

Lake Local Agency Formation Commission

Regular Meeting Agenda

Wednesday January 18, 2023 -- 9:30 am

City of Clearlake – City Council Chambers

14050 Olympic Dr. Clearlake, California

Website: www.lakelafco.org

“Lake LAFCo oversees orderly development and protects natural resources and agricultural lands”

In person meeting: Required for all Commissioners.

The complete agenda, including backup materials and materials related to items on this Agenda submitted to the Commission after distribution of the Agenda Packet, is available for public inspection on the Lake LAFCo website. www.lakelafco.org

Zoom meeting available for the public

Time: Jan 18, 2023 09:30 AM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/85378594939?pwd=UUJxWittUU5KMFI6d2ZuN2ZrMIQ3UT09>

Meeting ID: 853 7859 4939

Passcode: 948443

One tap mobile

*+16699006833,,85378594939#,,,,*948443# US (San Jose)*

*+16694449171,,85378594939#,,,,*948443# US*

Dial by your location

+1 669 900 6833 US (San Jose)

+1 669 444 9171 US

Meeting ID: 853 7859 4939

Passcode: 948443

Find your local number: <https://us02web.zoom.us/j/kkefXnIVu>

Commissioners

Dirk Slooten, (City)
Stan Archacki, (Special Dist.)
Jim Scholz (Special District)
Ed Robey, (Public Member)
Moke Simon, (County)
Bruno Sabatier Chair (County)
Stacey Mattina Vice Chair (City)

Commission Alternate Members

Vacant (Spec. District Alternate)
Suzanne Lyons (Public Alternate)
Vacant (County Alternate)
Ken Parlet (City Alternate)

Staff

John Benoit, Executive Officer
P. Scott Browne, Legal Counsel
Kathleen Moran, Clerk-Analyst

1. Call to Order – Roll Call

2. Approval of Minutes – September 21, 2022 and November 16, 2022
Action: Approve the September 21st and November 16th LAFCo minutes

3. Public Comment.

This is the time for the public to address the Commission on any matter not on the agenda. Testimony related to an item on the agenda should be presented at the time that item is considered.

4. Consent Agenda

- a. *Review and authorize payment of expenses for November and December 2022.*

ACTION ITEMS:

5. Notice of Termination for the City of Lakeport South Lakeport Annexation (file #2019-0006)

- a. *Consider Resolution 2023-0001 Termination of the LAFCo proceedings for City of Lakeport South Lakeport Annexation (file #2019-0006).*

6. Discussion regarding AB 2449 Remote LAFCO meetings and Commissioner Attendance.

- a. *Review AB-2449 and new remote meeting requirements*
7. **Workshop regarding Agricultural lands and LAFCo's role.**
 - a. *Review and Discuss LAFCo's role and responsibility regarding Agricultural Lands*
8. **Workshop regarding next year's work program.**
 - a. *Conduct Workshop regarding LAFCo projects for FY 2023-2024*
9. **Completion of Protest Proceedings: Legislation or Policy Amendment**
 - a. *Discuss and possible direction to staff regarding a policy or possible legislation regarding completion of LAFCo Protest Proceedings.*
10. **Executive Officer's report.**
 - a. *Upper Lake area MTBE (Methyl tert-butyl ether) Drinking Water Contamination – meet with district manager to begin MSR-SOI*
 - b. *Lower Lake CWD MSR and Sphere - meet with district*
 - c. *Meet with Lakeport City Manager*
 - d. *Meet with Grand Jury*
 - e. *LAFCo Projects – Middletown Rancheria, Brambles and Dorn*
 - f. *700 forms due April 1st*
11. **LAFCo Counsel's report**
12. **Commissioner Reports**

This item is placed on the agenda for Commissioners to discuss items and issues of concern to their constituency, LAFCO, and legislative matters.
13. **Correspondence: Calafco: White Paper Planning for a Stable and Predictable Future**
14. **Adjourn to LAFCO's next regular meeting: Wednesday March 15, 2023
9:30 AM in Lakeport**

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



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

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:
matter jurisdiction.

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

Public Hearings

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

Agenda Materials

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda are available for review for public inspection at the City of Lakeport and City of Clearlake Community Development Departments office located at City Hall in Lakeport and Clearlake [such documents are also available on the Lake LAFCO website as noted below to the extent practicable and subject to staff's ability to post the documents prior to the meeting].

Accessibility

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

Disclosure & Disqualification Requirements

Any person or group of persons acting in concert who directly or indirectly contribute \$1,000 or more in support of or in opposition to a change of organization or reorganization that has been submitted to Lake LAFCO must comply with the disclosure requirements of the Political Reform Act of 1974 applicable to local initiative measures to be submitted to the electorate. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals; they may be reviewed at Government Code §§56700.1 and 81000 *et seq.* Additional information about the requirements pertaining to local initiative measures to be presented to the electorate can be obtained by 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 (707) 592-7528 or by mail at Lake LAFCO c/o John Benoit, Executive Officer P.O. Box 2694, Granite Bay, CA 95746 or by email at j.benoit4@icloud.com. Agenda packets are located on the Lake LAFCO Webpage at www.lakelafco.org

Lake Local Agency Formation Commission

Item #2

Regular Meeting Minutes

Wednesday November 16, 2022 -- 9:30 am

City of Lakeport – City Council Chambers

225 Park Street Lakeport, California

Website: www.lakelafco.org

Call to Order – Roll Call The Meeting was called to order at 9:30 AM

Commissioners and Staff Present:

Commissioners

Dirk Slooten, (City)

Stan Archacki, (Special Dist.)

Jim Scholz (Special District)

Ed Robey, (Public Member)

Moke Simon, (County)

Bruno Sabatier Chair (County)

Stacey Mattina Vice Chair (City)

Suzanne Lyons (Public Alternate)

Staff

John Benoit, Executive Officer

P. Scott Browne, Legal Counsel

1. **Approval of Minutes** – The Sept 21st 2022 minutes were continued to the January 2023 meeting in Clearlake
4. **Public Comment.**
No public comment was received
5. **Consent Agenda**

- a. *Review and authorize payment of expenses for September and October 2022.*
- b. *Renew authorization by adopting Resolution 2022-0014 for remote (teleconference/videoconference) meetings by finding, pursuant to Assembly Bill 361, that (a) the COVID-19 pandemic state of emergency is ongoing, and (b) meeting in person would present imminent risks to the health or safety of attendees.*

It was moved by Commissioner Slooten and seconded by Commissioner Mattina. The Consent agenda was approved by a unanimous vote.

Public Hearing:

6. Revisions to LAFCo's fee deposit schedule and application of a cost escalator to the Lake LAFCo staff hourly rates for all billable projects based upon the Employment Cost Index for State and Local Governments as published by the United States Department of Labor, Bureau of Labor Statistics or Consumer Price Index (CPI)

Benoit explained the staff memo submitted to the Commission. Explaining the fee schedule has not been updated since 2010. The memo explained the history of fees deposits with LAFCo and the memo explained the current increases due to inflation. Explained the difference between the CPI and the Employment Cost Index and when the Employment Cost Index inflator is determined, a LAFCo consent agenda item will ratify the inflator.

