



**LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
MEETING MINUTES OF JUNE 6, 2022**

1. WELCOME AND CALL TO ORDER; ROLL CALL (teleconference)

Chair Mohler called the regular meeting of June 6, 2022, to order at 2:01 PM.

At the time of roll call, the following Commissioners and staff were present:

Regular Commissioners	Alternate Commissioners	Staff
Margie Mohler, Chair	Ryan Gregory (<i>Voting</i>)	Brendon Freeman, Executive Officer
Mariam Aboudamous	Eve Kahn	DeeAnne Gillick, Commission Counsel
Diane Dillon	Beth Painter	Dawn Mittleman Longoria, Analyst II and Interim Clerk
Kenneth Leary		

(Excused)

Brad Wagenknecht, Vice
Chair

2. PLEDGE OF ALLEGIANCE

Chair Mohler led the Pledge of Allegiance.

3. APPROVAL OF AGENDA

Chair Mohler asked if there were any requests to rearrange the agenda. There were no requests.

Upon motion by Commissioner Leary and second by Commissioner Dillon, the Commission unanimously adopted the agenda as submitted:

VOTE:

AYES: LEARY, DILLON, ABOUDAMOUS, GREGORY, AND MOHLER

NOES: NONE

ABSENT: WAGENKNECHT

ABSTAIN: NONE

4. PUBLIC COMMENTS

Chair Mohler reviewed the slide by reading the process to make comments electronically and by phone. She invited members of the audience to provide public comment. No comments were received.

Alternate Commissioner Painter stated that she had received a text from a member public wishing to comment.

Jim Hinton expressed frustration that the comment process via a landline phone was too complicated and his general frustration with elected officials of Napa County.

5. CONSENT ITEMS

Action Items:

- a) **Approval of Meeting Minutes: April 4, 2022, Regular Meeting**
- b) **Consider AB 361 Findings for Remote Teleconference Only Commission Meeting due to COVID-19 Emergency**
- c) **Retention of Legal Counsel**
- d) **Proposed Amendment to Policy on Municipal Service Reviews**
- e) **Proposed Amendment to Policy on Establishing Officers of the Commission**
- f) **Work Program for Fiscal Year 2022-23**

Receive Report for Information Only:

- g) **Third Quarter Budget Report for Fiscal Year 2021-22**
- h) **Napa LAFCO Quarterly Newsletter**
- i) **Current and Future Proposals**
- j) **Legislative Report**
- k) **Annexation Outreach Process**

Chair Mohler asked if Commissioners wanted to discuss any of the consent items, no request were made.

Upon motion by Commissioner Leary and second by Commissioner Aboudamous, the consent items were approved by roll call vote:

VOTE:

AYES: LEARY, ABOUDAMOUS, DILLON, GREGORY, AND MOHLER

NOES: NONE

ABSENT: WAGENKNECHT

ABSTAIN: NONE

6. PUBLIC HEARING ITEMS

- a) **Sphere of Influence Amendment Request Involving the City of American Canyon, American Canyon Fire Protection District, and 1661 Green Island Road**

The Commission will consider a landowner request to amend the spheres of influence for the City of American Canyon (City) and American Canyon Fire Protection District (ACFPD) involving 1661 Green Island Road (APN 058-030-041). The recommended action is for the Commission to deny the request to amend the City's sphere and approve the request to amend ACFPD's sphere.

Chair Mohler explained the Commission's Procedures with respect to conduct of public hearings.

The Executive Officer provided an overview of his staff report which was included in the agenda packet. The overview included the request made by the applicant, current land use, land planning designations and the agreement between the City and County regarding the Urban Limit Line (ULL). The Executive Officer explained that LAFCO was not a party to the agreement, however, Commission Policy recognizes urban limit lines and has considered the property in the *South County Municipal Service Review (MSR) and Sphere Influence* (2018) when the City and ACFPD jointly requested amendment to their SOIs to include the property. The Commission deferred consideration until the property was within the ULL. Staff provided an overview of relevant Commission Policies which include such matters as preservation of agricultural use, land use

designations, service capabilities, and ULL. Staff further explained the current use of the property and surrounding industrial uses. ACFPD has continuously provided service to the property since 1957 at a higher level of service than available through County Fire. The Executive Officer provided a list of communication from the affected agencies and industry stakeholders. Next the matter of precedent setting was considered. The applicant submitted reports from experts showing that due to salinity in the recycled water, agricultural use is no longer viable on the property. Environmental analysis of the project was presented. Staff reviewed the alternatives available to the Commission, as well as staff recommendation to approve SOI amendment for ACFPD, but deny the SOI amendment for the City.

