Lassen Local Agency Formation Commission

Special Meeting Agenda

MONDAY – August 10, 2020

3:00 PM

Note Location Change

Lassen County Fairgrounds - Jensen Hall
195 Russell Avenue
Susanville, CA.

(All meeting materials are available on LAFCo's Website: www.lassenlafco.org)

1. Call to order: Pledge of Allegiance

Commissioners	Alternate Members
Todd Eid, Chair, Public Member	David Teeter, County Member Alt.
Kevin Stafford, City Member	Quincy McCourt, City Member Alt.
Mendy Schuster, City Member	Vacant, Public Alt.
Jeff Hemphill, County Member	
Chris Gallagher, Vice-Chair, County Member	

LAFCO Staff

John Benoit, Executive Officer
Jennifer Stephenson, Deputy Executive Officer
Gwenna MacDonald, Clerk
John Kenny, LAFCO Counsel

2. Approval of Agenda (Additions and Deletions)

3. Election of Chair and Vice-Chair for FY 2020-2021

a) Election of Chair
b) Election of Vice Chair

4. Correspondence:

5. Approval of the February 10, 2020 LAFCo minutes

a) Approve February 10. 2020 LAFCo minutes

6. Public Comment

This is the time set aside for citizens to address the Commission on any item of interest to the public that is within the subject matter jurisdiction of the Commission. For items that are on the agenda, public comment will be heard when the item is discussed. If your comments concern an item that is noted as a public hearing, please address the Commission after the public

hearing is opened for public testimony. The Chairman reserves the right to limit each speaker to three (3) minutes. Please understand that by law, the Commission cannot make decisions on matters not on the agenda.

7. CONTINUED PUBLIC HEARING: Fire District Service Review (MSR) and Sphere of Influence (SOI)

a) Continue Public Hearing, discuss Fire Agency Service Review and Sphere of Influence and continue until 3:00 PM August 9, 2020.
b) Review District Attorney's report regarding the Standish Litchfield Fire Protection District.

8. CONTINUED PUBLIC HEARING: Policy, Standards and Procedures Update

a) Receive Executive Officer's Report
b) Consider adoption of LAFCo Resolution 2020-0003 adopting updated LAFCo Policies and Procedures.

9. Authorize payment of claims

a) Authorize payment of claims for June 2020 and July 2020.

10. Biennial Conflict of Interest Code Review

a) Review LAFCO's conflict of interest code and authorize the Executive Officer to sign and transmit the 2020 Annual Biennial notice to the Clerk to the Board.

11. Letters of Opposition to SB 414

a) Authorize Chair to sign letters opposing SB 414 to the Chair of the Assembly Appropriations Committee and Senate Member Anna Caballero.

12. Election for the 2020-2021 Calafco Board of Directors

a) Consider a nomination for a Public Member and a City Member from Lassen LAFCo to represent Calafco's Northern District
b) Authorize the Chair to vote for Northern District representatives on behalf of Lassen LAFCo

13. Executive Officer's Monthly Report

Levitt Lake CSD MSR and SOI
Stones Bengard CSD MSR and SOI
Spalding CSD MSR and SOI

14. Commissioner Reports - Discussion

This item is placed on the agenda for Commissioners to discuss items and issues of concern to their constituency, LAFCO, and legislative matters.

15. Adjourn to the next meeting to take place on Monday October 19, 2020 at 3:00 P.M.

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

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.

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).

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 a specified time. 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 area available for review for public inspection in the Clerk's office located at the City of Susanville, 66 North Lassen Street, Susanville CA. and the Lassen Co. Community Development Office located at 707 Nevada Street, Susanville CA. [such documents are also available on the Lassen LAFCo website (www.lassenlafco.org) 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 56700.1 and 57009 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and 82015 and 82025 of the Political Reform Act applicants for LAFCO approvals and those opposing such proposals are required to report to LAFCo all political contributions and expenditures with respect to a proposal that exceeds $1,000. LAFCO has adopted policies to implement the law, which are available on the Commission's webpage. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. Additional information may be obtained by calling the calling the Fair Political Practices Commission at (916) 322-5660.

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) 257-0720 or by email at lafco@co.lassen.ca.us. Copies of reports are located on the LAFCO webpage at: **www.lassenlafco.org**

OFFICE OF THE DISTRICT ATTORNEY

County of Lassen

INVESTIGATIVE REPORT:

THE STANDISH-LITCHFIELD FIRE PROTECTION DISTRICT

7 b

PROOF OF SERVICE

I am employed in the County of Lassen, Office of the District Attorney; my business address is: Government Center Building, 2950 Riverside Drive, Suite 102, Susanville, California 96130. I am over the age of 18 years and not a party to the foregoing action.

On July 15, 2020 I served the following documents:

Office of the District Attorney, County of Lassen
INVESTIGATIVE REPORT: THE STANDISH-LITCHFIELD FIRE PROTECTION DISTRCT

XXXXX by mail on all parties in said action listed below, in accordance with Code of Civil Procedure Section 1013(a), by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At the District Attorney's Office, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business, in a United States mailbox in the City of Susanville, State of California.

_____ by personally delivering a true copy thereof to the person and at the address set forth below.

_____ by overnight delivery on all parties in said action, in accordance with Code of Civil Procedure Section 1013(c), by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing overnight mail, addressed as set forth below. At the District Attorney's Office we utilize an overnight mail system in a designated area and the mail is picked up that same day, in the ordinary course of business, for delivery the following business day.

_____ by facsimile transmission to the parties at the number indicated below.

X Standish-Litchfield Fire Protection District
472-250 Chappuis Lane North
Standish, California 96128

X Lassen Local Area Formation Committee
Post Office Box 2694
Granite Bay, California

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on July 15, 2020, at Susanville, Lassen County, California.

Michelle Latimer

MICHELLE LATIMER
District Attorney's Program Coordinator

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OVERVIEW

In or about February 2020, the Office of the District Attorney received information and documentation in the form of a citizen complaint about the activities of the Standish Litchfield Fire Protection District ("SLFPD").

The citizen complaint raised concerns regarding perceived Brown Act and other violations and provided several specific examples of the violations that were alleged to have occurred, including, but not limited to:

1. Conflicts of interests amongst members of the Board
2. Confidentiality breaches
3. Brown Act violations in the form of:
    a) Improper agendizing and use of closed session
    b) Expenditure of public funds
    c) The purchase of a vehicle
    d) Employment practices

In addition to the citizen complaint, the District Attorney was also in receipt of reports from the Lassen County Sheriff Office of events taking place at the SLFPD meetings.

The District Attorney's investigative authority is the broadest of all local law enforcement agencies. The investigative functions of the District Attorney extend from the traditional hearings and trials to complex and specialized investigations not routinely handled by police agencies, particularly public integrity investigations.

In larger counties, it is not uncommon for District Attorney offices to have entire public integrity units, dedicated to the investigation of allegations of corruption involving public officials and employees in their official capacities or in the performance of their duties, and initiate criminal charges when appropriate. It is incumbent upon the District Attorney to investigate and enforce the provisions of the Political Reform Act, Elections Code, and issues relating to the open public meeting law (the Brown Act).

Based upon the information and documentation contained in the both the law enforcement reports and the citizen complaint, and the duty bestowed by law, the District Attorney began an inquiry utilizing the California Public Record Act ("CPRA") codified in Government Code section 6254 et.seq, and applying applicable statutes found in both the Health & Safety Code and Government Code of the State of California.

In that Public Record Act request, the District Attorney requested copies of agendas and minutes for meetings held over the past calendar year, along with some other specific information regarding

payments of bills or warrants and other expenditures of public monies by the SLFPD. The SLFPD substantially complied with what was requested.

The request made by the District Attorney was only for records. The SLFPD was not asked nor compelled to make a statement regarding the records requested. However, the SLFPD did, in fact, provide a written response to the District Attorney's request which accompanied the documents submitted.

Upon review of the information received from the citizen complaint, law enforcement reports, and the documents from SLFPD, the District Attorney determined the citizen complaint was with merit. Specifically, an alarming number of Brown Act and other code section violations were discovered. Most of the violations are curable, even to date, and do not appear to have been committed intentionally or with malfeasance. Other violations were arguably intentional or willful, as supported by admissions made by the SLFPD in its written response, potentially exposing the individual members of the Board to criminal prosecution and the SLFPD, as an entity, to civil liability. This report is intended to highlight the most problematic areas.

For purposes of disclosure, none of the staff of the Office of the District Attorney, including the District Attorney or Investigator, reside within the boundaries of or utilize services from the SLFPD. Furthermore, this report does not serve to provide legal advice to any reader. This report contains the findings and conclusions of the District Attorney and is not published to serve as the right to sue for any party. It is hoped that it may serve as a guide for other special districts who may be engaging in similar patterns to recognize the problems and correct them before it gets to the level experienced by the SLFPD.

INTRODUCTION

Fire Protection Districts

The Legislature has found that the local provision of fire protection services, rescue services, emergency medical services, and other services relating to the protection of lives and property is critical to the public peace, health, and safety of the state and its residents. The law governing fire protection districts is referred to as the "Fire Protection District Law of 1987" and is found beginning at Health & Safety Code section 13800 et. seq.

Area Served

The SLFPD serves the communities of Standish and Litchfield and encompasses roughly 91 square miles. The SLFPD is bordered by the Janesville and Susan River Fire Protection Districts to the west, the California Department of Fish and Wildlife Honey Lake Wildlife Area to the east, Honey Lake to the south, and land managed by the Bureau of Land Management's Eagle Lake Field Office to the north, starting at the toe of Shaffer Mountain. The communities of Standish and Litchfield are unincorporated and there is no formal legal or political structure beyond those provided by State and County governing bodies and the Standish-Litchfield Fire Protection District.