The next item was a discussion of the fee deposit schedule. Several items are recommended to be increased and a request for additional deposits based upon reaching 85% of the amount deposited is included. The methodology to determine hourly charge out rates was explained and the resultant rates were stated.

Benoit explained this is a noticed public hearing and explained the justification of charging only those direct related costs. The charge out costs should be reviewed annually on the Consent agenda at the July meeting.

Commissioner Simon agreed the SOI fee amendment should be increased from \$4,000 and explained the fundamental difference between a SOI amendment and SOI update.

Commissioner Mattina did not understand the math in the proposal. Benoit explained it math was based on the LAFCo budget and came up with figures based on unrecoverable and recoverable costs.

Commissioner Sabatier asked about a time study being required. Benoit explained these are fee deposits against actual costs and will bill more or less depending upon the project.

Commissioner Sabatier discussed the rates shall be part of the final budget Browne, explained these increases would be automatic otherwise LAFCo will have to go through the process of holding a public hearing in each case.

Commissioner Simon following up on the SOI amendment believed the SOI should be the same amount as the MSR. There was consensus that both should be \$5,000.00.

Sabatier opened the public hearing. Hearing no public comment the hearing was closed.

Sabatier asked for a motion with one change in the fee schedule for the SOI amendment.

A motion was made by Commissioner Slooten and seconded by Commissioner Robey to approve Resolution No. 2022-15 approving a cost escalator to the Lake LAFCO staff hourly rate for all billable projects and updated fee deposit schedule for various LAFCo projects including a \$5,000.00 amendment for a SOI update. . The motion was carried by a unanimous roll call vote.

OTHER ITEMS:

7. 2023 Regular meeting Schedule

A Motion by Commissioner Mattina and Second by Commissioner Archacki to approve the Regular LAFCo meeting schedule for 2023. carried by a unanimous vote.

8. Discussion regarding Legislation and legislation the Commission may propose in 2023

Scott will be working on the indemnification issue for Calafco.

There was discussion regarding the closure of protest hearings. The alternatives are can LAFCo address this issue in its policies, standards and procedures or should be accomplished via legislation. To be brought up at the next meeting.

Commissioner Mattina stated the protest process is unclear and did not work in the South Lakeport Annexation which may lead to problems with the Department of Water Resources and needs to be reworked and in this case was a failure. Commission Slooten asked if any other counties have a different process. Benoit said no. All LAFCo's have the same protest hearing process. Browne indicated there has to be a deadline for submission of written protests otherwise someone will be allowed to file a written protest one minute before the closure of the public hearing. Mattina suggested there are other problems with the process. Browne

indicated that counting on registered voters in an application that is primarily for landowners.

Benoit suggested something needs to happen and perhaps LAFCo Counsel and the Lakeport City Attorney can discuss come up with a solution or improvement to the process. Since this is an annexation to a city the state law requires registered voters. Benoit suggested a new application having fewer than 12 registered voters.

9. Discussion regarding the Calafco Annual Conference held on October 19, 20 and 21, in Orange County California.

The Calafco annual conference was attended by Scott Browne, John Benoit and Ed. Robey. Executive Officer Benoit explained SB 938 which includes regulations for MSR follow up as well as providing for protests for proceedings initiated by LAFCo with a 25% threshold for protest rather than 10%. There was also a refresher regarding Grand Juries. A session regarding recruitment of LAFCo Staff. Need to do a good recruitment and pay staff well so they will stay. Ed Robey spoke about SB 938. Ed Robey spoke of a mock public hearing regarding the dissolution of a fire district. As usual the conference was an opportunity to network with commissioners and staff of other LAFCo's. Next conference will be in Monterey.

10. Executive Officer' s report.

- a. *Upper Lake area MTBE (Methyl tert-butyl ether) Drinking Water Contamination – This project is ongoing. Staff will meet with the Upper Lake County Water District in January 2023 for the MSR and SOI update.*
- b. *Lower Lake CWD MSR and Sphere The draft is complete. Staff will meet with the Lower Lake CWD in January 2023.*
- c. *LAFCo Projects – Middletown Rancheria. So. Lakeport waiting for official ballot count, Out of Agency Agreement for KCWD nothing to report, and the Dorn Annex to CSA 20 is moving forward. LAFCo is waiting for the Property Tax sharing agreement.*
- d. *Discussed an annexation to Finley CSA which we will oppose due to agricultural conversion issues and county entitlements.*
- e. *Zoom meetings. The law has changed. Zoom meetings in the future will primarily be for public outreach. Commissioners may zoom in but in special circumstances only. Discussion at the January 2023 meeting.*

Commissioner Archacki had a question regarding treatment of water in the MTBE area. Benoit did not have an answer due to the technical nature of the questions.

11. LAFCo Counsel's report

Browne gave it to the Commission during the EO report

12. Commissioner Reports

Ed Robey related his experience being an elections worker at the latest Election.

Bruno Sabatier discussed having an Agriculture and Open Space discussion and how we handle these issues on a future agenda. Benoit discussed inconsistency between Ag preserve contacts and county zoning.

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

- 13. Meeting adjourned at 10:49 AM. LAFCO's next regular meeting will take place on Wednesday January 18, 2023 at 9:30 AM in Clearlake.**

LAKE LOCAL AGENCY FORMATION COMMISSION

Minutes

September 21, 2022

Members Participating

Stacey Mattina, Vice-Chair, City Member
Ed Robey, Public Member
Stan Archacki, Special Districts
Dirk Slooten, City Member
Jim Scholz, Special Districts

Staff Participating

John Benoit, Executive Officer
P. Scott Browne, Legal Counsel

Absent: Bruno Sabatier, Chair, County Member, Mike Simon, County Member, Suzanne Lyons, Public Alternate, Kenny Parlett, City Alternate.

1. Vice-Chair Mattina called meeting to order at 9:35 a.m. in the City Council Chambers, City of Clearlake. This meeting was conducted in person with teleconference and Zoom options available.

2. Approval of Minutes

Commissioner Mattina requested correction re: Agenda Item #5, Consent, which showed her as making the motion, and she was not in attendance at the meeting. The minutes should show Commissioner Simon as the maker of the motion to approve Agenda Item 5.

Motion by Commissioner Robey, seconded by Commissioner Archacki to approve the Minutes of the July 20, 2022 Regular Meeting, with the above correction. Motion carried by the following vote:

AYES: Commissioners Slooten, Archacki, Scholz, and Robey.
NOES: None.
ABSTAIN: Commissioner Mattina.
ABSENT: Commissioners Sabatier and Simon.

3. Vice-Chair declared Period of Public Comment. None were heard.

4. Consent Agenda

Motion by Commissioner Slooten, seconded by Commissioner Archacki to approve

Consent Agenda items as follows:

- a. Authorize payment of expenses for July and August 2022.
- b. Adopt Resolution 2022-0012 - A Resolution of the Lake LAFCo Authorizing a remote Teleconference Meeting of the Commission Pursuant to Government Code Section 54953(e) and authorize the Chairman to sign.

Motion carried by the following vote:

AYES: Commissioners Slooten, Archacki, Scholz, Robey, and Mattina.
NOES: None.
ABSENT: Commissioners Sabatier and Simon.

