



San Luis Obispo Local Agency Formation Commission Meeting Agenda December 15, 2022, 9:00am

MEETING

December 15, 2022 – 9 A.M.
**ZOOM MEETING, SEE ACCESS
INFORMATION BELOW**

CONTACT

ROB FITZROY
EXECUTIVE OFFICER
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COMMISSIONERS

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DEBBIE ARNOLD, VICE CHAIR, COUNTY
LYNN COMPTON, COUNTY
STEVE GREGORY, CITY
MARSHALL OCHYLSKI, SPECIAL DISTRICT
ROBERT ENNS, SPECIAL DISTRICT
HEATHER JENSEN, PUBLIC
DAWN ORTIZ-LEGG, COUNTY ALTERNATE
CHARLES BOURBEAU, CITY ALTERNATE
ED EBY, SPECIAL DISTRICT ALTERNATE
DAVID WATSON, PUBLIC ALTERNATE

MEETING PARTICIPATION

- **To submit written comment**, mention the matter or agenda item number and send via email to mbing@slo.lafco.ca.gov or fill out an online submission form on our website at slo.lafco.ca.gov, or U.S. mail at 1042 Pacific St Suite A, San Luis Obispo CA, 93401. All correspondence is distributed to each Commissioner and will become part of the official record of the Commission meeting.
- **To submit a pre-recorded verbal comment** call (805) 781-5795; state and spell your name, mention the agenda item number you are calling about and leave your comment. Your comments will be distributed to each Commissioner and will become part of the official record of the Commission meeting.
- **To provide live comment**, join the meeting via Zoom (see meeting access information below) and press the "raise a hand" button or if joining by phone only, press *9 to indicate a desire to make comment. The chair or staff will call you by name or phone number when it is your turn to comment; limited to 3 minutes per item.
 - * If you are joining by Zoom & phone, still use the Zoom raise hand button as *9 will **not** work.

Other Notes:

- In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate at this meeting, please contact the Clerk at 805-781-5795. Notification provided a minimum of 48 hours prior to the meeting will enable the Clerk to make reasonable arrangements to ensure accessibility to this meeting. Pursuant to the ADA, the meeting room is accessible to the physically disabled.
- It is required by Government Code Section 84308 that a participant in a LAFCO proceeding who has a financial interest in the decision and who has made a campaign contribution of more than \$250 to any Commissioner within (12) months prior, must disclose the contribution. If you are affected, please notify Commission Staff before the hearing.



MEETING ACCESS

LAFCO Commission Meetings can be viewed at:

<https://us06web.zoom.us/j/87452306550?pwd=R1ZyOHpHOS9uc3VzRVc3NHplVmhhHQT09>

Webinar ID:	874 5230 6550	Password:	511720
Call-in Number:	1 669 900 6833	Public Comments:	On the agenda cover page

MEETING AGENDA

Call to Order/Roll Call

Approval of the Minutes: November 17, 2022 **(Pages 3 - 7)**

Non-Agenda Public Comment Period

This is the period in which persons may speak on items that are not on the regular agenda. You may provide public comment in one of the three methods mentioned above in the “Meeting Participation” section.

Consent Agenda

A-1: Resolution Regarding Commission Meetings Held by Teleconference as Provided by AB 361 (Recommend Review and Approve) **(Pages 8 - 13)**

Regular Matters

B-1: LAFCO File No. 3-R-22: Sphere of Influence Amendment and Annexation #19 to Cayucos Sanitary District (Valley Lot) (Recommend Continuance for a Future Meeting to be Determined) **(Pages 14 - 15)**

Commissioner Comments

Legal Counsel Comments

Executive Officer Comments

Adjournment



**SAN LUIS OBISPO
LOCAL AGENCY FORMATION COMMISSION
NOVEMBER 17, 2022, MEETING MINUTES**

Call to Order

The San Luis Obispo Local Agency Formation Commission (LAFCO) meeting was called to order at 9:02 a.m. on Thursday, November 17, 2022, by Chairperson Ed Waage through Zoom pursuant to the COVID-19 provisions of the Governor's Executive Order AB 361.

Roll Call

Present: Chairperson Ed Waage, Vice-Chair Debbie Arnold, Commissioners Robert Enns, Heather Jensen, Marshall Ochylski, and Alternate Commissioner David Watson

Absent: Commissioners Lynn Compton, Steve Gregory, Alternate Commissioners Charles Bourbeau, Ed Eby, and Dawn Ortiz-Legg

Staff: Rob Fitzroy, LAFCO Executive Officer
Imelda Marquez, LAFCO Analyst
Morgan Bing, LAFCO Clerk Analyst
Brian Pierik, LAFCO Legal Counsel

Approval of the Minutes: October 20, 2022

Chairperson Waage announced the consideration of approval for the October 20, 2022, Regular Meeting Minutes.