The SLFPD also provides services to the Belfast Road Annexation as well as the Wendel and Ravendale areas. Through this investigation it was learned that although these services are rendered to these areas, there is no assessment levied for the occupants therein. The cost of services for these areas are being wholly paid for by the residents within the original boundaries of the district. There is also some evidence to support an allegation that the SLFPD knowingly and intentionally has provided false or misleading information to the insurance service office in attempt to keep its assigned rates down.

Composition of the Board

The Board is comprised of five (5) non-paid members who must be residents within the boundaries of the District. The term of service is four (4) years.

Currently there are four sitting members, one of whom was recently appointed in February 2020. There is also a paid Secretary who is responsible for the preparation of agendas, minutes, and other documents or correspondence. The current paid Secretary is the daughter of the chairperson and was recently approved, by motion of the chairperson, to receive a raise. A fire chief is on staff as well.

Each member of the Board is required, pursuant to Health & Safety Code section 13841, to be both a resident and a registered voter of the area the district serves. The seats are elected, however, it is of note that there have been approximately fifteen, if not more, members of the Board in as many

years, all of whom have been appointed rather than elected. This serial appointment process is quite common in special districts; however, the consequence of high turnover of board members, at a minimum, is that the board members do not get an opportunity to become experienced board members, and the constituents of those districts do not get the benefit of such.

Board members are required to complete ethics training as well as complete and submit annual "Statement of Economic Interests (Form 700)" pursuant to California's Political Reform Act.

The Board meets regularly once a month on the first Wednesday of the month (with the exception of the period of time during the COVID-19 pandemic). The Board, pursuant to Health & Safety Code section 13855, is only required to meet once every three months. This Board should be commended for their efforts in keeping monthly meetings and business moving. However, meetings of this Board are subject to the provisions of the Ralph M. Brown Act, codified in Government Code section 54950 et. seq. and it is a lack of compliance with those provisions that is the main source of discussion in this report.

Budget

Pursuant to Health & Safety Code sections 13890 and 13893, the Board is required to adopt a preliminary or proposed budget on or before June 30 of each year. The Board shall publish a notice stating all of the following:

1) That is has adopted a preliminary budget which is available for inspection at a time and place within the District;
2) The date, time, and place when the Board will meet to adopt the final budget and that any person may appear and be heard regarding any item in the budget or regarding the addition of other items.

The notice should also be provided in the newspaper as well, and if not, notice shall be posted in three public places within the District at least two weeks before the meeting where the budget will be proposed.

The 19/20 fiscal year budget topic began appearing on the agenda in April 2019. A proposed or preliminary budget was not presented until July 10, 2019, but was subsequently tabled until a future date citing discrepancies in revenues the SLFPD receives from county tax allocations.

Pursuant to Health & Safety Code section 13895, on or before October 1 of each year, after making any changes in the preliminary budget, the board shall adopt a final budget, which shall establish its appropriation limit and forwarded to the county auditor.

The matter was never agendized after the July 10, 2019 date. The next time the budget was on an agenda was for the February 5, 2020 meeting where an item entitled "Budget Appropriation

Transfer" was listed and the minutes indicate the chairperson and the secretary worked with the county Auditor to arrange for a $65,000 appropriation to increase the annual operating budget to appropriate fund items.

The SLFPD's budget is available online through the Lassen County Auditor's website. As of the date of the inquiry into the budget, the SLFPD had spent approximately 88% of its budget with 77% of the year lapsed. The SLFPD is funded by a percentage of property taxes collected within the district boundary as well as reimbursement from the state or federal government for fire suppression support.

In its response to the request concerning the financials, the SLFPD referred the District Attorney to the Lassen County Auditor. While the District Attorney was able to locate the information requested through the Auditor, it should be noted and the SLFPD should be aware, that pursuant to Health & Safety Code section 13868, a district board shall keep a record of all its acts, including its financial transactions. It is not the responsibility of other agencies or entities to keep the records of the district, absent some other legal obligation to do so. In light of this requirement, the District Attorney should have been able to procure the requested items directly from the SLFPD.

There was a specific purchase that was the subject of the District Attorney's inquiry regarding that of a Dodge Ram pick-up truck that is discussed in a separate portion of this report.

AREAS OF CONCERN

CONFLICT OF INTEREST

(Government Code section 1090 et seq, 87100 et seq, 2 Calif. Code Regs 18700 et seq)

Public officials, which includes members of a board of a special district, cannot make or influence a governmental decision in which they have a conflict of interest. A member will have a conflict of interest if the decision has a foreseeable financial effect on their economic interests. They may not exert influence on a decision in which they have a conflict of interest unless their participation is legally required, or the member can establish that effect of the decision is indistinguishable from the effect on the general population. This is in conjunction with the Political Reform Act of 1974 discussed in the next section.

There is one sitting Board member also serving as an employee for another fire district. While that fact in and of itself may or may not be a conflict of interest, it certainly could create the appearance of a conflict if there are times when the SLFPD needs to utilize paid services from that particular district and this Board member is participating in the discussion to do so. There certainly could be an incompatibility of offices.

Another item of concern regarding a conflict of interest occurred during the repair of a pump house.

During the "Board Reports" of the May 1, 2019 meeting, the Board discussed repairs that needed to be made to the electrical box in a pump house in the amount of $7000-$8000. Rather than seeking bids for repairs, one member offered his friend to do the repairs. The Board voted to approve the repairs.

The District Attorney requested receipts, invoices, or other documents for these repairs. The SLFPD responded, dated April 11, 2020, with the following:

> "The pump house repair of approximately $7000 was paid and being handled by former board member [NAME DELETED]. When [NAME DELETED] resigned from the Board, the repairs were never completed and current board members have no way to communicate with the person to complete the repairs..."

The now-former Board member not only participated, he was the "second" for the motion to pass, for his friend to complete the repairs. Additionally, this former Board member was the person responsible for overseeing the completion of the repairs, including handling the money allotted for the repairs.

The law most applicable to the facts in this matter is Penal Code section 424(a) dealing with misappropriation of public offense. This is a felony offense which carries a term of imprisonment of up to four years. Penal Code section 424(a) applies to "...every person charged with the receipt, safekeeping, transfer, or disbursement of public moneys, who ... without authority of law, appropriates the same, or any portion thereof, to his or her own use, or to the use of another..." As those who approve warrants and otherwise direct how SLFPD's funds should be spend, board members fall squarely within this code section.

The California Supreme Court has held that:

> "Public officers who either retain custody of public funds or are authorized to direct the expenditure of such funds bear a peculiar and very grave responsibility, and ... courts and legislatures, mindful of the need to protect the public treasury, have traditionally imposed stringent standards on such officials." [Stark v. Superior Court of Sutter County (2011) 52 Cal.4th 368.]

Elsewhere in that decision, the Supreme Court noted that "even in complex situations, public officials and other are nevertheless obligated to act in 'strict compliance with the law'. They are expected to take reasonably necessary steps to determine the appropriateness of their conduct". At the same time, the Supreme Court recognized that in applying Penal Code section 424(a), public officials should not be criminally liable for a reasonable, good faith mistake regarding their legal responsibilities.

This Board has taken no steps to attempt to have the repairs completed by the individual paid or to recover the money. There were, and perhaps still are, remedies available including but not limited to a crime report with the Lassen County Sheriff's Office or civil actions through the Superior Court. The response from the SLFPD explained that "nobody will help [SLFPD] because they do not want to 'get involved'".

The mishandling of this task and subsequent inaction by this Board resulted in a loss of approximately $7000 of public funds towards repairs that, to date, have not been made.

Political Reform Act of 1974
(Government Code sections 81000-81003)

The Political Reform Act of 1974 inhibits improper practices of state and local government officials in election campaigns and ensures that they serve the needs of all citizens equally, and perform their duties free from bias caused by their own financial interests. The Act requires certain public officials to disclose their finances, assets, expenditures and income. Board members of the SLFPD are included as officials who must complete and submit a disclosure form.

These Form 700's are to be on file on or before April 1 of each year. There are currently three Form 700's on file, all dated August 23, 2019, which should have been filed on or before April 1, 2019. Each one indicates that there are "no reportable interests on any schedule".

One sitting member of this Board also serves on a fire team for another fire protection district. Another Board member runs a non-profit and a side business, yet neither of these are mentioned in the document. Even non-reportable interests may create conflicts of interests and could be grounds for disqualification from certain decisions.

The Form 700 is available online and while it may seem like a daunting task to fill out, is accompanied with instructions on how to complete the form as well as including a number to seek advice from the FPPC on whether something needs to be reported. Assistance is available and Board members are encouraged to refer to the instruction sheet or the FPPC if they have questions about reportable interests or conflict of interests. With these assistance outlets available, non-compliance is inexcusable.

VIOLATIONS OF THE RALPH M. BROWN ACT

(Government Code section 54950 et seq)

The Ralph M. Brown Act was adopted in 1953 to provide guidance to local governments for conducting open and public hearings and circumstances which a government body can hold a closed session. All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, unless an exception applies.

As stated above, the District Attorney investigation yielded the discovery of multiple potential "Brown Act" violations. Most, occurring in the form of improper agendizing, appear to be unintentional and are likely attributed to a lack of training by the Board and staff. However, a few, as discussed below appear to be intentional or willful.

1. Agendas and Meetings

A "meeting", as defined in the Brown Act, is any gathering of a majority of the members of a legislative body at the same time and location to hear, discuss, deliberate or take action on any item that is within the subject matter jurisdiction of the body. This includes meetings by teleconference or communications by other electronic means. A fire protection district board is a legislative body for purposes of this Act.

There are two types of meetings: regular and special, and they each have particular public notice requirements.

Regular Meetings

Agendas for regular meetings must be posted at least 72 hours in advance in a location that is freely accessible to the public and on the local agency's website (if available).

The agendas must include: brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session; the time and location of the meeting; and information for requesting disability-related modifications or accommodations.

The Board must allow for public comment on every agenda item and items not on the agenda. A further discussion regarding public comment is addressed in another section of this report.