5. Continued discussion of Domestic Water Services in Clearlake and surrounding area

Mr. Benoit noted that this discussion is a continuation of previous discussions which were set aside due to precedence given the City of Lakeport South Lakeport annexation and that he is requesting direction from the Commission.

Present: Jeff Davis, Highlands Mutual Water.
Keith Ahart, Golden State Water.
Frank Costner, Konocti County Water District.
Willie Sapeta, Chief, Lake County Fire Protection District.

Extensive discussion was held. Discussion concluded with Fire Chief inviting the water providers to his regular monthly meetings to continue to work on issues, including development, communication between agencies, and fire flows.

6. Biennial Review of LAFCo's Conflict of Interest Code

Mr. Benoit stated that the Commission is required to review its Conflict of Interest Code every two years, and that no revisions have been made. Mr. Browne made brief statement in concurrence and recommended adoption.

Motion by Commissioner Slooten, seconded by Commissioner Scholz to authorize the Executive Officer to sign the Biennial Conflict of Interest Code review form and transmit to the Code Reviewing Body. Motion carried by the following vote:

AYES: Commissioners Slooten, Archacki, Scholz, Robey, and Mattina.
NOES: None.
ABSENT: Commissioners Sabatier and Simon.

7. LAFCo Bylaws Update

Motion By Commissioner Robey, seconded by Commissioner Scholz to adopt Resolution No. 2022-0013 - A Resolution Adopting Updated Bylaws for Lake LAFCo and authorize the Chairman to sign. Resolution passed and adopted by the following vote:

AYES: Commissioners Slooten, Archacki, Scholz, Robey, and Mattina.
NOES: None.
ABSENT: Commissioners Sabatier and Simon.

8. Executive Officer's Report

- a. Upper Lake area MTBE (Methyl tera-butyl ether) Drinking Water Contamination- no progress has been made.
- b. Lower Lake CWD MSR and Sphere - district visit planned.
- c. LAFCo Projects - Middletown Rancheria- Upper Lake CSD
- d. Update on SB 938 - Protest Proceedings and potential revisions to MSR process.
- e. Calafco Conference October 19-21 Santa Ana.
- f. Fee Schedule - Cost of Living changes to charge out rates.

9. LAFCo Counsel's Report - Mr. Browne advised that there will be a variety of changes to the Brown Act regarding the use of Zoom meetings and he will update the Commission on those when adopted. In the meantime, the Commission must continue to adopt the required resolution at each meeting.

10. Commissioner Reports

Commissioner Robey asked if LAFCo could help to facilitate action on the Lower Lake Area Plan, and that is has been pending for many years. It was noted that the County has a newly seated Planning Director, Mireya Turner, and that LAFCo should send a letter of congratulations and an invitation to an upcoming meeting.

11. Correspondence

BOS letter of support for the annexation of the Noble Project to the Upper Lake County Water District.

Meeting adjourned 10:59 a.m.

Next Meeting: November 16, 2022 at 9:30 a.m. in Lakeport.

By: Kathleen Moran, Clerk

Lake Local Agency Formation Commission

#4

CLAIMS

November and December 2022

Expenses for FY 2022-2023:

<u>Date of Claim</u>	<u>Description</u>	<u>Amount</u>
10.16.22 - 11.15.22	Browne Legal	\$ 1,954.57
Nov 16, 2022	Meeting Stipend	\$ 800.00
Dec 1, 2022	Staff Svcs Nov 2022	\$ 5,165.27
11.16.2022 - 12.15.22	Browne Legal	\$ 1,954.57
Jan 1, 2023	Staff Svcs Dec 2022	\$ 5,339.27
Jan 1, 2023	Lower Lk MSR and SOI	\$ 3,830.40
TOTAL:		\$ 19,104.08

DATED: January 18, 2023

APPROVED: January 18, 2023

Bruno Sabatier, Chair or Stacey Mattina Vice-Chair
Lake Local Agency Formation Commission

Attest:

John Benoit
Executive Officer

[illegible]

[illegible]

LAKE LAFCO

Item 5

CERTIFICATE OF TERMINATION

I, John Benoit, Executive Officer to the Lake Local Agency Formation Commission, hereby certify that the **Local Agency Formation Commission** has terminated a change of organization.

The short title of the action is: **South Lakeport Annexation**

This termination of LAFCo Proceedings is due to failure to receive a majority vote in an election conducted on November 8, 2022 and therefore not meeting a requirement in LAFCo Resolution 2022-0006 adopted by LAFCo on May 18, 2022.

JOHN BENOIT
Executive Officer

Dated:

THE EFFECTIVE DATE OF THIS ACTION IS _____

BEFORE THE LAKE LOCAL AGENCY FORMATION COMMISSION
COUNTY OF LAKE, STATE OF CALIFORNIA

IN RE:
RESOLUTION TERMINATING THE) RESOLUTION NO. 2023-0001
LAFCO PROCEEDINGS FOR)
THE CITY OF LAKPORT SOUTH)
LAKEPORT ANNEXATION)
TO THE CITY OF LAKEPORT)
(LAFCO APPLICATION NO. 2019-0006))

WHEREAS, an application for the annexation of 136.78 acres of land, known as the City of Lakeport South Lakeport Annexation was filed with the Executive Officer of the Lake Local Agency Formation Commission on August 13, 2019 pursuant to the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 *et seq.* of the California Government Code); and

WHEREAS, on March 30, 2022, LAFCO adopted Resolution No. 2022-0004 making determinations and approving the Proposed City of Lakeport South Lakeport Annexation, subject to conducting authority proceedings.

WHEREAS, sufficient protest was received by LAFCo and on May 18, 2022. adopted Resolution 2022-0006 ordering the City of Lakeport to conduct an election

WHEREAS, the City Council requested to consolidate a special Mail Ballot Municipal Election with the County of Lake to be held on November 8, 2022 to provide an opportunity for registered voters to support or oppose the South Lakeport Annexation.

WHEREAS, the votes in favor of the South Lakeport Annexation (Measure P) did not constitute a majority as certified by the City Council on December 20, 2022.

NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED AND ORDERED by the Lake Local Agency Formation Commission as follows:

1. The foregoing recitals are true and correct.
2. The Commission finds there were insufficient votes to constitute a majority and hereby terminates proceedings for the proposed City of Lakeport South Lakeport Annexation and authorizes the Executive Officer to sign the attached Certificate of Termination..
3. Unless otherwise waived by the LAFCo Commission, no substantially similar proposal for a change of organization or reorganization of the same or substantially the same territory may be filed with the commission within one-year of adoption of this resolution

PASSED AND ADOPTED at a regular meeting of the Lake Local Agency Formation Commission on January 12, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Bruno Sabatier, Chair
LAKE LOCAL AGENCY
FORMATION COMMISSION

ATTEST:

John Benoit, Executive Officer

RESOLUTION NO. 2898 (2022)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEPORT, CALIFORNIA,
RECITING THE FACTS OF THE CONSOLIDATED GENERAL MUNICIPAL ELECTION
HELD ON THE 8th DAY OF NOVEMBER, 2022, DECLARING THE RESULTS
AND SUCH OTHER MATTERS AS PROVIDED BY LAW.**

WHEREAS , a Consolidated General Municipal Election was held and conducted in the City of Lakeport, California, on Tuesday, the 8th day of November, 2022, as required by law; and

WHEREAS, notice of the election was given in time, form, and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form, and manner as required by the provisions of the *Elections Code* of the State of California for the holding of elections in general law cities; and

WHEREAS, the County Elections Official of the County of Lake canvassed the returns of the election and has certified the results to this City Council, the results are received, attached and made a part hereof as "Exhibit A."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEPORT, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the whole number of ballots cast in the precincts except by vote by mail voter ballots and provisional ballots was 185.