Chairperson Waage asked if any written or live public comments were received.

Ms. Bing reported that no written or live public comments were received.

Chairperson Waage closed public comment and asked for Commissioner comments or a motion to approve the minutes.

Vice Chair Arnold motioned to approve the minutes.

Commissioner Enns seconded the motion.

AYES: Vice Chair Arnold, Commissioners Enns and Jensen, and Chairperson Waage

NAYS: None

ABSTAINING: None

The motion was passed with a unanimous roll call vote.

Non-Agenda Public Comments

Chairperson Waage asked if any written or live non-agenda public comment requests were received.

Ms. Bing reported that no written or live public comments were received.

Consent Agenda

A-1: Resolution Regarding Commission Meetings Held by Teleconference as Provided by AB 361 (Recommend Review and Approve)

A-2: 2023 Regular Meeting Calendar (Recommend Review and Approve)

Chairperson Waage asked if any written or live comments from the public were received.

Ms. Bing reported that no written or live public comments were received.

Chairperson Waage closed public comment and asked for Commissioner motion to approve the Consent Agenda items.

Vice Chair Arnold motioned to approve the items on consent.

Commissioner Jensen seconded the motion.

AYES: Vice Chair Arnold, Commissioners Jensen and Enns, and Chairperson Waage

NAYS: None

ABSTAINING: None

The motion was passed with a unanimous roll call vote.

Regular Matters

B-1: LAFCO File No. 2-R-22: Annexation #13 to County Service Area 18 (Jack Ranch Headquarters) (Recommend Review and Approve)

Ms. Marquez presented the item.

Chairperson Waage opened the item for Commissioner questions.

Rob Miller, from the applicant team, thanked staff and welcomed questions.

Chairperson Waage asked if any written or live comments from the public were received.

Ms. Bing reported that no written or live public comments were received.

Chairperson Waage asked for a motion to approve the first action which finds that the proposal be exempt from the California Environmental Quality Act (CEQ) pursuant to CEQA Guidelines section 15303 Class 3 (d) and section 15319, Class 19 (b).

Commissioner Enns made a motion to approve the first action.

Vice Chair Arnold seconded the motion.

AYES: Commissioner Enns, Vice Chair Arnold, Commissioner Jensen, Chairperson Waage

NAYS: None

ABSTAINING: None

The motion was passed with a unanimous roll call vote.

Chairperson Waage asked for a motion to approve the second action to waive protest proceedings.

Vice Chair Arnold made a motion to approve the second action.

Commissioner Enns seconded the motion.

AYES: Vice Chair Arnold, Commissioners Enns and Jensen, Chairperson Waage

NAYS: None

ABSTAINING: None

The motion was passed with a unanimous roll call vote.

Chairperson Waage asked for a motion to approve the third action to conditionally approve, by resolution, the proposed Annexation to County Service Area 18.

Vice Chair Arnold made a motion to approve the third action.

Commissioner Enns seconded the motion.

AYES: Vice Chair Arnold, Commissioners Enns and Jensen, Chairperson Waage

NAYS: None

ABSTAINING: None

The motion was passed with a unanimous roll call vote.

B-2: First Quarter Fiscal Year 2022-23 LAFCO Budget Status and Work Plan Report (Recommend Review and Approve)

Mr. Fitzroy presented the item.

Chairperson Waage opened the item for commissioner comments and welcomed Commissioner Ochylski to the meeting.

Chairperson Waage asked if any written or live comments from the public were received.

Ms. Bing reported that no written or live public comments were received.

Vice Chair Arnold, Chairperson Waage and Commissioner Jensen thanked staff for their work.

Chairperson Waage asked for a motion to approve the first quarter budget and work plan report for fiscal year 2022-23 and direct the Executive Officer to file it with the County Auditor.

Commissioner Enns motioned to approve staff recommendation.

Vice Chair Arnold seconded the motion.

AYES: Commissioner Enns, Vice Chair Arnold, Commissioners Jensen and Ochylski, and Chairperson Waage

NAYS: None

ABSTAINING: None

The motion was passed with a unanimous roll call vote.

Informational Matters

C-1: Notice of Petition of Application for Annexation #30 Dana Reserve Specific Plan to Nipomo Community Services District – LAFCO File No. 4-R-22 (Recommend Receive and File)

Mr. Fitzroy presented the item.

Chairperson Waage opened the item for commissioner comments, hearing none.

Chairperson Waage asked if any written or live comments from the public were received.

Ms. Bing reported that no written or live public comments were received.

Chairperson Waage asked for clarification on the time frame of this project.

Mr. Fitzroy provided input on time frame.