In review of the agendas provided by SLFPD, they are facially deficient. The agendas routinely and consistently contain only one or two words in description of an item and will only indicate "Information/Action" with respect to what the Board is being asked to do. An agenda item must include a brief general description of each item of business to be transacted or discussed at the meeting so as to give the public a fair chance to participate in matters of particular or general concern. The public is not required to guess or surmise at the actions that the board would be taking on the item.

At any given meeting, it is unclear from the agenda what the Board is to be discussing or what action is being requested. The interested public is left to wait and see when the item is addressed at the meeting.

On multiple occasions, the Board took action on items that were not on the agenda at all. With narrow and limited exceptions, discussion and action on matters not on the agenda is prohibited. Members may only: briefly respond to statements/questions from the public, ask a question for clarification, make a brief announcement or report on his or her activities, provide a reference to staff or other sources for factual information, request staff report back at a later meeting, or direct staff to place the matter on a future agenda.

Items may only be added to an agenda for action when: a majority decides that an emergency situation exists (work stoppage, natural disaster, etc.,); or 2/3 or the members (or all members if less than 2/3 are present) determine there is a need to take immediate action that came to the attention of the agency after the agenda was posted. It must be established that no one in the agency knew of the issue before agenda was posted. The item must be so urgent that the need to take action cannot wait for the next regular meeting.

The items the Board took action on without being agendized did not appear to be of any urgency. Some of the items involved the expenditure, or gift, of public funds. The public was not provided

the opportunity to provide input during the comment period because of the improper agendizing. Examples include but are not limited to: retention of a trash receptacle at a cost of $57.00 quarterly; establishment of a "fire payroll account" and allocating $30,000 to it; repairs to the pumphouse at a cost of $7000-$8000; auctioning off a water tender for a price of $1; and purchase of water truck decals in excess of $1300.

The SLFPD did offer an explanation for its deficiencies in agendizing, in which it acknowledges the errors and identifies a plan of correction:

> "When (NAME DELETED) quit and refused to train or help the new Board members and Secretary, we all continued to do things the way that (NAME DELETED) was doing them, which did not include a formal format for report of actions taken in closed session. It is unfortunate that some meeting minutes do not reflect any closed session report outs. Considering the knowledge and training of the new Secretary, there is now a formal format to report actions taken during closed session, compliant with the Brown Act. The current practice of the Board, since making the multiple improvements to policies and procedures for the District since staff changes, is to report closed session actions in the subsequent open session meeting as compliant with the Brown Act, and have been reflected in the meeting minutes as appropriate."

It is noted that throughout this investigation, the SLFPD continuously blamed its failures in transparency on members of the public or prior staff members. There was very little, if any, accountability on the part of the agency.

Special Meetings

A special meeting is one which is heard at a different time, date, or location from regular meetings, or is being called to discuss a particular item. Notice must be posted at least 24 hours in advance of the special meeting. Written notice must be sent at least 24 hours in advance to each member of the body, to each local newspaper in general circulation, and to radio or television stations requesting written notice. The notice must include time and location of meeting and each item of business to be transacted or discussed (brief general description is recommended). Public comment at special meetings can be limited to only the item that is on the agenda to be discussed.

There are three meetings in particular that should having been noticed as "special" meetings. The Board meets regularly the first Wednesday of the month, at the Chappuis Lane Fire Station at 7:00pm.

In July 2019, rather than a meeting on July 3, the Board noticed its regular meeting for July 10, 2019. It is likely the July 3 meeting was cancelled due to the 4th of July holiday, but there did not appear to be any notification regarding the change in order to be certain.

The second meeting was on August 7, 2019. The regular location of the meetings is the Chappuis Lane Fire Station. This meeting was held at the Standish Bible Church on Plumas Ave in Standish and as such, should have been noticed as a "special meeting".

The third meeting was December 11, 2019. This meeting was held at 9:00am and the agenda made no reference to this being a "special meeting".

The Board substantially complied with appropriate notification for subsequent "special meetings".

2. Purchase of a 2017 Dodge Ram Truck

The District Attorney's investigation also encompassed the circumstances surrounding the purchase of a pickup truck by the SLFPD. The District Attorney asked the SLFPD to provide "receipts or invoices, agendas, minutes, or other communications regarding and involving the purchase of a 2018 [sic] Dodge Ram pickup" made by the SLFPD. The vehicle actually purchased was a 2017 Dodge Ram, not a 2018, and cost $31,249.07 – of public monies. The purchase of this vehicle was not placed on any regular nor special meeting agenda prior to occurring, nor was it ever addressed at any subsequent meeting.

On the June 5, 2019 agenda, there is an item entitled "Vehicle Payment" but due to the vagueness in description, it is unknown whether this was the vehicle that item was intended to address. Additionally, according to the minutes for that meeting, no such item was ever discussed.

In their responsive documents, the SLFPD did provide a sales contract for the purchase of the vehicle. In its explanation of the purchase, the SLFPD states the following:

> "The purchase of the 2017 Dodge Ram (command vehicle) was initiated by former board member (NAME DELETED). (NAME DELETED) found the truck and the board held an emergency closed meeting and voted by phone due to the time sensitive contractual nature of the purchase. Please note that this was a Confidential Closed Meeting with no subsequent open session to report actions taken. Because of the confidentiality of closed session meetings, this information has not been provided to (NAME DELETED) in his multiple records requests. The SLFPD Board of Directors has maintained appropriate confidentiality regarding confidential closed session meetings.....It is very common for Fire Departments to often purchase vehicles and equipment...Regardless, this was a legal vehicle/equipment purchase by SLFPD and expenditures regarding this purchase can be accessed [at the Auditor's website]".

First and foremost, there is no such thing as a "confidential closed meeting". A meeting is always considered "open" until declared "closed". Closed session is allowed in very select circumstances

and the Board should go into a closed session only when absolutely required and then only when allowed by law. The public must be informed of the closed session and a brief description of the items to be discussed must be given.

Second, a vehicle purchase is not the type of transaction that would necessitate either a closed session or an emergency special meeting. Only topics specifically authorized under the Brown Act may be discussed in closed session. The most common closed session topics are: litigation or a risk thereof, real estate negotiations, personnel matters, and labor negotiations.

Third, even if there were such appropriate circumstances to warrant the immediate purchase of the vehicle without discussion at a meeting, there is no set of circumstances that would allow for the Board to refuse to report the purchase at a subsequent meeting. There must be a report out of the action and vote, no matter how late. The SLFPD could presently cure this defect by reporting out at the next meeting.

A board must publicly report 1) any action taken in closed session and 2) the vote or abstention on that action of each member present for the action. Action by secret ballot is prohibited.

Absent one of the identifiable closed session topics listed above, it is not enough that a subject is sensitive, embarrassing, or controversial. If a board intends to convene in closed session, it must include the section of the Government Code authorizing the closed session in advance on the agenda and it must make a public announcement prior to the closed session discussion, even if only a simple reference to the agenda item.

Following a closed session, the board must provide an oral or written report on certain actions taken and the vote of every elected member present. The timing and content of the report varies according to the reason for the closed session and the action taken.

This Board purchased the vehicle through what they liken to a teleconference meeting. Pursuant to the Brown Act, teleconference meetings (any electronic or audio or video connection) are appropriate in limited circumstances and may be conducted under if all of the following conditions are met:

- Agendas must be posted at teleconference locations specifying all teleconference locations. There cannot be any last-minute teleconferences.
- There is public access to teleconference locations. No teleconference from car or plane while traveling.
- There is public opportunity to speak at each teleconference location.
- All votes for action on any item are taken by roll call.

None of these conditions were met in this particular instance.

Lastly, if requested, any copies of contracts, settlement agreements, or other documents finally approved or adopted in closed session must be provided to the requestor(s) after the closed session, if final approval of such documents does not rest with any other party to the contract or settlement. Although provided to the District Attorney in response to a records act request, the SLFPD admits to denying release of these documents to a member of the public who requested them through the same mechanism, deeming them "confidential".

While true that matters discussed in closed session are to remain confidential, that confidentiality only applies to matters that are appropriately suited for closed session discussion. Matters cannot be illegitimately deemed "closed session items" to purposely avoid public reporting requirements. Incidents such as this are the essence of why the Brown Act came to be. This creates the appearance that the Board intentionally deemed this item "confidential" to avoid transparency in the expenditure of public funds.

3. Employment Practices

Part of the citizen complaint centered included the "termination" of two volunteer firefighters for the SLFPD. It was alleged that the two firefighters were denied due process and the terminations were conducted in violation of the Brown Act.

It was not originally the intention of the District Attorney to explore the employment practices of a volunteer fire protection district. The issue had exploded on local social media and it became increasingly difficult to ascertain the truth of what had occurred. However, by removing the collateral fallout and looking solely at the procedures involved, it became apparent that the SLFPD's employment practices, in at least one particular case, were not in accordance with the law.

Based upon the documentation provided, in both the citizen complaint and the SLFPD's response, during closed session of the June 5, 2019 meeting, allegations of misconduct on the part of one firefighter were discussed between the then-fire chief and the Board. At the next meeting on July 10, 2019, a closed session decision was made to terminate this firefighter, agendized simply as "Personnel".

There was no report out from that closed session meeting and after the meeting, the fire chief contacted the firefighter to notify him he had been terminated. The firefighter was then, on July 16, 2019, terminated via a letter entitled "Notice of Dismissal", for "Conduct Unbecoming of an Officer", with no further description.

This letter informed him of his right to appeal the decision at the next meeting (August 7, 2019), but did not inform him of his right to have the appeal heard in either open or closed session.

There is some question as to whether the letter was actually received by the firefighter after it was mailed. Eventually he did come into possession of the letter and on or about August 23, 2019 notified the Board Secretary that he wished to appeal the decision at the September 4, 2019 meeting. His request was denied, citing it as untimely.