Chair Mohler complimented the Executive Officer on his thorough analysis and presentation. The Chair provided the opportunity for the Commissioners to ask questions of staff.

Alternate Commissioner Kahn asked for clarification regarding the alternative actions available to the Commission. Does the Commission have the authority to approve the request with the condition of future passage of an election to amend the ULL?

The Executive Officer explained that by law the Commission does have that authority, however, Napa LAFCO policies discourage such action.

The applicant and team of experts were provided an opportunity to make their presentation,

David Gilbreth, applicant, explained that the scientific analysis concludes that the property is not capable of any agricultural activity, as a combination of the salinity in the soil and economics. The applicant explained that the scientific experts were chosen because they conduct independent analysis for agricultural industry leaders in Napa County. Mr. Gilbreth described the location of the property in proximity to the City and noted the current services from the City and ACFPD.

Ed Farver stated that he has been growing grapes in the County for over 40 years. He explained that growing grapes on the subject property became increasingly difficult. The property owners consulted with soil and viticulture experts who concluded that, due to salinity in the soil, the property is not viable for agricultural use, including oats and rye. Mr. Farver noted the property's close proximity to the City and advised that the property could better serve the agricultural industry as a warehouse or other agricultural related use.

Dr. Paul Anamosa, PHD, reviewed his professional analysis of the property. He concluded that the City's recycled water is not suitable for agriculture, especially in soil with clay content near the Bay and that the vineyard is on a "death spiral".

Dr. Wenbiao Cai summarized his report, stating that he reviewed possible crops in the County and neighboring counties and economic crop return reports. He concluded that agricultural operations on the property are not economically viable.

Mr. Gilbreth summarized his direct involvement in the incorporation of the City. He explained that it was determined that the area around the airport could best be used for agricultural serving uses.

Doug Straus, attorney, spoke regarding the referenced agreement between the City and County. He advised that the agreement does not bar the SOI boundary amendment but refers only to the ULL. He stated the agreement is of dubious legality and that it was a punitive measure imposed on the City to thwart natural growth. Mr. Straus referenced the 2018 MSR which was the study of the region. He stated that the report briefly mentioned the subject property and expressed the need for analysis to determine if it could not be used for agriculture. That analysis is currently before the Commission and definitively has determined that the property is not viable for agriculture.

Scott Browne, attorney, referenced his 30 years of legal experience representing LAFCOs. He reminded the Commission of their duty to represent the interests of the county as a whole and not specific local agencies. He stated that the crucial duty of LAFCO is to ensure orderly and logical boundaries. Mr. Browne explained that the request conforms to LAFCO since it is a logical annexation; an island surrounded by the City, best served by the City not the County and not viable for agriculture. He advised that the action to include the property in the City SOI does not affect the ULL. It simply states that the property should ultimately be part of the City. This concluded the time allotted for the applicant's team.

Chair Mohler opened the meeting to public comment and reviewed the rules for orderly comments.

David Morrison, Napa County Director of Planning, Building, and Environmental Services stated that the argument that land is not viable for agriculture is an argument used throughout California on land near a city for the purpose of urban sprawl. He stated that land near cities is always less economically viable to farm and the economical viability should not be a consideration of LAFCO. He stated that the question is orderly growth. He said that environmental review should be conducted as the land moves to the first step of urban development. He expressed doubt regarding ACFPD service to the site. He gave examples of other areas where an agency must travel through another agency to service a site. He concluded that the request is premature.