That the whole number of vote by mail ballots cast in the City was 1,619 making a total of 1,804 ballots cast in the City.

That the whole number of ballots cast in the proposed annexation precinct except by vote by mail voter ballots and provisional ballots was 1.

That the whole number of vote by mail ballots cast in the proposed annexation precinct was 13 making a total of 14 ballots cast in the proposed annexation precinct.

SECTION 2. That the names of persons voted for at the election for a Member of the City Council are as follows:

Mireya G. Turner

Stacey Mattina

That the measure voted upon at the election is as follows: MEASURE P – South Lakeport Annexation

SECTION 3. That the number of votes given at each precinct and the number of votes given in the City to each of the persons above named for the respective offices for which the persons were candidates are as listed in Exhibit "A" attached.

SECTION 4. The City Council does declare and determine that:

STACEY MATTINA was elected as a member of the City Council for a full term of four (4) years.

MIREYA G. TURNER was elected as a member of the City Council for a full term of four (4) years.

The City Council does declare and determine that as a result of the election, a majority of voters voting on the measure relating to the proposed South Lakeport Annexation, did vote against it, and that the measure was defeated.

SECTION 5. That the City Clerk shall enter on the records of the City Council of Lakeport, a statement of the result of the election, showing: (1) The whole number of ballots cast in the City; (2) The names of the persons voted for; (3) For what office each person was voted for; (5) The number of votes given at each precinct to each person, and for and against each measures; (6) The total number of votes given to each person and for and against each measure.

SECTION 6. That the City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Election signed by the City Clerk and authenticated; that the City Clerk shall also administer to each person elected the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

That the City Clerk shall immediately report the results of the Measure P election to the executive officer of the Lake Local Agency Formation Commission (LAFCo). (Gov. Code, § 57149.)

SECTION 7. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED ON this 20TH day of December 2022, by the following vote:

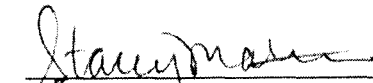
AYES: Mayor Mattina, Council Members Parlet and Spurr

NOES: None

ABSTAIN: None

ABSENT: Council Member Froio

Resolution No.


STACEY MATTINA, Mayor

ATTEST:


KELLY BUENDÍA, City Clerk

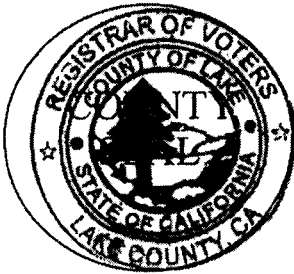
Resolution No.

**CERTIFICATION OF
COUNTY CLERK/REGISTRAR OF VOTERS OF THE
RESULTS OF THE CANVASS
OF THE NOVEMBER 8, 2022, GENERAL ELECTION**

STATE OF CALIFORNIA
COUNTY OF LAKE } ss.

I, Maria Valadez, ~~County Clerk~~/Registrar of Voters of County
of Lake, do hereby certify that, in pursuance of the provisions of Elections Code
section 15300, et seq., I did canvass the results of the votes cast in the General Election held in said
County on November 8, 2022, for measures and contests that were submitted to the vote of the voters,
and that the Statement of Votes Cast, to which this certificate is attached is full, true, and correct.

I hereby set my hand and official seal this 8th day of December, 2022, at the
County of Lake



Maria Valadez
~~County Clerk~~/Registrar of Voters
County of Lake
State of California

Canvass Certification of Elections Official
(11/2022)

CITY OF LAKEPORT Member, City Council

Cumulative Totals

Precinct	Registration	Ballots Cast	Turnout (%)	MIREYA G. TURNER	STACEY MATTINA
411 LP Lange	684	440	64.3	218	294
412 LP Willow Tree	717	454	63.3	212	306
413 LP Government	717	397	55.4	192	267
414 LP Fairgrounds	889	513	57.7	241	304
Vote by Mail Totals	3,007	1,619	53.8	795	1,050
Election Day Voting Totals	3,007	185	6.2	68	121
Grand Totals	3,007	1,804	60.0	863	1,171

CITY OF LAKEPORT Member, City Council

Vote by Mail
Totals

District	Registration	Ballots Cast	Turnout (%)	MIREYA G. TURNER	STACEY MATTINA
County of Lake, California	3,007	1,619	53.8	795	1,050
4th Congressional District	3,007	1,619	53.8	795	1,050
2nd Senatorial District	3,007	1,619	53.8	795	1,050
4th Assembly District	3,007	1,619	53.8	795	1,050
Bd of Equalization, Dist 2	3,007	1,619	53.8	795	1,050
4th Supervisorial District	3,007	1,619	53.8	795	1,050
City of Lakeport	3,007	1,619	53.8	795	1,050
Vote by Mail Totals	3,007	1,619	53.8	795	1,050

CITY OF LAKEPORT Member City Council					
Election Day Voting Totals					
District	Registration	Ballots Cast	Turnout (%)	MIREYA G. TURNER	STACEY MATTINA
County of Lake, California	3,007	185	6.2	68	121
4th Congressional District	3,007	185	6.2	68	121
2nd Senatorial District	3,007	185	6.2	68	121
4th Assembly District	3,007	185	6.2	68	121
Brd of Equalization, Dist 2	3,007	185	6.2	68	121
4th Supervisorial District	3,007	185	6.2	68	121
City of Lakeport	3,007	185	6.2	68	121
Election Day Voting Totals	3,007	185	6.2	68	121

CITY OF LAKEPORT Member, City Council

Grand Totals

District	Registration	Ballots Cast	Turnout (%)	MIREYA G. TURNER	STACEY MATTINA
County of Lake, California	3,007	1,804	60.0	863	1171
4th Congressional District	3,007	1,804	60.0	863	1171
2nd Senatorial District	3,007	1,804	60.0	863	1171
4th Assembly District	3,007	1,804	60.0	863	1171
Bd of Equalization, Dist 2	3,007	1,804	60.0	863	1171
4th Supervisorial District	3,007	1,804	60.0	863	1171
City of Lakeport	3,007	1,804	60.0	863	1171
Vote by Mail Totals	3,007	1,619	53.8	795	1,050
Election Day Voting Totals	3,007	185	6.2	68	121
Grand Totals	3,007	1,804	60.0	863	1,171

MEMMORANDUM
January 18, 2023

Item #6

TO: Lake LAFCo Commissioners

FROM: John Benoit, Executive Officer:

SUBJECT: AB 2449 Summary and explanation of new requirements

On September 13, 2022, Governor Newsom signed Assembly Bill No. 2449 (Rubio) ("AB 2449"), effective January 1, 2023. The bill amends the Brown Act to authorize teleconferencing when a Commissioner can demonstrate "just cause" or an "emergency circumstance."