On August 7, 2019, the Board went into closed session to discuss what was agendized only as "Personnel" and upon the conclusion of such, reported out a decision had been made to terminate the fire chief. A report out on a dismissal made in closed session must be deferred until administrative remedies, if any, are exhausted.

The fire chief was served at the meeting with a form of "Notice of Termination" citing a breach of confidentiality from closed session and also an incompatibility of management styles. The letter did inform him of his right to appeal, but not that he had the right to have the appeal heard in either open or closed session. Based upon the documents received, it appears the fire chief has attempted to schedule this appeal on a number of occasions.

The appeal was first requested for the September 4, 2019 meeting. Prior to that meeting, the Chairperson of the Board filed and was granted a temporary restraining order against the fire chief's spouse, effectively precluding her from appearing as his advocate at the hearing. At the meeting, there were many community members present and the Board became unable to control the meeting. The meeting was adjourned and the appeal was deemed concluded.

The fire chief attempted multiple times since then to re-schedule the appeal, all of which were denied until the beginning of 2020. As of the date of this investigation, according to agendas, the appeal has still not been heard (notwithstanding COVID-19).

The Brown Act authorizes a closed session "to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee." The purpose of this exception is to avoid undue publicity or embarrassment for an employee or applicant for employment and to allow full and candid discussion by the board.

Pursuant to Health & Safety Code section 13802(e), an "employee" means any personnel of a district, including any regular or on-call firefighter hired and paid on a full-time or part-time basis, or any volunteer firefighter. "Employee" also includes any person who assists in the provision of any authorized emergency duty or service at the request of a person who has been authorized by the district board to request this assistance from other persons.

These two terminated individuals were employees by definition.

An employee must be given at least 24-hour notice of any closed session convened to hear specific complaints or charges against him or her. This occurs when the board is reviewing evidence. A board may examine or exclude witnesses and when an affected employee and/or advocate have an official or essential role to play, they may be permitted to participate in the closed session. The employee is not entitled to be present for the closed session discussion unless invited. If the employee is not given the 24-hour prior notice, any disciplinary action is null and void. ***This is the only non-curable Brown Act violation.***

For this reason, correct labeling of the closed session on the agenda is critical. A closed session agenda that merely identifies "personnel" is not sufficient to allow dismissal of an employee.

The personnel matters were not agendized correctly. Notice of intent to terminate or dismiss was not provided within the 24-hour requirements. One firefighter was outright denied an appeal and the other one, to date, has not received his although has requested one on multiple occasions.

To further complicate the situation, the SLFPD chairperson had filed restraining orders against a number of individuals. The restraining order applications were filed concurrent with a crime report of vandalism on SLFPD vehicles as well as personal vehicles of some Board members. However, the timing of the restraining order applications also happened to coincide with dates where the appeal for the terminated fire chief was agendized to be heard and the restrained individuals would presumably be witnesses or advocates at the appeal. The restraining order applications were subsequently withdrawn and therefore it is difficult to determine with any degree of certainty whether the restraining orders were applied for with a legitimate purpose or solely to preclude the named individuals from being present for the appeal.

The investigation into the vandalism is still ongoing and is separate from the focus of this report.

Other than investigating for purposes of Brown Act violations, the District Attorney cannot further comment on the available employment remedies for the terminated personnel. That is a matter for civil litigation and the involved parties should consult with an attorney practicing in that area of law.

4. Public Comment

The Brown Act authorizes public entities to put reasonable restrictions on the amount of time a speaker can speak at a meeting and through case law it has been established that 2 – 3 minutes is a reasonable restriction. The time-limit restriction is not violative of the First Amendment because it does not restrict the content of the speaker, only the amount of time the speaker has. Speech at government meetings is not unlimited and public entities can limit speech in terms of requiring a speaker to address only the topic or agenda item at issue. Public comment regulations cannot

prohibit public criticism of the entity's acts or omissions, policies, procedures, programs or services.

The essence of the free speech clause of the First Amendment is to protect the rights of citizens to speak out against government. Individuals have the absolute right to be critical of government and to express that criticism without fear of prosecution. That said, threats of physical harm or violence or death against individuals can cross the line of free speech into speech that may not be protected.

The SLFPD provided in its response to the District Attorney's request several pages of social media print-outs containing posts by community members making statements of the SLFPD and its board. The SLFPD representative informed the District Attorney that these messages were harassing and/or threatening in nature. The District Attorney reviewed the nearly-70 pages of social media posts and was also able to locate video recordings of the meetings which included public comment portions.

Upon review, although some of the comments made were understandably insulting or hurtful, none of the statements made therein contained "threats" as defined under criminal law. In terms of harassment, with public service also comes public criticism and those who choose to step up into public roles inevitably will endure comments from constituents, sometimes harsh in nature, but that in general does not harassment make.

While members of the public do not have the right to disrupt the meeting (see Penal Code section 403; *White v. City of Norwalk* (1990) 900 F.2d 1421), mere words most likely do not constitute a "disruption" in themselves. The Board can prohibit "demonstrations" which include booing, hissing, or clapping, as these actions can be chilling to discourse and inhibit the free speech of others who may also wish to speak. By way of example, upon review of one video recording, the terminated fire chief was attempting to address the board but the vocal reactions of the audience, although offered in support of him, ended up reducing his time to speak freely to the Board.

Even with rules of decorum in place, board members, as all public entity officials, must be prepared to tolerate criticism of themselves and of the entity. It is hoped that no board would ever be confronted with a situation where a person or group of people willfully interrupts a meeting such that orderly conduct of the meeting cannot be restored by their removal. If that scenario does occur, the Brown Act does provide authority for the board to clear the room and continue in session.

It serves no legitimate public or professional purpose for members of the board to engage in retorts with public commentators, whether during public comment or on social media. The chairperson, the secretary, and another Board member all were observed creating and responding to social

media posts regarding their decision to terminate the firefighters and they would be better advised to refrain from doing so to avoid an inadvertent serial meeting.

5. Conduct of Closed Sessions
(Government Code section 54945.5(a)-(i))

Meetings are either fully open, or fully closed, there is nothing in between. Closed sessions are an exception to the rule that agency meetings must be open and public. As stated above, a meeting is always considered "open" until it is declared "closed".

Closed sessions are allowed in very select circumstances, and a board should go into a closed session only when absolutely required. The public must be informed of the closed session and a brief description of the items on the agenda must be given. A minute book may be kept, but is not required, but the results of action taken must be made in public.

A board must pay particular attention to the authorized attendees for the particular type of closed session, which may differ based on the topic of the closed session. Closed sessions may involve only the members of the board, counsel, management, support staff, and consultants necessary for consideration of the matter that is the subject of closed session, with very limited exceptions for adversaries or witnesses with official roles in particular types of hearings (e.g. personnel disciplinary hearings).

In any case, individuals who do not have an official role in the closed session subject matters must be excluded from closed sessions. On more than one occasion, this Board permitted certain members of the public to be present during closed session. There may have been an appropriate reason for this, yet due to improper agendizing for closed session, those reasons remain unexplained.

The Brown Act explicitly prohibits the unauthorized disclosure of confidential information acquired in a closed session by any person present, and offers various remedies to address breaches of confidentiality. The remedies can include injunctive relief; and, if the breach is a willful disclosure of confidential information, the remedies include disciplinary action against an employee, and referral of a member of the board to the Grand Jury.

Breach of Confidentiality

It is incumbent upon all those attending lawful closed sessions to protect the confidentiality of those discussions. A board cannot be compelled to divulge the content of closed session discussions through the discovery process. Only the board acting as a body may agree to divulge confidential closed session information.

During this investigation, although not requested, the District Attorney was provided minutes from several closed sessions.

In the closed session portion of the May 1, 2019 meeting, the chairperson informed the rest of the Board of a conversation had with a former employee. The former employee stated to the chairperson that he was in possession of property belonging to the SLFPD and was refusing to return the property as he believed he had not been paid for fires he worked on two years prior. He also, according to the chairperson, stated that he had knowledge of or involvement in a break-in of the SLFPD building. It appears the chairperson, to date, has never provided this information to law enforcement to aid in the investigation or arrest of a suspect in a crime. No attempts to reclaim the property of the SLFPD were addressed.

In another set of minutes from the closed session portion of the June 5, 2019 meeting, the three board members that were present discussed a fourth member who was not present. The members discussed that the absent member had a conflict of interest due to his employment with another fire district. The remaining members also discussed that the absent member was refusing to provide proof of ethics training and "lied" about the employment of firefighters with other districts. One member stated he believed it was a conflict of interest to continue to allow this member to remain on the Board and a plan was made to consult with an attorney to inquire about this member's removal. To date, this member is still on the Board.

These "confidential" minutes were not required to be recorded or produced, yet it was helpful in ascertaining the level of impropriety at which certain members of this Board are operating.

Also helpful were the approximately 70 pages of printouts from social media posts. These posts were not requested by the District Attorney but were provided by SLFPD in an attempt to show a pattern of harassment of the SLFPD and its board members by members of the community. One of the printouts appears to be a private message thread between the chairperson and a local individual who serves as an administrator on a social media community page.

Both individuals were discussing a suspected arson and both claimed to have intimate knowledge of who started the fire yet, upon a review of records it appears neither of them gave this information to law enforcement. The chairperson then implored the other individual to not publicly share the information because the chairperson would "lose [her] position on the Fire Board...LOL". The chairperson then went on to relish in the fact she possessed this information and expressed that it was "going to be fun" for her to watch the situation regarding the fire play out.

It is problematic that the chairperson appeared to have information of a crime being committed and rather than providing that information to law enforcement, instead attempted to wield it as some sort of power of being "in the know".

CONCLUSIONS AND RECOMMENDATIONS

Finding people to serve on the boards and commissions of the special districts of Lassen County is a challenge. Many times, election cycles pass where no one signs up to run for vacant seats on some of these boards and commissions. Likewise, rather than contested races for vacant seats between persons with competing ideas on how to manage the district for which they would like to serve, seats get filled by appointment in lieu of election because there are not enough persons willing to serve. This kind of service is almost exclusively volunteer and unpaid, motivated by simple willingness to serve the community.