Chairperson Waage asked for a motion to receive and file the notice of petition of application for Annexation #30 Dana Reserve Specific Plan to Nipomo Community Services District – LAFCO File No. 4-R-22.

Vice Chair Arnold made a motion to approve the action.

Commissioner Enns seconded the motion.

AYES: Vice Chair Arnold, Commissioners Enns, Jensen and Ochylski, and Chairperson Waage

NAYS: None

ABSTAINING: None

The motion was passed with a unanimous roll call vote.

Commissioner Comments: **Chairperson Waage** asked if staff anticipate a December meeting. **Mr. Fitzroy** responded that a virtual December meeting is expected.

Legal Counsel Comments: None

Executive Officer Comments: None.

Adjournment: With no further business before the Commission, the meeting adjourned at 9:40 a.m. until the next meeting of the Commission pursuant to Governor’s Executive Orders, depending upon the progression of the COVID-19 pandemic.

THESE MINUTES ARE NOT OFFICIAL NOR ARE THEY A PERMANENT PART OF THE RECORD UNTIL THEY ARE APPROVED BY LAFCO COMMISSIONERS AT THE NEXT REGULAR MEETING.

Respectfully submitted,
Morgan Bing, LAFCO Clerk Analyst



San Luis Obispo Local Agency Formation Commission

TO: MEMBERS OF THE COMMISSION

FROM: BRIAN PIERIK, LEGAL COUNSEL

DATE: DECEMBER 15, 2022

SUBJECT: RESOLUTION REGARDING COMMISSION MEETINGS HELD BY TELECONFERENCE AS PROVIDED BY AB361

RECOMMENDATION

It is respectfully recommended that the Commission consider taking the following actions:

Action 1: Adopt Resolution of the San Luis Obispo Local Agency Formation Commission Proclaiming the Continuing Need to Meet by Teleconference Pursuant to Government Code Section 54953 (e).

DISCUSSION

All meetings of the San Luis Obispo Local Agency Formation Commission ("Commission") are open and public as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963).

Before COVID-19, Section 54953(b) of the Brown Act allowed for teleconferencing if the public agency complied with the following requirements:

1. At least a quorum of the members of the legislative body must participate from locations within the boundaries within the jurisdiction of the local agency.
2. An agenda shall be posted at all teleconference locations.
3. Each teleconference location shall be identified in the notice and agenda of the meeting.
4. Each teleconference location shall be accessible to the public.

Due to COVID-19, Governor Newsom temporarily suspended compliance with these requirements and as a result, city officials were allowed to teleconference from locations such as their homes without needing to open up those homes or other

COMMISSIONERS

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ED WAAGE
City Member

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Analyst

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Clerk Analyst

BRIAN A. PIERIK
Legal Counsel

locations for entry by members of the public. However, Governor Newsom’s temporary suspension of such rules expired on September 30, 2021. AB 361 allows the modified teleconferencing rules to continue, subject to the existence of certain requirements of Government Code Section 54953 (e).

Government Code section 54953(e)(1), which was adopted by AB 361, lists the circumstances under which a local agency may use such modified teleconferencing procedures, as follows:

(1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

March 4, 2020, Governor Newsom declared a State of Emergency as a result of the COVID-19 pandemic. The State of Emergency remains in effect and COVID-19 continues to threaten the health and lives of the public and the Delta and Omicron variants are highly transmissible in indoor settings.

For these reasons, the recommended action is for the Commission to adopt the Resolution of the San Luis Obispo Local Agency Formation Commission Proclaiming The Continuing Need To Meet By Teleconference Pursuant To Government Code Section 54953 (e), Attachment A to this Staff Report.

The attached Resolution will authorize the Commission to hold teleconference meetings within the requirements of AB 361 but does not prohibit the Commission from holding in person meetings in the future.

If the state of emergency ends or if the Commission decides to rescind the Resolution, then meetings of the Commission must comply with the pre-COVID teleconferencing rules of 54953(b) described earlier in this Staff Report.

Attachment A: Resolution of the San Luis Obispo Local Agency Formation Commission Proclaiming The Continuing Need To Meet By Teleconference Pursuant To Government Code Section 54953 (e)

Attachment A

Resolution of the San Luis Obispo Local Agency Formation
Commission Proclaiming The Continuing Need To Meet By
Teleconference Pursuant To Government Code Section
54953 (e)

IN THE LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, December 15, 2022

RESOLUTION NO. 2022-XX

**RESOLUTION OF THE SAN LUIS OBISPO LOCAL AGENCY FORMATION COMMISSION
PROCLAIMING THE CONTINUING NEED TO MEET BY TELECONFERENCE PURSUANT
TO GOVERNMENT CODE SECTION 54953 (e)**

WHEREAS, all meetings of the San Luis Obispo Local Agency Formation Commission are open and public as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963); and