Beginning January 1, 2023, AB 2449 will provide agencies with an additional method to organize teleconferenced meetings. LAFCo Commissioners should familiarize themselves with these Brown Act provisions to make use of them when appropriate.

Further, AB 2449 requires the Commission to "implement a procedure for receiving and swiftly resolving requests for reasonable accommodations for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990.

Prior to Covid-19, the Brown Act authorized teleconferencing under the following:

1. The Commission "shall post agendas at all teleconference locations;
2. "Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding";
3. "Each teleconference location shall be accessible to the public; and
4. "At least a quorum of members of the legislative body shall participate from locations within the boundaries of the ...jurisdiction."

AB 2449 amends the teleconferencing provisions of the Brown Act.

For an agency to use the procedures under AB 2449, there must at least be a quorum of Commissioners participating in person from a singular, physical location identified on the agenda; the location must be accessible to the public; and the meeting location must be within the local agency's jurisdiction.

Local agencies must provide at least one of the following to facilitate a public meeting that equally allows remote participants to interact:

A two-way audio-visual platform (defined to mean an online platform that provides participants with

the ability to participate in a meeting through an interactive video conference and a two-way telephonic function); and/or

Live webcasting of the meeting and a two-way telephonic service (defined to mean a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform and allows participants to dial a telephone number to listen and verbally participate).

When participating remotely, Commissioners shall participate through both audio and visual technology. Before any official action is taken, the Commissioner must publicly disclose whether any other individuals 18 years or older are in the room at the remote location with the Commissioner, and what the individual's relationship is to the Commissioner.

If a disruption occurs that prevents the Commission from convening the meeting both remotely and in person, the Commission will take no further action on the meeting agenda until public access to the meeting has been restored. This includes situations where the online platform for remote participation has been disrupted and the public may no longer access the meeting remotely when a Commissioner can demonstrate "just cause" or an "emergency circumstance."

"Just cause" means any of the following:

A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely;

A contagious illness that prevents a Commissioner from attending in person;

A need related to a physical or mental disability; or

Travel while on official business of LAFCO or another state or local agency.

"Emergency circumstance" means a physical or family medical emergency that prevents a Commissioner from attending in person.

The procedures for invoking "just cause" or an "emergency circumstance" are different:

	Just Cause	Emergency Circumstance
Reason must be disclosed to the Commission	Yes	Yes
Reason for teleconferencing needs to be approved by the Commission	No	Yes

When such request must be made	At the earliest opportunity	As soon as possible. If there is insufficient time to make the request before the posting of the public agenda, then it may be made at the beginning of the meeting.
Annual limit on use	No more than two meetings per calendar year	

	Just Cause	Emergency Circumstance
	Each individual Commissioner may not use a combination of "just cause" and "emergency circumstances" to participate remotely for more than three months or 20 percent of the regular meetings of the calendar year. If, like Lake LAFCO, the legislative body meets fewer than 10 times a year, they cannot participate remotely in more than 2 regular meetings.	

Process and tips for seeking to participate remotely for "just cause"

- Commissioner provides a general description of the just cause at the earliest opportunity possible, including before the agenda publication deadline or at the start of the meeting.
- Commissioner has not requested more than two just cause teleconferencing appearances; more than three months of consecutive teleconferencing appearances or more than 20 percent of meetings within the calendar years under just cause and/or emergency circumstances.
- The Commission publishes the agenda listing the means by which public may access the meeting and offer public comment.
- A quorum of the Commission is physically present within the agency's territorial jurisdiction.
- Teleconferencing Commissioner turns on his or her audio and video (calling in by phone is not permitted).
- Commissioner discloses at the start of the meeting whether any other individuals

- 18 years of age or older are present in the room at the remote location with the Commissioner, and the Commissioner's relationship with the individual(s).
- All votes are taken by roll call.

Process and tips for seeking to participate remotely for “emergency Circumstance’s”

- Commissioner provides a general description of the emergency circumstance at the earliest opportunity possible; if there is insufficient time to place it on the posted agenda, then at the beginning of the meeting. The general description need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.
- Commissioner has not requested more than three months of consecutive or more than 20 percent of meeting within a calendar year of teleconferencing appearances under just cause or emergency circumstances; or has not requested more than two teleconference appearances if LAFCO regularly meets for less than 10 meetings per calendar year.
- LAFCO publishes the agenda listing means by which the public may access the meeting and offer public comment.
- A quorum of the Commission is physically present within the agency’s territorial jurisdiction.
- The Commission votes to approve teleconference participation due to emergency circumstance. (this is a new exception allowing the Commission to take action without being previously agendized, if not possible).
- Teleconferencing Commissioner turns on his or her audio and video (calling in by phone is not permitted).
- Commissioner discloses at the start of the meeting whether any other individuals
- 18 years of age or older are present in the room at the remote location with the Commissioner, and the Commissioner's relationship with the individual(s).
- All votes are taken by roll call

KEY QUESTIONS:

Does the Commission need to amend its Bylaws to include this process?

Should Commissioners contact LAFCo Counsel before using the “just cause” or “emergency circumstances “ described above.

Lake LAFCo

Item #7

**Memorandum
January 18, 2023**

TO: LAFCo Commissioners

**FROM: John Benoit, Executive Officer
Scott Browne, LAFCo Counsel**

RE: Consideration of Agricultural Conversion Impacts

It is anticipated Agricultural lands will be converted as a result of proposed development in both cities and the County. Under the County General Plan, many properties are designated as Agriculture with an agricultural zoning designation. Many annexation areas are designated as "prime agricultural land" under the Farmland Mapping and Monitoring Program (FMMP) of the California Dept of Conservation as well as meeting the LAFCo definition of prime agricultural lands described below.

As noted in Policy 2.14 of LAFCo's Policies, "Among LAFCo's core purposes is preservation of open space and prime agricultural lands." The policy goes on to state "The Commission will exercise its powers to conserve prime agricultural ("ag") land as defined in Section 56064 of the Government Code, and open space land as defined in Section 65560 of the Government Code pursuant to the following standards. In order to more effectively carry out this mandate, the Commission may develop local standards to define and identify prime agricultural and open space lands. "

Section 56064 contains a broad definition of prime agricultural land—far broader than that used in many other such characterizations. Basically under Section 56064, land is considered prime agricultural land if it meets any of the following definitions:

- (a) Land that, if irrigated, qualifies for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not the land is actually irrigated, provided that irrigation is feasible.*
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.*
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.*
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.*

Future projects clearly have the potential to fall within the LAFCo definition of "prime agricultural land". Project applicants are being asked to provide information relating to past agricultural activities to help determine if a given project meets the definition under

56064 Subsection (c) above.

If the land in a proposed annexation falls within the “prime agricultural land” definition, it triggers a “heightened scrutiny” under CKH and LAFCo’s adopted policies, especially where, as here, the annexation will result in permanent removal of the land from agricultural production. Under CKH, Section 56377, LAFCo is required to do the following:

56377. Open Space Land Conversion. *In reviewing and approving or disapproving proposals, which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:*

(a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.