Kara Taddei, representing the Napa County Farm Bureau, stated they are opposed to the SOI amendment as well as reports and analysis concluding the property is not economically viable for grape growing. She added that consideration was not given to other crops that can grow in similar conditions, crops that are commonly grown in Sonoma County. She stated that the Farm Bureau is concerned about the precedent setting as other landowners complain of the lack of economic viability. She stated that they urge the Commission to deny the application.

ACFPD Chief Michael Cahill advised that the District supports staff's recommendation to amend the SOI to include the subject property. He took exception with Mr. Morrison's comments, given the fact that the property is surrounded by the District which has provided service since the formation of the District. He stated that from the District's perspective inclusion of the property is based on response times. For these reasons he concluded that the property should be within the District's SOI and eventually annexed into the District.

Yvonne Baginski referenced her submitted written comments related to recycled water use and that the property owners have increased their use of water even though the grape vines have been reduced. She requested that LAFCO deny the request because more analysis is necessary.

Peter Nissen, President of the Napa County Farm Bureau, stated their concern for the precedent setting nature of this request. He stated that the Farm Bureau requests that the property stay with the agricultural designation.

Cio Perez stated that he agrees with the comments of Mr. Morrison and Ms. Taddei. He believes the request is premature and that the Commission should deny the request and wait for the decision regarding the ULL. He stated that agriculture includes a variety of operations including raising cattle.

Molly Moran Williams, representing the Napa Valley Grape Growers, referenced their letter of opposition. They respect the applicant and the experts; however, they are concerned about the precedent to allow conversion of agricultural land. She added that Napa County's land use designation is intended to protect all agricultural land.

Gary Margadant stated that he has been working with Yvonne Baginski in reviewing information available to the public. He added that they found the continued use of City reclaimed water after the landowners were aware of the problem. He questioned the economic analysis that referred to the original purchase price of the property as grape growing land. He recommended that the Commission deny the application.

Letter submitted by American Canyon resident, Scott Thomason raising concerns about the property owners stating that the property can no longer be used for the production of wine grapes or any other agricultural use because the use of recycled water on the property has increased soil salinity. In addition, the SOI amendment would be used to: a) declare the property inappropriate for agricultural use; b) ask the City of American Canyon to annex the property; and c) subdivide and rezone this property to build winery warehouses. Further, the property is located near the Wetlands Trail, between Green Island Road and the American Canyon Waste Treatment Plant. Replacing this open space with winery warehouses would have an adverse impact on the surrounding environment and change the landscape of this area, which is part of the innate appeal that attracts thousands of people to this trail each year. Mr. Thomason strongly urges that LAFCO table approving this agenda item until further research has been done regarding use of the land, current condition of the soil, and all possible causes of salinity.

The Chair asked if Commissioners had questions of the applicants or of staff.

Alternate Commissioner Kahn asked whether or not there had been efforts made to improve the water quality.

Mr. Gilbreth responded that he had met with City staff and they explained that the problem was exacerbated when the Mezzetta pickle plant released salt water and the City expected to receive a grant to resolve the problem. Mr. Gilbreth stated that Dr. Anamosa could best answer the scientific aspects of the question.

Dr. Anamosa provided slides illustrating the impact on the vines and soil as a result of the high levels of salt in the recycled water. He conducted analysis of the extensive data provided by the City. His presented charts developed from the City data which illustrated the extremely high levels of salt when the pickle factory released brine water into the system. He advised that these levels of salt destroy the soil structure. His further analysis concluded that the City's recycled water has

moderate to high levels of salt and that the situation is getting progressively worse. In his opinion, the Grand Jury should evaluate why the City continues to sell recycled water for agricultural purposes. He noted that various comments had been made about “saltwater intrusion”. Dr. Anamosa explained why that is not the situation; that the issue is clearly watering the plants from the top down, not from the roots up.

Commissioner Aboudamous stated that she heard comments about an increase of water usage in spite of the decrease of vineyards. She requested a response from the applicants.

David Gilbreth asked if Ed Farver wanted to address the question. Mr. Farver stated that he did not have the data available to respond since irrigation varies with the seasons. Mr. Farver referred to the comment that recycled water is used successfully for agriculture in other areas. He explained the recycled water from Napa Sanitation District could be used successfully, but not the recycled water from the City.