At the same time, the legal requirements imposed by the State Legislature on the management of these districts are numerous and growing: the Ralph M. Brown Act, the Public Records Act, Political Reform Act, conflict of interest laws, public budgeting, state employment laws, and federal employment laws to name just a few. Simply showing up to participate in a board meeting as a sitting board member requires a knowledge that few possess and can take years of experience to acquire.

The expectations of the public are high. Taxpayers want a fair service in exchange for the hard-earned dollars taken from their earnings by the government. Transparency, accountability, and competence in decision making are just the beginning of the conversation. A board or commission's failure to observe these basic expectations of the public they serve can be nothing short of incendiary. That is what has happened here.

It is difficult for constituents to maintain confidence in their public officials when such transgressions are being so blatantly committed. To err, is of course human, but the efforts to correct those errors are a testament to the integrity of the board. It is unfortunate that this current Board has had many opportunities to correct the errors but did not. It is more unfortunate that this current Board took steps to overtly hide its errors from the public.

This is not the first time the board of this district has been embroiled in impropriety. In 2015/2016, under the direction of a different set of board members, the Lassen County Grand Jury investigated this entity and made findings of Brown Act violations, deficiencies in agendizing, and a problematic appointment process for new board members. Only a mere five years later, the SLFPD once again finds itself the subject of an investigation for the same practices.

Brown Act violations are punishable as a misdemeanor under California law, however, a criminal prosecution will not be pursued in this particular set of circumstances. Criminal filings for Brown Act violations are rare throughout the state. The thought of criminal prosecution adds another chilling effect to the already scarce willingness of people to serve publicly. The State of California has revised its budget for the upcoming fiscal year which includes reductions in funds allocated towards public safety departments. Criminal prosecutions are costly and it is important during these times to be fiscally responsible with such limited resources.

The District Attorney will, however, continue to investigate to determine whether public funds were misappropriated, as indicated above; and also whether a fraud has occurred with respect to the assessments and insurance ratings.

Most agencies respond by taking appropriate action to cure or remedy violations upon receipt of a simple letter by the district attorney encouraging them to do so. The District Attorney will serve a "demand to cure" letter upon the SLFPD accordingly, however it is unlikely that course of action would provoke change by the SLFPD.

In fact, it is clear that this current board, left to its own devices, is completely devoid of the ability to accept responsibility, learn from past mistakes, or heed to the advice of watchdog entities such as the Grand Jury and has no interest in doing so.

It would at this time be the recommendation of the Lassen County District Attorney that the Local Area Formation Committee (LAFCo), pursuant to the authority bestowed upon it under Government Code section 53600 et seq, re-evaluate the services provided by the Standish-Litchfield Fire Protection District and determine if a merger or consolidation with a nearby district would be appropriate.

Resolution 2020-0003
of the
Lassen Local Agency Formation Commission

A Resolution of Lassen Local Agency Formation Updating Policies, Standards and Procedures

RESOLVED, the Lassen Local Agency Formation Commission, State of California, that

WHEREAS, policies, standards and procedures are necessary to guide the Lassen Local Agency Formation Commission in making determinations on future projects; and

WHEREAS, the Commission has reviewed, revised and updated the policies, standards and procedures originally adopted by Lassen LAFCo on November 10th, 2003 and subsequently amended; and

WHEREAS, this Commission called for and held Public Hearings on the Policies, Standards and Procedures on April 13, 2020, June 8, 2020 and August 10, 2020 and at the hearings, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer.

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

1. The attached updated Policies, Standards and Procedures shall guide the Commission in compliance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended.

2. All previously adopted Policies, Standards and Procedures and (or) LAFCO Policies previously approved by the Commission are hereby repealed in favor of this update.

3. That the amended updated Policies, Standards and Procedures attached as Exhibit "A" are hereby adopted.

The foregoing resolution was offered at a Regular Meeting of the California LOCAL AGENCY FORMATION COMMISSION on the 10th day of August 2020, and adopted by the following vote of the Commission:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Todd Eid, Chair
Lassen Local Agency Formation Commission

ATTEST:

_____
John Benoit, Executive Officer
LASSEN LOCAL AGENCY FORMATION COMMISSION

Lassen Local Agency Formation Commission

CLAIMS

June 2020 and July 2020

Authorize payment of the following claims:

Date of Claim	Description	Amount
FY 2020-2021 Expenses:		
August 1, 2020	**June 2020 Staff Services**	**$ 4,537.83**
August 1, 2020	**July 2020 Staff Services**	**$ 4,679.39**
	TOTAL:	**$ 9,217.22**

DATED: **August 10, 2020**

APPROVED: **August 10, 2020**

_____

Todd Eid, Chair or Chris Gallagher, Vice-Chair
Lassen Local Agency Formation Commission

Attest:

_____

John Benoit
Executive Officer

C/O John Benoit, Executive Officer - P.O. Box 2694, Granite Bay, CA. 95746 530.257.0720
ph. lafco@co.lassen.ca.us

INVOICE June 2020

John Benoit

P.O. Box 2694
Granite Bay, CA 95746
Tel: (530) 257-0720
Fax (530) 797-7631

Invoice number: 2020-0057
Invoice date: 1-Aug-20

Vender ID #

Client name: Lassen LAFCO c/o City of Susanville
Address: 66 North Lassen Street
City, state, postal code: Susanville, CA 96130-3904

Telephone:
Fax:
PO number:

Lafco Staff	Hours		Start / End Date	Amount
John Benoit	46.50	Staff Svcs	June 1-30, 2020	$4,132.50
Jennifer Stephenson				$ -
Dennis Miller				0.00
Christy Leighton				0.00
File Scanning project				
Cheryl Kolb				
MSR and SOI				
	46.50			
			Total activity cost:	$4,132.50

Materials / Other Expenses	Reason / Vendor	Amount
Reproduction Costs	packets	$70.49
Postage	packets	$242.05
Phone & Communications	Comm June 2020	$ 92.79
Office Supplies		
Travel Exp.		
Web Domain		
Clerk	misc admin svcs	
	Total materials cost:	$405.33
	Total billing:	$ 4,537.83

TIMESHEET
for John Benoit

Lassen LAFCO

June 2020

DATE	Activity	Direct Expense	Cost	Hours	Amount
1-Jun-20	Packet finalize for Cheryl, agenda , fire msr and policies documents			4	$ 340.00
2-Jun-20	SWRCB preentation re Clean water(1) admin(1)			2	$ 170.00
3-Jun-20		ATT	$20.10		$ -
4-Jun-20					$ -
5-Jun-20	SWRCB Drinking water program training and LAFCo financials for Lassen LAFCo			6	$ 510.00
6-Jun-20	meeting prep for Lassen LAFCo			5	$ 425.00
7-Jun-20	Admin and financials	printing	$84.80	3	$ 255.00
8-Jun-20	LAFCo meeting	post ck	$30.44	8	$ 600.00
9-Jun-20	Susanville and in county misc			8	$ 600.00
10-Jun-20		copy ck	$214.50		
11-Jun-20	After meeting items and admin			2	$ 170.00
12-Jun-20	Budget transmittal letters	post	$2.20	2	$ 170.00
13-Jun-20		copy	$2.00		$ -
14-Jun-20					$ -
15-Jun-20					$ -
16-Jun-20	Admin and financials	Frontier Ph	$29.65	2.5	$ 212.50
17-Jun-20					$ -
18-Jun-20	Admin svcs ck			3	$ 255.00
19-Jun-20					$ -
20-Jun-20					$ -
21-Jun-20					$ -
22-Jun-20					$ -
23-Jun-20	Misc comm re Fire Districts			1.5	$ 127.50
24-Jun-20					$ -
25-Jun-20					$ -
26-Jun-20					$ -
27-Jun-20					$ -
28-Jun-20		wave	$21.64		$ -
29-Jun-20					$ -
30-Jun-20	Financials-sb			3.5	$ 297.50
1-Jul-20					$ -
					$ -
SUBTOTAL			$405.13	46.5	$ 4,092.50
TOTAL					$ 4,537.63

INVOICE July 2020

John Benoit

P.O. Box 2694
Granite Bay, CA 95746
Tel: (530) 257-0720
Fax (530) 797-7631

Invoice number: 2020-0058
Invoice date: 1-Aug-20

Vender ID #

Client name: Lassen LAFCO c/o City of Susanville
Address: 66 North Lassen Street
City, state, postal code: Susanville, CA 96130-3904

Telephone:
Fax:
PO number:

Lafco Staff	Hours		Start / End Date	Amount
John Benoit	24.00	Staff Svcs	Julu 1-31, 2020	$2,040.00
Jennifer Stephenson				$ -
Dennis Miller	1.25			106.25
Christy Leighton	29.00			2,465.00
File Scanning project				
Cheryl Kolb				
MSR and SOI				
	54.25			
			Total activity cost:	$4,611.25

Materials / Other Expenses	Reason / Vendor	Amount
Reproduction Costs		
Postage		
Phone & Communications	Comm July 2020	$ 68.14
Office Supplies		
Travel Exp.		
Web Domain		
Clerk	misc admin svcs	
	Total materials cost:	$68.14
	Total billing:	$ 4,679.39