(b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

LAFCo’s Policies Section 2.14 implements the above statutory direction by imposing a number of requirements in consideration of any change of organization that proposes to convert prime agricultural land. Chief among these is a determination that “insufficient vacant non-prime or open space land exists within the existing agency boundaries or applicable 5 and 10 year spheres of influence that is planned and developable for the same general type of use”. (Section 2.14 a), iv))

Need for Conversion. Residential Absorption Studies will need to be provided to evaluate the available vacant land within a city or district’s boundaries. The evaluation is normally based on data developed for a recently updated City or County Housing Element. Thus it may or may not be clear that for a City or district to grow, additional land must be annexed. Since existing service areas are largely surrounded by land that under 56064 would be characterized as “prime agricultural land”, the City or district has little choice but to convert prime agricultural land, if it is to accommodate its regional share of the projected housing demand.

Updated Sphere. A second major requirement of LAFCo agricultural policies Section 2.14 b) is that the sphere of influence plan for the agency meet LAFCo’s content requirements contained in Section 3.2 of its policies. For example, the sphere of influence of the City of Lakeport was originally adopted in 1983 as little more than a map with line depicting the primary and ultimate boundaries of the City. This Sphere was amended in 2015. Many agricultural areas remain within the City’s Sphere of Influence (see three attached figures including the adopted updated Lakeport Sphere and two sphere alternative maps). LAFCo’s extensive sphere content requirements were adopted in 2003. Thus, the existing sphere does not meet LAFCo’s content requirements. If strictly applied, this policy would direct that the project be deferred until the City sphere is updated to meet current standards.

Protections for Ag Lands in Sphere. A further requirement of LAFCo's agricultural conversion policies in Section 2.14 c) is that evidence be presented to the Commission 1) inventorying all prime and open space land in the City sphere 2) that the City had adopted measures to preserve prime ag/open space land and encourage in-fill development as an alternative to development of prime ag lands. It may be evident from a Residential Absorption Study that the City has all but exhausted all of its infill opportunities within the present city limits.

Ag Buffers. CKH Section 56668(e) and LAFCo Policies Section 2.14 d) requires an analysis of the potential of a project under consideration to adversely impact adjacent agricultural uses. If there is a potential for impacts, LAFCo Policies subsection h) requires "adequate protections" be included with the proposal. Such protections "normally" would provide for an open space buffer of adequate width (for example 300 feet) along the boundary to protect adjacent agricultural lands. The Commission may consider other measures but must make a finding, based on a thorough environmental analysis and substantial evidence in the record that a reduced buffer or alternative are equally effective in protecting agricultural lands.

Here anticipated annexations will have significant areas where residential development is proposed adjacent to existing agricultural operations. These adjacent agricultural lands are also within the City's existing extensive sphere and therefore have the potential to subsequently be converted to urban uses. Nevertheless, the thrust of both CKH and LAFCo policies is to protect such lands from premature conversion until they are ready for development.

LAFCo's current policies would require that projects be returned to the City/County for consideration of buffers consistent with LAFCo policies. In such consideration, a condition could be included to provide for elimination of the buffers upon conversion of the adjacent property. This would allow protection in the interim without creating an obstacle to future contiguous development.

Agricultural Conservation Easements. Recognizing that in many cases conversion of agricultural lands is unavoidable, an increasing number of counties, cities and LAFCo's have begun requiring acquisition of conservation easements on other agricultural lands as a means of mitigating the impact of conversion. The California Department of Conservation routinely states in its letters to lead agencies the following:

One of the tools...is the purchase of agricultural conservation easements on lands of at least equal quantity and size as a partial compensation for the direct loss of agricultural land. We highlight this measure because of its growing acceptance and use by lead agencies as mitigation under the California Environmental Quality Act (CEQA).

The fact that conversion of agricultural land does not directly mitigate the loss of farmland in a specific project is no longer a viable option. A case entitled *Friends of Kangaroo Rat v. California Department of Conservation* (2003) 111 Cal.App.4th 1400 was subsequently ordered depublished by the California Supreme Court. Depublication means that it is not citable as law in the State of California. More recently, in an unpublished decision, the Third District Court of Appeal upheld the requirement of an agricultural conservation easement as a feasible mitigation measure. (*South County Citizens For Responsible Growth Et Al., v. City Of Elk Grove* (2004 WL 219789 (Cal.App. 3 Dist.)) While this case too is unpublished, it indicates the direction that the

Third District Court of Appeal is taking on such issues.

It is true that the imposition of a conservation easement on other agricultural lands does not reduce the direct impact of conversion since the land converted is permanently removed from agricultural production. What it does, as noted by the Court of Appeal in the *South County Citizens* case is to provide some protection for other agricultural lands that might otherwise face increased pressure for conversion as a result of each incremental project converting ag lands. Both Yolo and Solano LAFCo's have adopted requirements for a 1:1 conservation easement requirement.

Lake LAFCo has not adopted a policy with regard to such ag conservation easements, nor have the Cities or County. Nevertheless, staff is bringing this issue before the Commission as a possible measure that the Commission could consider to lessen the adverse impacts on county agriculture of the proposed future projects, without requiring major revisions in the projects themselves.