Chair Mohler closed the public hearing. Chair Mohler requested that the Commission first consider the ACFPD SOI, that staff review the relevant report attachments for this item, and that the Commission consider the legal requirements such as the findings.

The Executive Officer reviewed the options and recommendations for the Commission. He deferred to legal counsel to explain when findings are required.

DeeAnne Gillick, LAFCO Counsel, explained which Commission actions are Legislative and which are quasi-judicial decisions, which require legal findings.

Chair Mohler requested comments from the Commission; seeing none she called on Commissioner Leary.

Commissioner Leary stated that he was leaning toward supporting the action.

Commissioner Dillon stated that Commission action now would be premature.

Commissioner Gregory agreed that action now would be premature.

Commissioner Aboudamous expressed support for the action stating the District has served the area since its formation, that no land use designations would change and the action would not violate LAFCO policies.

Chair Mohler also expressed support for the action.

Commissioner Dillon expressed concern that even the language in the resolution’s findings could be used by others to gain SOI amendment.

Commissioner Leary made a motion to approve staff’s recommendation to “Approve the requested expansion to ACFPD’s SOI by adopting the draft resolution included as Attachment 14”. Commissioner Aboudamous seconded the motion.

VOTE:

AYES: LEARY, ABOUDAMOUS, DILLON, GREGORY AND MOHLER

NOES: NONE

ABSENT: WAGENKNECHT

ABSTAIN: NONE

Chair Mohler directed the Commission to discuss the City SOI amendment.

Commissioner Aboudamous requested Counsel's opinion regarding the ballot measure and the ramifications if the voters and the Commission did not agree.

Counsel explained that the two actions are legally separate, however Commission Policy is to not include lands outside the ULL in a city SOI. She further explained that if the Commission approved the proposal on the condition of approval of the ballot measure, the SOI amendment would not proceed if the ballot measure failed.

Commissioner Gregory stated that agricultural preservation is important enough to be concerned about any potential precedent setting action as a possible "slippery slope". He added that the proposal has the opposition of the County and no position from the City which indicated steps have been missed. He agreed with the question raised by Commissioner Aboudamous if the Commission's action would be premature before the ballot measure.

Commissioner Dillon agreed with Commissioner Gregory regarding the precedent set by this action as a possible "slippery slope". She questioned whether vineyards could be the only agricultural crop for the property. She agreed with the question raised by Commissioner Aboudamous if the Commission's action would be premature before the ballot measure.

Commissioner Leary expressed strong concern regarding comments of "precedent setting and slippery slope". He stated that his concern would be the policy to not give up a single inch of agricultural land no matter what the conditions or situation. He expressed strong support for the Agricultural Preserve. He felt a broader discussion needs to occur regarding the balance of Agricultural Preservation and overall community needs, such as housing. He spoke to the disagreement between the County and City as well as the ballot measure. He felt the vote on the ballot measure should precede Commission action and he supports denial of the City SOI amendment.

Chair Mohler encouraged the parties to negotiate for a solution considering that this is a large property it would be possible for a combination of uses. She referred to affordable housing as a possible combined use. She cited the lack of support from the City and pending ballot measure as reasons to deny the SOI amendment request. She agreed with the comments made by Commissioner Leary regarding the "precedent setting and slippery slope". She expressed strong support for the Agricultural Preserve, however, she noted that the original boundaries were drawn on a map with a marker pen, and that consideration needs to be given for some unique parcels and situations. She gave the example of Carneros Inn and its need for water.

Chair Mohler noted that there were no more Commission comments.

Commissioner Dillon made a motion to Deny the requested expansion to the City's SOI by adopting the draft resolution included as Attachment 17. Commissioner Leary seconded the motion.

