

Lake Local Agency Formation Commission

Special Meeting Agenda

Wednesday March 30, 2022 -- 9:30 am

This will be a Physical Meeting at the City Council Chambers in LAKEPORT
(A Zoom option is available for the public)

City of Lakeport – City Council Chambers

225 Park Street Lakeport, 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 Lake LAFCO meeting will be open to in-person attendance. To remain in compliance with the state’s public health guidance and CalOSHA COVID-19 Emergency Temporary Regulations [8 CCR §3205], masks will be encouraged to be worn by individuals who are not fully vaccinated while inside the Government Center and while in the Board Chambers.

Zoom meeting for public: Even when members of the local legislative body are attending meeting in person the local legislative body may make public meetings accessible telephonically or otherwise electronically to all members of the public. Members of the public are encouraged to observe and participate in the teleconference.

Public comment will also be accepted by email at j.benoit4@icloud.com Please list the item number you wish to comment on and submit your written comments 24 hours prior to the start of the meeting. Written comments will be distributed to the Commission prior to the meeting but not read at the meeting and are limited to 500 words

Oral public comments will be subject to a three-minute time limitation indicated below.

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. Agenda materials are also available on the Lake LAFCO website at www.lakelafco.org

Zoom Meeting Information:

Topic: Lake LAFCo Special Meeting

Time: Mar 30, 2022 09:30 AM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/81028794161?pwd=QXhkaDhiVmYySFBidDlra2o1aitLQT09>

Meeting ID: 810 2879 4161

Passcode: 657618

One tap mobile

+16699006833,,81028794161#,,,,*657618# US (San Jose)

Dial by your location

+1 669 900 6833 US (San Jose)

Meeting ID: 810 2879 4161

Passcode: 657618

If you have any problems dialing in call LAFCo at (707) 592-7528

This meeting is also being agendized to allow staff and the public to participate via teleconference, pursuant to the Governor’s Executive Orders These Executive Orders authorize local legislative bodies to hold a public meeting via teleconference or other electronic means and to make public meetings accessible to telephonically to all members of the public and staff in effort to observe Social Distancing Recommendations in effect for the entire country.

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

Commissioners

Commission Alternate Members

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)

Victoria Brandon (Spec. District Alternate)
Suzanne Lyons (Public Alternate)
Tina Scott (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. **Resolution 2022-0005 authorizing a teleconference meeting for LAFCo for March 30th, 2022**

3. **Determination regarding the South Lakeport Annexation to the City of Lakeport consisting of 136.78 acres more or less** (*Please bring with you the Executive Officer's report prepared for LAFCo's March 16th 2022 for this annexation*).
 - a) *Review Opinion with Legal Counsel*
 - b) *Consider LAFCo Resolution 2022-0004 approving the South Lakeport Annexation.*

4. **Adjourn to LAFCO's the regular LAFCo meeting on Wednesday May 18, 2022 9:30 AM in Clearlake**

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

RESOLUTION NO. 2022-0005

A RESOLUTION OF THE LAKE LAFCO OF THE AUTHORIZING A REMOTE TELECONFERENCE MEETING OF THE COMMISSION PURSUANT TO GOVERNMENT CODE SECTION 54953(e)

WHEREAS, Government Code section 54953(e), as amended by Assembly Bill No. 361, allows legislative bodies to hold open meetings by teleconference without reference to otherwise applicable requirements in Government Code section 54953(b)(3), so long as the legislative body complies with certain requirements, there exists a declared state of emergency, and one of the following circumstances is met:

1. State or local officials have imposed or recommended measures to promote social distancing.
2. The legislative body is holding the meeting for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
3. The legislative body has determined, by majority vote, pursuant to option 2, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, the Governor of California proclaimed a state of emergency pursuant to Government Code section 8625 on March 4, 2020; and

WHEREAS, the LAKE LAFCO desires to hold its public meetings by teleconference consistent with Government Code section 54953(e).

NOW, THEREFORE, LAKE LAFCO DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Conditions are Met. The LAKE LAFCO hereby finds and declares the following, as required by Government Code section 54953(e)(3):

1. The Governor of California proclaimed a state of emergency on March 4, 2020, pursuant to Government Code section 8625, which remains in effect.
2. The reasons for adopting this resolution are one or more of the following:
 - a. State or local officials have imposed or recommended measures to promote social distancing.
 - b. The legislative body is holding the meeting for the purpose of determining whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

- c. The legislative body has determined that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

PASSED AND ADOPTED by the Lake LAFCo, this 30th day of March 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Bruno Sabatier, Chair

Lake Local Agency Formation Commission

ATTEST:

John Benoit, Executive Officer

LAKE LOCAL AGENCY FORMATION COMMISSION,

LAW OFFICES OF P. SCOTT BROWNE

MARSHA A. BURCH

Of Counsel

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Fax (530) 272-1684

March 23, 2022

TO: Lake County LAFCo and Jon Benoit, Executive Officer

RE: Authority to Remove Parcels from Proposed Annexation and Effect on Waiver of Protest Proceedings Pursuant to Section 56663. (All statutory references are to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Gov't C §56000 et.seq.)

The Commission has testimony of objection to the South Lakeport Annexation from one parcel owner within the area proposed by the City of Lakeport for annexation. Under 56663, the Commission is authorized to waive protest proceedings if "Written opposition to the proposal from landowners or registered voters within the affected territory is not received before the conclusion of the commission proceedings on the proposal."

The Commission has requested an opinion from counsel whether they can amend the annexation to remove the objecting party and proceed to waive protests under 56663.

This is a very novel issue which is not clearly addressed by CKH or caselaw. It requires interpretation of the statutory language and the purpose of CKH.

I conclude that the Commission may do so. I rely primarily on 57000 which sets forth the general procedure for conducting protest proceeding. That Section provides:

57000. (a) After adoption of a resolution making determinations by the commission pursuant to Part 3 (commencing with Section 56650), protest proceedings for a change of organization or reorganization not described in Section 57077 shall be taken pursuant to this part.

(b) If a proposal is approved by the commission, with or without amendment, wholly, partially, or conditionally, the commission shall conduct proceedings in accordance with this part.

This section contemplates that the Commission may amend an annexation proposal and that the Commission will proceed with protests in accordance with the Commission action. Clearly protests then would only occur in the territory included in the amended annexation.

This does not directly answer the question regarding protest objections from territory removed by the Commission from the annexation. However, if a landowner or voter within the original proposal objects to being annexed, removing his or her land from the annexation removes the basis for the objection,

Opinion Letter re South Lakeport Annexation Protests
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I therefore conclude that the removal of the objectors land from the annexation vitiates the objection, In the absence of any other valid objection, the protest proceeding may be waived by the Commission pursuant to 56663,

Please understand that this opinion is based on my reading of the law. Others may differ and only a court could determine the intent,

Let me know if you have any questions.

Sincerely

/s/

P. Scott Browne
Lake LAFCo Counsel