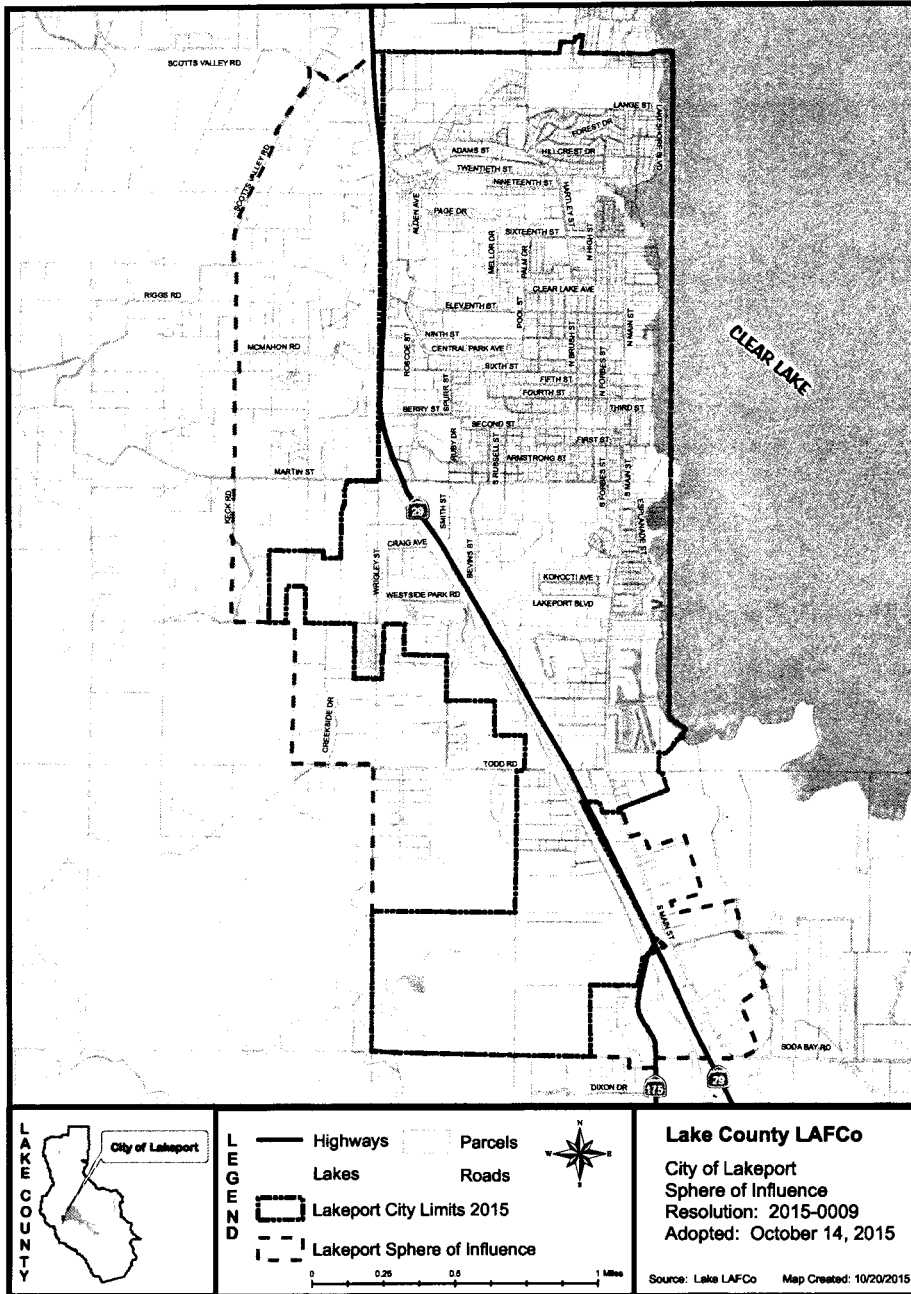
Conclusion

As the above analysis indicates, many proposals coming before you cannot meet all of your current standards for projects that propose to convert prime agricultural land. However, the Cities and county will need to demonstrate a clear need for additional residential development land.

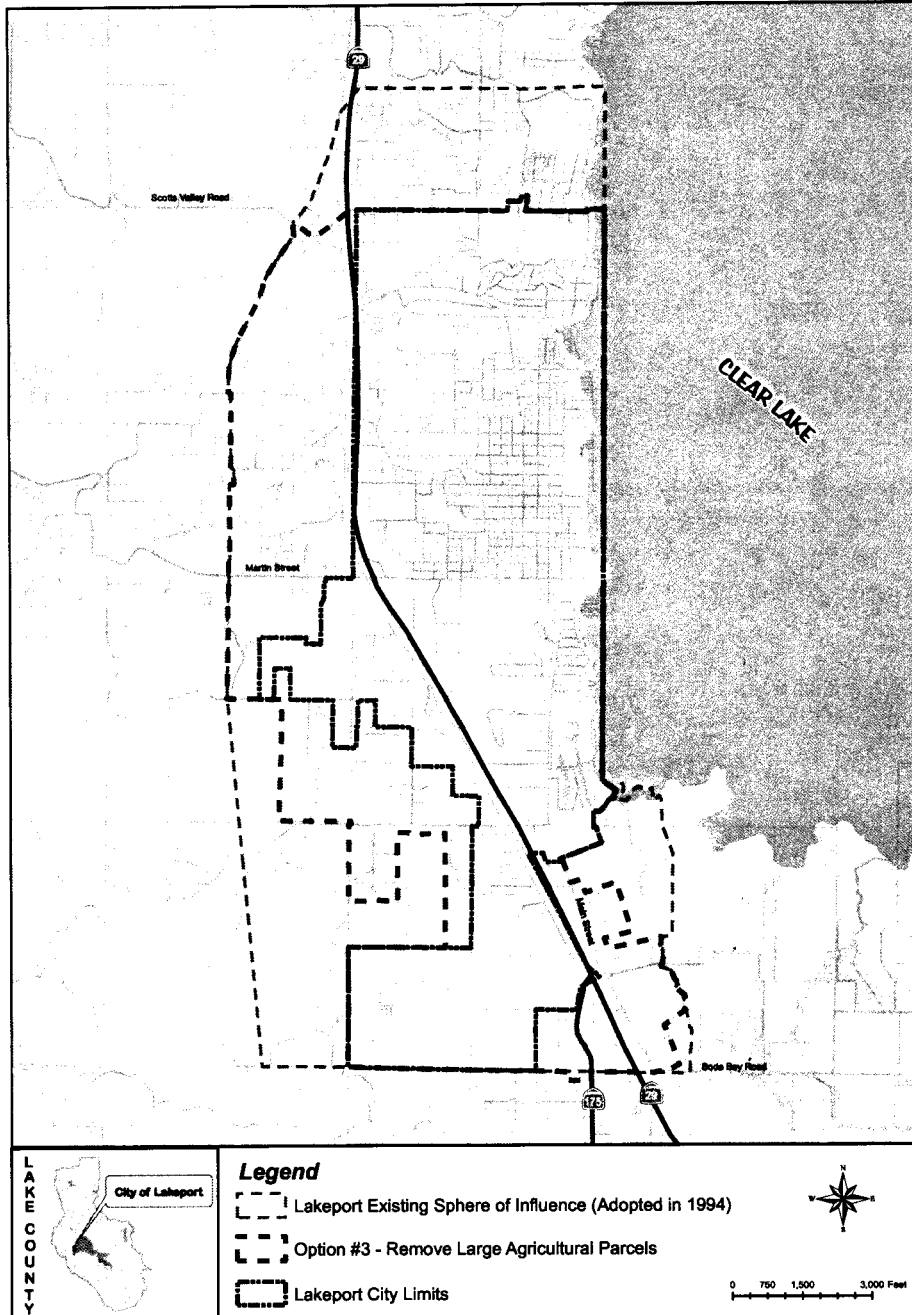
The following are some alternatives for the Commission to consider by asking the Cities and County to provide in its development proposals:

1. Require a temporary 300 foot buffer from the boundary of the agricultural use until such time as an approval is received to convert the adjacent agricultural lands to urban use, or
2. Require some combination of a lesser buffer, tall masonry fencing and tree planting along the boundary to mitigate impacts of noise, dust, trespass, and pesticide/herbicide overspray. Such proposal should be supported by the Farm Bureau, County Agricultural Commissioner or other recognized authority as adequate to mitigate impacts.
3. Require Conservation Easements For example, in accord with a Statement of Overriding Considerations adopted by the City of Vacaville and the Solano Local Agency Formation Commission, the applicant was required to preserve 245 acres of active farmland in Solano County with soils similar in productive value to on-site soils through permanent agricultural easement, purchase of development rights, donation of mitigation fees to an agricultural land trust or a conservancy, payment of the City's open space fee, contribution to the State Department of Conservation fund for the preservation of farmland, or by some other feasible method, as determined by the City Council, that achieves the goal of preserving farmland.