VOTE:

AYES: **DILLON, LEARY, ABOUDAMOUS, GREGORY AND MOHLER,**

NOES: **NONE**

ABSENT: **WAGENKNECHT**

ABSTAIN: **NONE**

b) Final Budget for Fiscal Year 2022-23 and Amendment to the Schedule of Fees and Deposits

The Commission considered adopting a resolution to approve a final budget for fiscal year 2022-23. Proposed operating expenses and revenues total \$663,588. The Commission also considered a proposed amendment to its *Schedule of Fees and Deposits*. The recommended actions were for the Commission to (1) open the public hearing and take testimony; (2) Close the public hearing; (3) adopt the Final Budget by resolution; (4) adopt the Amendment to the Adopted Schedule of Fees and Deposits.

The Executive Officer reviewed the budget process as required by law and Commission Policies. The Executive Officer thanked this year's Budget Committee members (Commissioners Mohler and Leary) for their work on the budget. He stated that the Commission adopted the proposed budget at its April 4, 2022, and it was distributed directly to the County and city/town managers and finance managers, as well as circulation to the public for review and comments. No comments were received. He reviewed the proposed amendments to the adopted Fee Schedule. Staff noted that the Final Budget is identical to the adopted proposed budget. He provided an overview of the Final Budget explaining that proposed revenues and expenses would total \$663,588. LAFCO would be in a position to end the 22-23 fiscal year with reserves totaling \$285,777 or 43.1% of budgeted expenses. That amount would be consistent with the Commission's policy for reserves at a minimum of 33.3% of budget expenses.

Staff explained the increase in budgeted revenues and expenses referring to the details in his staff report. Staff explained that the Budget Committee discussed at length the need for increased flexibility for LAFCO's staffing positions which are currently locked into specific job titles and salary ranges as part of the Commission's Support Services Agreement with the County of Napa. He noted that the proposed budget and Final Budget includes funding for these changes.

Chair Mohler opened the public meeting.

Commissioner Painter requested information regarding amendments to the fees schedule to remove the fee waiver section.

The Executive Officer explained that LAFCO seldom receives a request for fee waiver and that the budget is tight with a need to rely on fees.

Chair Mohler asked if the proposed Fee Schedule still allows for fee waiver for island annexations.

The Executive Officer confirmed that the proposed Fee Schedule still allows for fee waiver for island annexations.

Commissioner Painter stated that her concern was more for agencies such as the Resource Conservation District.

Chair Mohler asked if there were any public comments. No comments were received.

Chair Mohler closed the public hearing and brought the discussion back to the Commission noting that the discussion should first focus on the budget and then on the fees.

Commissioner Dillon requested information regarding the waiver of fees, specifically whether the Commission still would have the authority to waive fees in appropriate situations.

Chair Mohler agreed with the comments of Commissioner Painter; those situations do occur where a fee waiver is appropriate. The amendments to the Fee Schedule only propose that the Commission is silent on the matter and able to waive or reduce fees as appropriate.

DeeAnne Gillick, Counsel, confirmed that the Commission sets the policy for the fee schedule and has the authority to amend that policy on a case-by-case basis.

Commissioner Leary stated that the proposed amendment does not specify the requirements of a fee waiver but leaves the matter vague for future Commission action.

Chair Mohler requested any further comments from Commissioners, none were made.

Commissioner Leary made a motion to Adopt the Final Budget for FY 2022-23. The motion was seconded by Commissioner Dillon.

VOTE:

AYES: LEARY, DILLON, ABOUDAMOUS, GREGORY, AND MOHLER

NOES: NONE

ABSENT: WAGENKNECHT

ABSTAIN: NONE

Chair Mohler expressed appreciation for the work of the Budget Committee. The Chair then moved to the amendments to the Fee Schedule and requested if there were more Commission discussion. No comments were made.

Commissioner Leary made a motion to adopt the Amendment to the *Adopted Schedule of Fees and Deposits*. The motion was seconded by Commissioner Dillon.