TIMESHEET
for John Benoit

Lassen LAFCO

July 2020

DATE	Activity	Direct Expense	Cost	Hours	Amount
1-Jul-20					$ -
2-Jul-20	City Development proposal and emails	ATT	$20.10	1	$ 85.00
3-Jul-20					$ -
4-Jul-20					$ -
5-Jul-20					$ -
6-Jul-20	Spalding CSD MSR and SOI -cl			6.5	$ 552.50
7-Jul-20	Stones-Bengard CSD SOI and MSR - cl			6.5	$ 552.50
8-Jul-20					
9-Jul-20					
10-Jul-20	misc comm city proposals and corresp			2.5	$ 212.50
11-Jul-20					$ -
12-Jul-20					$ -
13-Jul-20	article and comm re SLFPD	Front ph comm	$26.26	1	$ 85.00
14-Jul-20					$ -
15-Jul-20					$ -
16-Jul-20					$ -
17-Jul-20	mapping Susanville Sanitary feature class dm			1.25	$ 106.25
18-Jul-20					$ -
19-Jul-20	Review DA report re SLFPD and inquiry re special district laws			6	$ 510.00
20-Jul-20					$ -
21-Jul-20	misc comm with Ruth re meetings and minutes			1	$ 85.00
22-Jul-20	Research re: District Statutes			1.5	$ 127.50
23-Jul-20	Conflict of Interest Code review and memo			4.5	$ 382.50
24-Jul-20					$ -
25-Jul-20	Stones-Bengard CSD SOI and MSR - cl			8	$ 680.00
26-Jul-20	Stones-Bengard CSD SOI and MSR - cl writing			8	$ 680.00
27-Jul-20	SB 414 Opposition Letters	wave	$21.78	2	$ 170.00
28-Jul-20	Gen admin and financials			4.5	$ 382.50
29-Jul-20					$ -
30-Jul-20					$ -
31-Jul-20					$ -
					$ -
SUBTOTAL			$68.14	54.25	$ 4,611.25
TOTAL					$ 4,679.39

2019-2020 Expenditures **Lassen LAFCO**

Travel *4580*	Training *4580*	MSR's *4342*	SOI *4330*	Mapping *4340*	Tech SVCS File Scan *4340*	Fin Svcs *4333*	Clerk-City *4334*	TOTAL *BUDGET*	Total *Budget*	Contingency *4451*
$ 1,500.00	**$ 200.00**	**$ 14,000.00**	**$ 4,000.00**	**$ 2,000.00**	**$ 5,000.00**	**$ 1,722.30**	**$ 1,500.00**	**$ 70,699.30**	**$ 69,548.30**	$6,954.83
									$ (1,075.00)	
		$ (2,465.00)							$ (5,192.93)	
$ (520.00)									$ (520.00)	-$6,787.93
		$ (1,610.00)							$ (5,226.94)	
		$ (2,282.50)							$ (3,871.85)	
									$ (57.20)	-$9,155.99
$ (92.00)									$ (4,335.31)	
									$ (2,464.70)	
									$ (57.20)	-$6,857.21
						$ (1,451.50)	$ (755.41)		$ (2,206.91)	
		$ (765.00)		$ (212.50)					$ (5,228.12)	
		$ (3,995.00)							$ (5,423.56)	
						$ (1,212.78)	$ (594.63)		$ (1,807.41)	-$12,459.09
		$ (1,000.00)	$ (2,187.50)						$ (6,026.35)	
		$ (1,500.00)	$ (1,602.50)	$ (595.00)					$ (4,873.92)	
									$ (67.60)	-$10,967.87
					$ (1,000.00)				$ (3,986.08)	
				$ (1,000.00)	$ (1,000.00)				$ (4,771.98)	-$8,758.06
									$ (1,000.00)	
									$ (4,537.83)	
									$ -	-$4,537.83
									$ -	
									$ -	
									$ -	$0.00

$ (612.00)	**$ -**	**$ (13,617.50)**	**$ (3,790.00)**	**$ (1,807.50)**	**$ (2,000.00)**	**$ (2,664.28)**	**$ (1,350.04)**	**$ -**	**$ (62,730.89)**	
$ 888.00	**$ 200.00**	**$ 382.50**	**$ 210.00**	**$ 192.50**	**$ 3,000.00**	**$ (941.98)**	**$ 149.96**	**$ 70,699.30**	**$ 7,968.41**	

		Reserve Fund	$0.00
	Agency	City/CO Contrib	$55,769.24
		Interest Revenue	$184.98
	Project Rev	2019-2020	$0.00
Audited	CARROVER	from 18-19	$28,318.05
		YTD Expens	-$62,730.89
		Cash Balance	$21,541.38

Item	Insurance	ffice Expens	copies	Communication:	Postage	Memberships	Legal Svcs	Ex. OFF. Svcs	Brown Act	Publications
Account Number	*4521*	*4610*	*4550*	*4530*	*4641*	*4830*	*4310*	*4331*	*4332*	*4540*
Total Budgeted	**$ 1,000.00**	**$ 250.00**	**$ 750.00**	**$ 1,000.00**	**$ 300.00**	**$ 1,077.00**	**$ 2,500.00**	**$ 30,000.00**	**$ 3,500.00**	**$ 400.00**
Calafco Dues 2019-2020						$ (1,075.00)				
Staff Svcs July 2019		$ (10.00)	$ (15.00)	$ (67.93)				$ (2,635.00)		
Calafco Confernece Registration 2019										
Staff Svcs August 2019 #84			$ (50.00)	$ (66.94)				$ (3,000.00)	$ (500.00)	
Staff Svcs Sept. 2019 # 85		$ (15.00)		$ (74.35)				$ (1,500.00)		
Hearing Notice LMFCWCD										$ (57.20)
Staff Svcs Oct 2019			$ (238.30)	$ (73.81)	$ (11.20)			$ (3,420.00)	$ (500.00)	
Staff Svcs Nov 2019		$ (10.00)		$ (74.70)				$ (2,380.00)		
Hearing Notice Big Valley Rec. Dist.										$ (57.20)
City finance and clerk bille 7.1.18-6.30.19										
Staff Svcs December 2019		$ (33.90)	$ (15.00)	$ (69.22)				$ (3,632.50)	$ (500.00)	
Staff Svcs January 2020				$ (68.56)				$ (1,360.00)		
City finance and clerk bille 7.1.19-12.31.19										
Staff Svcs February 2020			$ (313.41)	$ (68.19)	$ (24.75)			$ (1,932.50)	$ (500.00)	
Staf Svcs March 2020			$ (10.00)	$ (68.92)				$ (1,097.50)		
Feather Pub Prop bud, policy & Fire rev										$ (67.60)
Staff Svcs April 2020			$ (10.00)	$ (88.58)				$ (2,387.50)	$ (500.00)	
Staff Svcs May 2020			$ (5.00)	$ (47.48)	$ (2.00)			$ (2,717.50)		
Liability Insurance FY 19-20	$ (1,000.00)									
Staff Svcs June 2020			$ (70.49)	$ (92.79)	$ (242.05)			$ (3,632.50)	$ (500.00)	
TOTAL EXPENDED	**$ (1,000.00)**	**$ (68.90)**	**$ (727.20)**	**$ (861.47)**	**$ (280.00)**	**$ (1,075.00)**	**$ -**	**$ (29,695.00)**	**$ (3,000.00)**	**$ (182.00)**
TOTAL REMAINING	**$ -**	**$ 181.10**	**$ 22.80**	**$ 138.53**	**$ 20.00**	**$ 2.00**	**$ 2,500.00**	**$ 305.00**	**$ 500.00**	**$ 218.00**

2020-2021 Expenditures **Lassen LAFCO**

Travel 4580	Training 4580	MSR's 4342	SOI 4330	Mapping 4340	Tech SVCS File Scan 4340	Fin Svcs 4333	Clerk-City 4334	TOTAL BUDGET	Total Budget	Contingency 4451
$ 1,500.00	$ 500.00	$ 14,000.00	$ 4,000.00	$ 2,000.00	$ 5,000.00	$ 1,722.30	$ 1,500.00	$ 71,345.30	$ 69,548.30	$6,954.83
									$ (1,423.00)	
		$ (2,611.25)							$ (4,679.39)	
$ -	$ -	$ (2,611.25)	$ -	$ -	$ -	$ -	$ -	$ -	$ (6,102.39)	
$ 1,500.00	$ 500.00	$ 11,388.75	$ 4,000.00	$ 2,000.00	$ 5,000.00	$ 1,722.30	$ 1,500.00	$ 71,345.30	$ 65,242.91	

		Reserve Fund	$0.00
	Agency	City/CO Contrib	
		Interest Revenue	
	Project Rev	2020-2021	$0.00
Unaudited	CARROVER	from 19-20	$21,541.38
		YTD Expens	-$6,102.39
		Cash Balance	$15,438.99

8/2/20

Item	Insurance	ffice Expens	copies	Communication:	Postage	Memberships	Legal Svcs	Ex. OFF. Svcs	Brown Act	Publications
Account Number	*4521*	*4610*	*4550*	*4530*	*4641*	*4830*	*4310*	*4331*	*4332*	*4540*
Total Budgeted	**$ 1,000.00**	**$ 250.00**	**$ 750.00**	**$ 1,000.00**	**$ 300.00**	**$ 1,423.00**	**$ 2,500.00**	**$ 30,000.00**	**$ 3,500.00**	**$ 400.00**
Calafco Dues 2019-2020						$ (1,423.00)				
Staff Svcs July 2020				$ (68.14)				$ (2,000.00)		
TOTAL EXPENDED	**$ -**	**$ -**	**$ -**	**$ (68.14)**	**$ -**	**$ (1,423.00)**	**$ -**	**$ (2,000.00)**	**$ -**	**$ -**
TOTAL REMAINING	**$ 1,000.00**	**$ 250.00**	**$ 750.00**	**$ 931.86**	**$ 300.00**	**$ -**	**$ 2,500.00**	**$ 28,000.00**	**$ 3,500.00**	**$ 400.00**

10

Lassen Local Agency Formation Commission

Memorandum

August 10, 2020

TO: LAFCo Commissioners

FROM: John Benoit, Executive Officer

SUBJECT: Conflict of Interest Code Review.