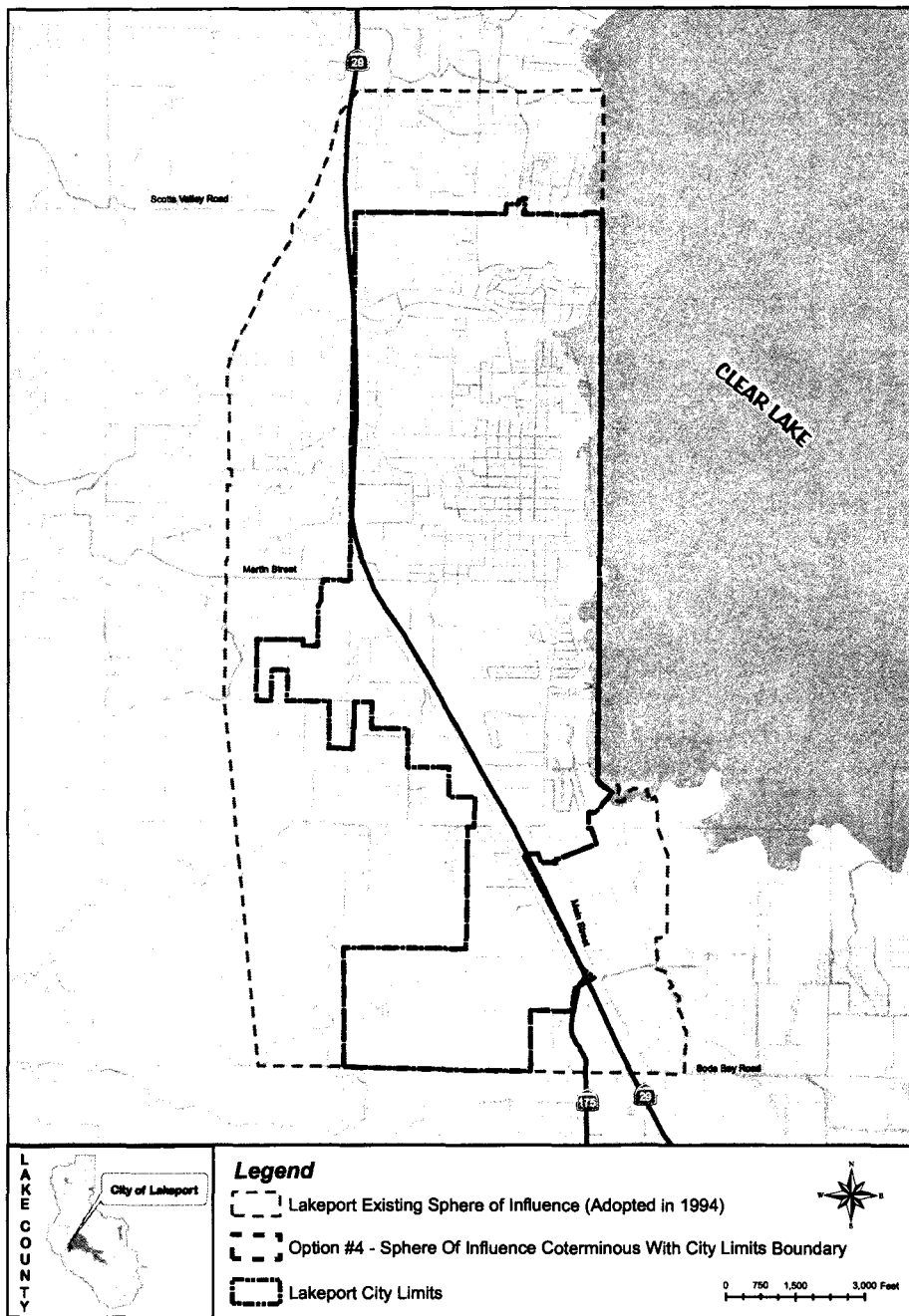
CITY OF LAKEPORT (SPHERE OF INFLUENCE) EXHIBIT "A"



CITY OF LAKEPORT



CITY OF LAKEPORT



LAKE LAFCO MSR AND SPHERE ADOPTION DATES

SPECIAL DISTRICT - CITY	MSR Completed	SOI Completed
City of Clearlake	May 20, 2015	May 20, 2015
City of Lakeport	July 18, 2012	Oct 14 2015
Glenbrook Cemetery District	Sept 15 2021	Sept 15,2021
Hartley Cemetery District	Sept 15 2021	Sept 15, 2021
Kelseyville Cemetery District	Sept 15 2021	Sept 15,2021
Lower Lake Cemetery District	May 18 2011	May 18, 2011
Middletown Cemetery District	Sept 15 2021	Sept 15 2021
Upper Lake Cemetery District	Sept 15 2021	Sept 15 2021
CSA #2 Spring Valley Lakes	Dec 17 2008	Dec 17 2009
CSA #6 Finley	Dec 17 2008	Dec 17 2009
CSA #7 Bonanza Springs	Dissolved	Dissolved
CSA #13 Kono Tayee	Dec 17 2008	Dec 17 2009
CSA #16 Paradise Valley	Dec 17 2008	Dec 17 2009
CSA # 18 Starview Cobb	Dissolved	Dissolved
CSA #20 Soda Bay	Dec 17 2008	Dec 17 2009
CSA #22 Mt. Hannah	Dissolved	Dissolved
CSA #23 Konocti Bay	Dec 17 2008	Dec 17 2009
CSA #21 North Lakeport	Feb 18 2009	Feb 18 2009
Lighting Districts	Nov 20, 2019	Nov 20, 2019
Hidden Valley Lake CSD	Sept 20, 2017	Sept 17, 2017
Anderson Springs CSD	Feb 17, 2010	Feb 17, 2010
Butler-Keys CSD	Feb 17 2010	Feb 17 2010
Kelseyville Fire Protection District	July 15, 2015	July 15, 2015
Lake Pillsbury Fire Protection District	July 15, 2015	July 15, 2015
Lakeport Fire Protection District	July 15, 2015	July 15, 2015
Lake County Fire Protection District	July 15, 2015	July 15, 2015
Northshore Fire Protection District	July 15, 2015	July 15, 2015
South Lake County Fire Protection District	July 15, 2015	July 15, 2015
Redbud Healthcare District	Mar 21 2012	Mar 21 2012
Scotts Valley Water Conservation District		
Lake County Resource Conservation District	July 16, 2014	July 16, 2014
Lake County Sanitation District	Nov 17 2010	Nov 17 2010
Lake County Vector Control District	Sept 9, 2016	Sept 9, 2016
Reclamation District #2070	Dissolved	Dissolved
Adams Springs Water District	Dissolved	Dissolved
Buckingham Park County Water	Sept 15 2010	Sept 15 2010
Callayomi Co. Water District	July 17, 2013	July 17, 2013
Clearlake Oaks County Water District	July 17, 2013	July 17, 2013
Kelseyville County Waterworks District #3	March 20 2019	March 20, 2019
Konocti County Water District	Nov 17, 2021	Nov 17, 2021
Lower Lake County Waterworks District No 1*	May 11, 2011	May 11, 2011
Cobb Area County Water District	March 21, 2018	March 21, 2018
Upper Lake County Water District*	Sept 16 2009	Sept 16 2009
Villa Blue Estates Water District		
Lake County Watershed Protection District	Dec 18 2014	May 18 2016

* denotes pending