VOTE:

AYES: LEARY, DILLON, ABOUDAMOUS, GREGORY, AND MOHLER

NOES: NONE

ABSENT: WAGENKNECHT

ABSTAIN: NONE

7. ACTION ITEMS

a) Proposed Hilltop Drive Reorganization and Associate CEQA Findings

The Commission considered approving a proposal submitted by landowner petition for annexation of one unincorporated parcel totaling approximately 0.5 acres in size to the City of Napa along with concurrent detachment from County Service Area No. 4. The affected territory is located at 2991 Hilltop Drive and identified by the County Assessor as 043-020-008

Dawn Mittleman Longoria, Analyst II, provided an overview of the staff report. The applicants have requested annexation to the City in order to convert an existing building into an Auxiliary Dwelling Unit (ADU). She noted that a small unincorporated parcel was not part of the application, that the Executive Officer had reached out to the landowners to gain their approval. Therefore, a boundary amendment is to include the parcel.

Commissioner Gregory asked if City annexation was necessary to convert the existing structure to an ADU.

Executive Officer Freeman responded affirmative, that the County would require annexation to the City in this situation.

Chair Mohler asked if the Commission had any additional questions, but there were none. The Chair then asked if there were comments from the public, but there were none.

Commissioner Gregory made a motion to Adopt the Resolution Making Determinations – Hilltop Drive Reorganization, making CEQA findings and including the boundary modification. Chair Mohler seconded the motion.

VOTE:

AYES: GREGORY, MOHLER, ABOUDAMOUS, DILLON AND LEARY

NOES: NONE

ABSENT: WAGENKNECHT

ABSTAIN: NONE

8. DISCUSSION ITEMS

a) **Direction of Future Commission Meetings**

The Commission considered alternatives for holding future Commission meetings in person, remotely or as a hybrid.

Chair Mohler noted that as a professional virologist, she pays attention to the COVID situation. She stated that the public notice for LAFCO meetings must be distributed 21 days before the actual meeting which creates a challenge with the frequent changes in the COVID status. The consensus of the Commission was to conduct future meetings as hybrid meetings. Commissioner Dillon suggested contacting staff to the Board of Supervisors for their assistance.

9. COMMISSIONER COMMENTS/REQUESTS FOR FUTURE AGENDA ITEMS

Chair Mohler expressed appreciate to DeeAnne Gillick for serving as the Commission's legal counsel and noted that this is her last meeting as LAFCO Counsel. Commissioner Dillon also expressed appreciation for DeeAnne Gillick's service. DeeAnne stated that she enjoyed working with the Commission and that she would be available for any issues that might arise. The Executive Officer added his appreciation for the service and guidance provided by DeeAnne. Commissioner Leary added his appreciation for the service provided by Legal Counsel. There was no further discussion of this item.

10. ADJOURNMENT TO NEXT REGULAR SCHEDULED MEETING

The meeting was adjourned at 4:54 PM. The next regular LAFCO meeting is scheduled for Monday, August 1, 2022, at 2:00 PM.

It is anticipated the meeting will be conducted as a hybrid meeting at the Napa County Board of Supervisors Chambers, located at 1195 Third Street, 3rd floor, Napa, CA, 94559.

Margie Mohler
Margie Mohler (Aug 23, 2022 11:33 PDT)

Margie Mohler, LAFCO Chair

ATTEST:

Brendon Freeman, Executive Officer

Prepared by:

Dawn Mittleman Longoria

Dawn Mittleman Longoria, Interim Commission Clerk


ADOPTED MINUTES June 6 2022


Final Audit Report


2022-08-23


Created:	2022-08-23
By:	Dawn Longoria (Dawn.Longoria@countyofnapa.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAN3JE-3LWJHv4I_zvaPFtCRzvBPMjxgsZ


"ADOPTED MINUTES June 6 2022" History


 Document created by Dawn Longoria (Dawn.Longoria@countyofnapa.org)
2022-08-23 - 5:42:12 PM GMT

 Document emailed to mmohler@yville.com for signature
2022-08-23 - 5:43:13 PM GMT

 Email viewed by mmohler@yville.com
2022-08-23 - 6:32:27 PM GMT

 Signer mmohler@yville.com entered name at signing as Margie Mohler
2022-08-23 - 6:33:10 PM GMT

 Document e-signed by Margie Mohler (mmohler@yville.com)
Signature Date: 2022-08-23 - 6:33:12 PM GMT - Time Source: server

 Agreement completed.
2022-08-23 - 6:33:12 PM GMT