Attachments: Lassen LAFCO's Conflict of Interest Code
2020 Local Agency Biennial Notice

Government code section 87300 et. seq. (the Political Reform Act) requires each local government agency to maintain a conflict of interest code and update it to reflect changes that occur in the organization of an entity. The Local Agency Formation Commission (as well as other local agencies) is required to review and possibly amend its Conflict of Interest code on even-numbered years. A biennial notice is normally sent out by the County Clerk or other official designated by the Board of Supervisors during the summer of even numbered years to each agency required to review its Conflict of Interest Code. After review or approval of the Conflict of Interest Code, LAFCO is required to submit any proposed changes to the Board of Supervisors acting as the code reviewing body.

Government code section 87311 requires review of a conflict of interest code to be carried out under procedures which guarantee to officers, employees, members and consultants of the agency and to residents of the County adequate notice and a fair opportunity to present their views. A conflict of interest code was adopted on October 15, 2018 (See Exhibit A). To engage the public, a notice of Public Hearing was published prior to LAFCO adopting amending its conflict of interest code. Since that time LAFCO has found no amendments to that code necessary.

Recommendation:

Direct the Executive Officer to sign and transmit the 2020 Local Agency Biennial Notice to the Clerk to the Board of Supervisors declaring LAFCO has reviewed its Conflict of Interest code and no amendment is required at this time.

John Benoit, Executive Officer j.benoit4@icloud.com
P.O. Box 2694 Granite Bay, CA 95746
(530) 257-0720 ph.

Lassen Local Agency Formation Commission, COUNTY OF LASSEN
STATE OF CALIFORNIA
October 15, 2018

RESOLUTION NO.2018-0005 **RESOLUTION ADOPTING A CONFLICT OF INTEREST CODE AND APPENDIX OF DESIGNATED POSITIONS**

WHEREAS, pursuant to the provisions of the Political Reform Act (Govt. Code § 81000, *et seq.*), the **Lassen Local Agency Formation Commission (LAFCo)** is required to adopt a Conflict of Interest Code and Appendix of designated positions; and

WHEREAS, biennial review of the Appendix to the Conflict of Interest Code is required by state law and changes to the designated positions and disclosure categories and thereafter adopt necessary amendments.

NOW, THEREFORE, BE IT RESOLVED that the Conflict of Interest Code (Exhibit A) and list of designated positions and disclosure categories as set forth in the Appendix to the Conflict of Interest Code attached hereto is hereby adopted.

ON A MOTION by Commissioner Gallagher, seconded by Commissioner Franco, the foregoing Resolution was duly passed and adopted by the **Lassen Local Agency Formation Commission (LAFCo)** of the County of Lassen, State of California this 15th day of October 2018, by the following vote:

AYES: Gallagher, Franco and Eid

NOES:

ABSENT: Hemphill & Wilson

ABSTAINED:

Todd Eid, Chair
Lassen LAFCo

ATTEST:

John Benoit, Executive Officer

EXHIBIT A

LASSEN LOCAL AGENCY FORMATION COMMISSION (LAFCo)

CONFLICT-OF-INTEREST CODE

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the **Lassen Local Agency Formation Commission**

Individuals holding designated positions shall file their statements of economic interests with the **Lassen Local Agency Formation Commission's Executive Officer,** which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) All statements will be retained by the **Lassen Local Agency Formation Commission.**

John Benoit, Executive Officer j.benoit4@icloud.com
P.O. Box 2694 Granite Bay, CA 95746
(530) 257-0720 ph.

CONFLICT-OF-INTEREST CODE (Lassen LAFCo)

APPENDIX A-DESIGNATED POSITIONS

Designated Positions	Disclosure Category
Members of the Commission**	1, 2
Executive Officer	1, 2
Deputy Executive Officer	1, 2
LAFCo Counsel	1, 2
Consultants*	*

*Consultants shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

> The Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code (Gov. Code Section 81008).

John Benoit, Executive Officer j.benoit4@icloud.com
P.O. Box 2694 Granite Bay, CA 95746
(530) 257-0720 ph.

CONFLICT-OF-INTEREST CODE (Lassen LAFCo)

APPENDIX B-DISCLOSURE CATEGORIES

Disclosure Category 1

Designated positions assigned to this category shall report:

Interests in real property located within or not more than two miles outside the boundaries of LAFCo's jurisdiction or within two miles of the County Boundary.

Persons shall not be required to disclose property used primarily as their residence or for personal recreational purposes.

Disclosure Category 2

Designated positions assigned to this category shall report:

Investments and business positions in business entities, and sources of income, including loans, gifts, and travel payments, from sources of the type that provide services, supplies, materials, machinery, or equipment to LAFCo. Such sources include but are not limited to architects, engineering and construction firms.

John Benoit, Executive Officer j.benoit4@icloud.com
P.O. Box 2694 Granite Bay, CA 95746
(530) 257-0720 ph.

2020 Local Agency Biennial Notice

Name_of_Agency: Lassen LAFCo

Mailing_Address: P.O. Box 2694 Granite Bay, CA 96746

Contact Person: John Benoit Phone No. 530.257.0720

Email: j.benoit4@icloud.com Alternate Email: _____

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that (check one BOX):

☐ An amendment is required. The following amendments are necessary:

(Check all that apply.)

- O Include new positions
- O Revise disclosure categories
- O Revise the titles of existing positions
- O Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- O Other (describe) _____

☐ The code is currently under review by the code reviewing body.

☒ No amendment is required. (If your code is over five years old, amendments may be necessary.)

Verification (to be completed if no amendment is required)

This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.

_____ _____

Signature of Chief Executive Officer Date

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than October 1, 2020, or by the date specified by your agency, if earlier, to:

Julie Bustamante, Clerk of the Board of Supervisors
220 S. Lassen St, Suite 5
Susanville, CA 96130

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

11

Lassen Local Agency Formation Commission

August 10, 2020

The Honorable Anna Caballero
California State Senate
State Capitol, Room 5052
Sacramento, CA 95814

RE: SB 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS

Dear Senator Caballero:

The Lassen Local Agency Formation Commission (LAFCO), joins the California Association of Local Agency Formation Commissions (CALAFCO) in opposing the proposed pending amendments for your bill ***SB 414***. It is our understanding you are planning amendments to be done in Assembly Appropriations where the bill is currently being held in Suspense.

We support efforts to ensure all Californians have safe, affordable drinking water. However, the proposed amendments have such a substantive negative impact to local agency formation commission (LAFCos) that we must now oppose them.

It is our understanding these changes are an effort to reduce the cost of the bill, and to closer align processes and State Water Resources Control Board (SWRCB) authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply should not be compared to the other.

The proposed amendments strip LAFCos of their part and authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of and by the authority of LAFCo. Additionally, they remove LAFCos' authority to dissolve a public water system as authorized by the SWRCB and as part of the formation process of the new authority. As you know, formation of a new, local public agency has been the authority of LAFCo since 1963 when the Legislature created them. To now turn that authority over to the SWRCB in an effort to "save money" or "streamline the process", we believe, creates a false perception that the cost will be reduced and sets a dangerous precedent.

SECTION 1 of the bill is being completely stricken and therefore divests LAFCo of all involvement in the formation process and it removes LAFCo from the process of dissolving any public water system identified by the SWRCB as mandated for dissolution and inclusion into the new authority except for holding a public hearing on the matter. Not only does this removal divest LAFCo of their authority and give it to the SWRCB, it eliminates the Plan for Service requirements to be included in the draft conceptual formation plan. All other public agencies are subject to submit a comprehensive Plan for Service when applying to provide services and exempting the authority from doing so sets a precedent.

Code Section 78038(b) proposes to give quasi-legislative authority to the SWRCB in the action to form the new authority. The Legislature created LAFCo as a quasi-legislative body decades ago to do this very thing. While the Legislature has exercised its authority to create new service providers in the past, until

now there has been no state agency with that authority. We fail to understand the need to create an entity at the state level to do something LAFCos have been effectively doing for 57 years – forming new districts – that happen at the local level.

LAFCo is being excluded from several critical notification points:

- Code Section 78033(a)(1) excludes LAFCo from the list of entities the SWRCB is to notify of their intent to form the authority. *LAFCo needs to be included in the list of other local agencies receiving such notification* (such as cities, county, water districts, etc.). Further, this section allows the SWRCB to invite other public water suppliers to consider dissolving and join the authority. Without including LAFCo on the notification under this section, we would be in the dark regarding those local districts (both independent and dependent) that may consider dissolving.
- Code Section 78033(a)(2)(A) excludes LAFCo notification from an entity wishing to consolidate into a proposed authority. *LAFCo needs to be included in this notification.*
- Code Section 78033(a)(2)(B) provides that customers of an entity wishing to join a proposed authority petition the SWRCB directly. Not only does this keep LAFCo in the dark, it is a run-around of the current service provider as there appears to be no notification to them.
- Code Section 78033(b) allows the governing board of a county or city dependent special district to notify the formation coordinator they wish to opt into the new authority. Here again, without LAFCo receiving this notification there is no way for us to know of the pending dissolution.

In addition to removing LAFCos' existing authority from the formation process of a public agency service provider, we are concerned about Code Section 78037(a)(3) which requires the LAFCo to hold a public hearing to allow for public comment on the dissolution of the public water system mandated for dissolution by the SWRCB and requires the LAFCo to provide all comments back to the SWRCB for consideration (without the funding to do either). The section also states the dissolution shall be ordered upon completion of the public hearing. We question the purpose of reporting back the public comments to the SWRCB for consideration if the dissolution is ordered immediately upon closure of the public hearing.

If one of the goals of these amendments is to closer align processes with SB 88, then it would stand to reason the SWRCB would be the entity conducting the public hearing (pursuant to Code Section 116682 of the Health and Safety Code), especially given the fact that with these amendments, the LAFCo no longer has any other part in the actual dissolution.