WHEREAS, the Brown Act, Government Code Section 54953(e), 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, on March 4, 2020, Governor Newsom declared a State of Emergency as a result of the COVID-19 pandemic; and

WHEREAS, such State of Emergency remains in effect; and

WHEREAS, COVID-19 continues to threaten the health and lives of the public; and

WHEREAS, the Delta and Omicron variants are highly transmissible in indoor settings; and

WHEREAS, breakthrough cases are becoming more common

WHEREAS, on November 17, 2022, the Commission adopted a Resolution Proclaiming The Continuing Need To Meet By Teleconference Pursuant To Government Code Section 54953

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Local Agency Formation Commission of the County of San Luis Obispo, State of California (“Commission”), as follows:

1. Recitals. The Recitals set forth hereinabove are true and correct and are hereby incorporated by this reference.
2. Imminent Risk to Health and Safety. Due to COVID-19, holding meetings of the Commission in person will present imminent risk to the health and safety to attendees.

- 3. Findings. The Commission has reconsidered the circumstances of the state of emergency and finds that the state of emergency continues to directly impact the ability of the members to meet safely in person.
- 4. Compliance With Government Code Section 54953. The Commission will continue to meet by teleconference in accordance with Government Code section 54953(e).
- 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) the day after the next meeting of the Commission or (ii) such time the Commission adopts a subsequent resolution rescinding this Resolution.
- 6. Future Resolutions. The Commission expressly reserves the right to adopt Resolutions more than 30 days after this date of adoption of this Resolution to authorize the Commission to continue to meet by teleconference in accordance with Government Code section 54953(e) provided that a State of Emergency exists as of the date of adoption of such Resolutions.

Upon a motion of _____, seconded by Commissioner _____, and on the following roll call vote:

AYES:

NAYS:

ABSENT:

ABSTAINING:

The foregoing resolution is hereby adopted.

Ed Waage, Chair
Local Agency Formation Commission

Date

ATTEST:

Rob Fitzroy
LAFCO Executive Officer

Date

APPROVED AS TO FORM AND LEGAL EFFECT:

Brian Pierik
LAFCO Legal Counsel

Date

CAM #4863-9908-1729 v1

DRAFT



San Luis Obispo Local Agency Formation Commission

TO: MEMBERS OF THE COMMISSION

**FROM: ROB FITZROY, EXECUTIVE OFFICER
IMELDA MARQUEZ, ANALYST**

DATE: DECEMBER 15, 2022

SUBJECT: LAFCO FILE 3-R-22: SPHERE OF INFLUENCE AMENDMENT AND ANNEXATION #19 TO CAYUCOS SANITARY DISTRICT (VALLEY LOT)

RECOMMENDATION

It is recommended that the Commission continue, by motion, LAFCO File No. 3-R-22: Sphere of Influence (SOI) Amendment and Annexation #19 to Cayucos Sanitary District (Valley Lot) to a future meeting, that is to be determined, for the purpose of allowing the County and the applicant time to resolve a pending appeal on County File No. DRC2019-00262 and until the project is fully entitled/approved.

DISCUSSION

An application was submitted to LAFCO for a proposed SOI amendment and Annexation #19 (Valley Lot) to Cayucos Sanitary District on June 22, 2022, through a landowner petition. The Valley Lot property wishes to receive service from the Cayucos Sanitary District for a two-level single-family residence of approximately 1,970 square feet with a 550 square-foot garage approved by the County of San Luis Obispo (County File No. DRC2019-00262).

LAFCO staff processed the application in accordance with all applicable provisions of the government code and sent referrals to affected agencies. LAFCO issued a 30-day review letter dated July 19, 2022, placing the application on hold per government code section 56658 (g). Items in the letter were addressed and therefore staff issued the 21-day notice of hearing on November 23, 2022.

After legal noticing was issued on November 23, 2022, it was disclosed on November 28, 2022 to LAFCO that County File No. DRC2019-00262 was appealed on June 19, 2022 to the Board of Supervisors shortly after Planning Commission

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Legal Counsel

approval (it should be noted that the project is located in the Coastal Zone and is also subject to appeal to the Coastal Commission). This means that the project is still pending and is not considered fully entitled/approved by the local land use authority. As such, the item is not ready for the Commission to consider. LAFCO staff informed the applicant on November 28, 2022 that the item would be continued, and the project would remain on hold until fully entitled/approved. In conclusion, staff recommends the Commission continue this item until all land use authority appeals have been exhausted and the project has been approved.

Important note: although this item is recommended for continuance, this hearing is necessary to hold and must be opened to the public due to the legal notice that was provide to the public. Once this item is ready for Commission consideration in the future, it will be re-noticed in accordance with standard procedures.