. She also explained that applications are not complete until a tax share

agreement is in place. Chair Orth provided some history on the topic stating that establishing tax share agreement between the City and the County has been in the works for some time and hopefully progress will be made soon.

- b. Commissioner Froneberger asked if the consultant for the project, Planwest Partners, will be working for LAFCo or for the City since the City has agreed to fund the project. EO Hinman confirmed the contact is between LAFCo and Planwest Partners and the Commission is responsible for adoption of the MSR/SOI update.
 - c. Commissioner Ward asked why there has been a delay in completing the MOU with the City. EO Hinman explained that there has been back and forth on the agreement terms and verbiage between attorneys for LAFCo and the City in addition to discussion of the issue of the indemnification clause. Counsel Browne agreed that he and Mr. Williams need to concentrate on coming to an agreement; he added, the new case discussed under item 7a has caused delays. The Commission may have to wait until the Policies & Procedures Committee provides a recommendation or potentially an agreement on considerations that can be made to allow enforceable indemnification. Mr. Williams noted his share of the responsibility for the delay, added that implications of how the agreement is structured complicate the issue, and he believes there are terms that need to be thoughtfully considered by both parties.
3. City of Ukiah Pre-Application for Annexation of Areas North of the City
 4. Ukiah Valley Fire District Pre-Application for Annexation of the City of Ukiah
 5. Millview County Water District Pre-Application for Annexation of Masonite Properties

Potential Future Proposals:

- City of Ukiah Annexation of Western Hills (Hull Properties)

Work Plan:

- Ukiah Valley Sanitation District (UVSD)
- City of Ukiah
- Ukiah Valley Fire District (UVFD)
- County Service Area (CSA) No. 3

Commissioner Ward expressed concern for Work Plan progress delays.

8b) Countywide Planning Activities Report (Video Time: 1:20:00)

EO Hinman made note of the report and agenda packet attachment from the Russian River Flood Control District on water conditions in the County. Commissioners McGourty, Orth, and Froneberger stressed the importance of serious preparation and consideration for the current “dire” water situation. They encourage all agencies in the County to work together to promote water conservation and to create contingency plans to assist those who will run out of water this year.

8c) Correspondence None.

8d) Executive Officer’s Report (Video Time: 1:23:48)

EO Hinman briefly reported that Staff has been working on application processing and completing the Financial Audit.

8e) Committee Reports (Executive Committee/Policies & Procedures) (Video Time 1:24:55)

Chair Orth reported the Executive Committee met in closed session and provided a report under item 7a.

EO Hinman reported a Policies & Procedures Committee meeting will be scheduled next week to address the indemnification clause.

8f) Commissioners Reports, Comments or Questions (Video Time: 1:26:38)

Treasurer Ward thanked staff for work done on the Audit stating he is proud of the financial statements; they are well done.

Commissioner McGourty reported the Board of Forestry is changing its fire protection road requirements making residential development on rural subdivision roads difficult and expensive, which may impact affordable housing.

8g) CALAFCO Business and Legislation Report (Video Time: 1:29:33)

EO Hinman noted the CALAFCO Annual and Quarterly Reports included in the agenda packet. The Staff Workshop has again been cancelled due to the pandemic. An in-person conference in Newport Beach is planned for October. The proposed budget allows for three Commissioners to attend, including registration for the Executive Officer.

9. CLOSED SESSION

9a) Conference with Legal Counsel – Anticipated Litigation

The Commission declined entering closed session.

At 10:31 a.m. Chair Orth called for a ten-minute break.

10 MINUTE BREAK (Video Time 1:32:47)

At 10:42 a.m. Chair Orth re-called the meeting to order and requested a Roll Call.

ROLL CALL (Video Time 1:43:23)

Regular Commissioners Present: Tony Orth, Scott Ignacio, Matthew Froneberger, Maureen Mulheren, and Glenn McGourty

Regular Commissioners Absent: Gerry Gonzalez and Jerry Ward

Alternate Commissioners Present: Mari Rodin

Alternate Commissioners Absent: John Haschak, Jenifer Bazzani, and Richard Weinkle

Staff Present: Uma Hinman, Executive Officer; Larkyn Feiler, Analyst; Kristen Meadows, Clerk; and Scott Browne, Legal Counsel

10. LAFCO 101 TRAINING (Video Time: 1:44:39)

EO Hinman, Analyst Feiler, and Counsel Browne conducted a training for the Commissioners.

(Video Time: 3:27:00) Commissioner McGourty encouraged staff's proactive coordination in regional long range planning efforts and agencies and outreach to special districts.

(Video Time: 3:24:20; 3:33:42) Commissioners Orth and Ignacio asked for clarification regarding Mendocino LAFCo's support for contract staff to attend CALAFCO conferences, workshops and trainings. EO Hinman noted that in 2016 the Commission approved a policy that allowed for CALAFCO conference registration reimbursement for contract EO attendance, not including expenses (travel, lodging, etc.) or time; no other support for staff trainings and workshops has been approved and no budget allocation. Counsel Browne confirmed the value of his participation in the CALAFCO conference and Staff Workshop, which directly benefits the LAFCo's he represents, stating that he split the cost amongst the LAFCos he represents. Commissioners Orth, Ignacio and McGourty expressed support for staff presenting a future agenda item for Commission support and budget for staff participation in future training opportunities.

ADJOURNMENT (Video Time: 3:38:19)

There being no further business, the meeting adjourned at 12:36 p.m. The next regular meeting is scheduled for Monday, May 3, 2021 at 9:00 a.m. The location is to be determined based on guidelines recommended by the Mendocino County Public Health Officer and Executive Orders regarding the COVID-19 pandemic.

Live web streaming and recordings of Commission meetings are available via the County of Mendocino's YouTube Channel. Links to recordings and approved minutes are also available on the [LAFCo website](#). [April 5, 2021 meeting recording on YouTube](#)