Ordering a dissolution for a service provider who is currently providing service requires a successor agency to assume the delivery of service as well as all the assets and liabilities of the entity being dissolved. Code Section 78037(a)(4) requires the order of dissolution to make appropriate equitable arrangements for the interim operation of the public water system until the formation of the authority is complete, and they are prepared to take over service delivery. While that "interim" service provider may be identified in the draft conceptual formation plan, 78037(a)(4) does not explicitly state to whom the service, assets and liabilities should be transferred. We suggest language be added to explicitly state the interim operator as identified in the approved conceptual formation plan.

<u>Proposed amendments to the draft conceptual plan</u>

We have a few concerns relating to the draft conceptual plan as noted below.

- Code Section 78035(c) requires the formation coordinator to submit the draft conceptual formation plan to the SWRCB and any applicable LAFCo for comments within 60 days of its receipt. Further, the formation coordinator shall finalize the plan for public comment no later
- than 30 days after receiving comments from the SWRCB. What is left out of this section are the comments on the plan from the LAFCo. Undoubtedly, as the local agency who is responsible for the formation of public agencies, LAFCos know what to look for and consider when reviewing formation plans. *The LAFCo comments need to be considered by the SWRCB and the formation coordinator before the document is available for public comment.*

- Code Section 78038 requires LAFCo to hold two public hearings on the draft conceptual formation plan and to subsequently submit a report to the SWRCB summarizing public comment and any recommendations the LAFCo may have for the SWRCB on the plan. *We would like to see amendments requiring the SWRCB to specifically adopt or reject each of our recommendation on the draft plan and explain their response for those decisions.*

Removing funding for LAFCo mandates

The current version of the bill reflects a cost of up to $10.65 million to LAFCos for authority formations, which represents only 11.5% of the total cost estimate of $89.15 million. Using these projections, the costs associated with LAFCo are far below every other entity and related provision (with one exception) of the dissolutions; formations; administration; SWRCB support and support for the authorities once formed. The cost for LAFCos to perform the dissolution of public water systems and to form the new authority are far likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCos to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB: (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority's performance for the first three years; and (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority's performance and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCo for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and *only if* – they (LAFCo) *"incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board"*. All of the LAFCo expenses related to SB 414 are over and above normal operating budget costs and in order to cover them should the state not, it is highly likely we will have to increase fees to the local government agencies that pay into the LAFCo annually (cities, counties, and special districts).

We strongly believe LAFCos need to be added to the language in Section 78115 (a)(1). All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved puts the collection of that funding on the backs of local government.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on ***SB 414***.

Yours Sincerely,

Todd Eid, Chair
Lassen LAFCo

Cc: Assembly Local Government Committee
Assembly Environmental Safety & Toxic Materials Committee
Senate Governance and Finance Committee
Senate Environmental Quality Committee
Pamela Miller, Executive Director, CALAFCO

Lassen Local Agency Formation Commission

August 10, 2020

The Honorable Lorena Gonzalez
Chair, Appropriations Committee
California State Assembly
State Capitol, Room 2114
Sacramento, CA 95814

RE: SB 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS

Dear Chair Gonzalez:

The Lassen Local Agency Formation Commission (LAFCo), joins the California Association of Local Agency Formation Commissions (CALAFCO) to oppose the proposed pending amendments for ***SB 414*** (Caballero). The bill is currently being held in your committee. While there are vast policy issues with the proposed amendments, this letter will focus our concerns to you and your committee on the fiscal issues of the proposed amendments.

According to the sponsors, in an effort to reduce costs associated with the bill, the role of LAFCos that exist in the current version of the bill (dated June 25, 2019) is being drastically reduced. The proposed amendments strip LAFCos of their authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of and by the authority of LAFCo. Additionally, they remove LAFCos' authority to dissolve a public water system as authorized by the State Water Resources Control Board (SWRCB) and as part of the formation process of the new authority.

The sponsors have also indicated the proposed amendments that change numerous processes in SB 414 are intended to reflect closer alignment with processes and SWRCB authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply should not be compared to the other.

The current version of the bill, as noted in last fiscal analysis on August 21, 2019 in your committee, reflects a cost of up to $10.65 million to LAFCos for authority formations, which represents only 11.5% of the total cost estimate of $89.15 million. Using the fiscal projections in the current bill, the costs associated with LAFCo are far below every other entity and related provision (with one exception) of the dissolutions; formations; administration; SWRCB support and support for the authorities once formed. The cost for LAFCos to perform the dissolution of public water systems and to form the new authority are far likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCos to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all

comments to the SWRCB: (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority's performance for the first three years; (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority's performance and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCo for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and *only if* – they (LAFCo) *"incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board".* All of the LAFCo expenses related to SB 414 are over and above normal operating budget costs and in order to cover them should the state not, it is likely we will have to increase fees to the local government agencies that pay into the LAFCo annually (cities, counties, and special districts).

LAFCos need to be added to the language in Section 78115 (a)(1). All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved is inappropriate and puts the collection of that funding on the backs of local government.

For these fiscal reasons, we oppose the proposed pending amendments to ***SB 414*** and strongly urge your committee to reject the amendments and hold the bill.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on ***SB 414***.

Yours Sincerely,

Todd Eid, Chair
Lassen LAFCo

cc: Members, Assembly Appropriations Committee
Honorable Senator Caballero
Jennifer Galehouse, Assembly Appropriations Committee Deputy Chief Consultant
Suzanne Sutton, Consultant, Senate Republican Caucus
Pamela Miller, Executive Director, CALAFCO

CALIFORNIA ASSOCIATION OF
LOCAL AGENCY FORMATION COMMISSIONS

CALAFCO

June 19, 2020

To: Local Agency Formation Commission
Members and Alternate Members

From: Shiva Frentzen, Committee Chair
CALAFCO Board Election Committee
CALAFCO Board of Directors

RE: Nominations for 2020/2021 CALAFCO Board of Directors

Nominations are now open for the fall elections of the CALAFCO Board of Directors. Serving on the CALAFCO Board is a unique opportunity to work with other commissioners throughout the state on legislative, fiscal and operational issues that affect us all. The Board meets four to five times each year at alternate sites around the state. Any LAFCo commissioner or alternate commissioner is eligible to run for a Board seat.

CALAFCO's Election Committee is accepting nominations for the eight (8) seats noted below on the CALAFCO Board of Directors. There are two (2) open in each region as follows:

Central Region	Southern Region	Northern Region	Coastal Region
County Member	City Member	City Member	County Member
District Member	Public Member	Public Member	District Member

The election will be conducted during Regional Caucuses at the CALAFCO Annual Conference prior to the Annual Membership Meeting on Thursday, October 22, 2020 at the Hyatt Regency in Monterey, CA. *If we are unable to have an in-person annual conference due to the COVID-19 pandemic, the elections will be conducted by all mail ballot. This means there will be no nominations from the floor as part of the usual caucus procedures.*

Please inform your Commission that the CALAFCO Election Committee is accepting nominations for the above-cited seats until *Tuesday, September 22, 2020 at 5:00 p.m.*

Incumbents are eligible to run for another term. Nominations received by September 22 will be included in the Election Committee's Report and will be on the ballot. The Report will be distributed to LAFCo members no later than October 7, 2020 and ballots made available to Voting Delegates at the Annual Conference. Nominations received after this date will be returned; however, nominations will be permitted from the floor during the Regional Caucuses or during at-large elections, if required, at the Annual Membership Meeting.

For those member LAFCos who cannot send a representative to the Annual Meeting an electronic ballot will be made available if requested in advance. **The ballot request must be made no later than Tuesday, September 22, 2020. Completed absentee ballots must be returned by 8:00 a.m., Monday, October 19, 2020.**

Should your Commission nominate a candidate, the Chair of your Commission must complete the attached Nomination Form and the Candidate's Resume Form or provide the specified information in another format other than a resume. Commissions may also include a letter of recommendation or resolution in support of their nominee.

The nomination forms and materials must be received by the CALAFCO Executive Director no later than Tuesday, September 22, 2020 at 5:00 p.m. Here is a summary of the deadlines for this year's nomination process:

- **June 23** – Nomination Announcement and packet sent to LAFCo membership and posted on the CALAFCO website.
- **September 22** – Completed Nomination packet due
- **September 22** –Request for an absentee/electronic ballot due
- **September 22** – Voting delegate name due to CALAFCO
- **October 7** – Distribution of the Election Committee Report (includes all completed/submitted nomination papers)
- **October 7** – Distribution of requested absentee/electronic ballots.
- **October 19** – Absentee ballots due to CALAFCO
- **October 22** - Elections

Returning the nomination form prior to the deadline ensures your nominee is placed on the ballot. Names will be listed in the order nominations were received should there be multiple candidates. Electronic filing of nomination forms and materials is encouraged to facilitate the recruitment process. Please send e-mails with forms and materials to **info@calafco.org.** Alternatively, nomination forms and materials can be mailed or faxed to the address or fax number below. Please forward nominations to:

CALAFCO Election Committee c/o Executive Director
California Association of Local Agency Formation Commissions
1020 12th Street, Suite 222
Sacramento, California 95814
FAX: 916-442-6535
EMAIL: info@calafco.org

Questions about the election process can be sent to the Chair of the Committee, Shiva Frentzen, at sfrentzen@calafco.org or by calling her at 530-621-5390. You may also contact CALAFCO Executive Director Pamela Miller at pmiller@calafco.org or by calling 916-442-6536.

Members of the 2020/2021 CALAFCO Election Committee are:

Shiva Frentzen, Chair sfrentzen@calafco.org	El Dorado LAFCo (Central Region) 530-621-5390
David Couch dcouch@cityofarcata.org	Humboldt LAFCo (Northern Region) 530-242-1112
Jo MacKenzie jmackenzie@calafco.org	San Diego LAFCo (Southern Region) 858-614-7755
Tom Murray tmurray@calafco.org	San Luis Obispo LAFCo (Coastal Region) 805-781-5795

Attached please find a copy of the CALAFCO Board of Directors Nomination and Election Procedures as well as the current listing of Board Members and corresponding terms of office.

Please consider joining us!

Enclosures