
**SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION**

LAFCo

44 N. SAN JOAQUIN STREET SUITE 374 □ STOCKTON, CA 95202

**Local Agency Formation Commission Agenda
Thursday, December 9, 2021 9 a.m.**

In accordance with the Governor's Executive Order N-33-20, and for the period in which the Order remains in effect, the San Joaquin Local Agency Formation Commission's office will be closed to the public.

To accommodate the public during this period of time that the Board's Chambers are closed to the public, the San Joaquin Local Agency Formation Commission has arranged for Commission Members and members of the public to observe and address the meeting virtually.

TO ATTEND:

Join Zoom Meeting:

<https://us02web.zoom.us/j/88488602843?pwd=MTNPbm9iTDBRYk1YeEhoYTk4ZTI6QT09>

Meeting ID: 884 8860 2843
Passcode: 090726
Dial by phone +1 669 900 6833 US

Note: If you don't have access to a smart device or a computer with a webcam & a mic, you can dial in using the teleconference number and meeting ID above.

Attention Callers: Please mute the call unless speaking.

*****To be recognized to speak, please use the "raise hand" or chat feature in Zoom. ***
We have also provided a call-in number, as identified on this Agenda, and encourage you to attend by telephone. ***To be recognized to speak, press *9 to signal the moderator.*****

Download Agenda Packet and Materials at: www.sjgov.org/commission/lafco

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Call to Order
Announce Date and Time of Meeting for the Record
Roll Call
Pledge of Allegiance

CONSENT ITEMS

1. MEETING MINUTES OF NOVEMBER 9, 2021
(Action by All Members)
Approve Summary Minutes of the regular meeting.
2. OUT-OF-AGENCY SERVICE REQUEST
(Action by Regular Members)
Request from the City of Escalon to provide out-of-agency water service outside the City boundary under Government Code §56133 to 25932 Miller Avenue in Escalon.
3. DISCUSSION AND POSSIBLE ACTION REGARDING MEETINGS OF THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION UNDER AB 361 USING TELECONFERENCE DURING A PROCLAIMED STATE OF EMERGENCY
(Action by All Members)
Consider Resolution to conduct meetings of the San Joaquin Local Agency Formation Commission using teleconferencing pursuant to Government Code 54953 as amended by Assembly Bill 361 for the period December 9, 2021 to January 8, 2022.

PUBLIC COMMENTS

4. Persons wishing to address the Commission on matters not otherwise on the agenda

EXECUTIVE OFFICER COMMENTS

5. Comments from the Executive Officer

COMMISSIONER COMMENTS

6. Comments, Reports, or Questions from the LAFCO Commissioners

ADJOURNMENT

LAFCo

44 N. SAN JOAQUIN STREET SUITE 374 □ STOCKTON, CA 95202

**SUMMARY MINUTES OF SPECIAL MEETING
November 9, 2021**

VIDEO CONFERENCE

Chairman Villapudua called the meeting to order at 1:03 p.m.

MEMBERS PRESENT Commissioners Breitenbucher, Johnson, Lincoln, Patti and Chairman Villapudua.

MEMBERS ABSENT: None

ALTERNATE MEMBERS PRESENT: Commissioners Morowit and Winn

ALTERNATE MEMBERS ABSENT: Commissioners Diallo

OTHERS PRESENT: James Glaser, Executive Officer; Rod Attebery, Legal Counsel; Elizabeth Contreras, LAFCo Analyst and Mitzi Stites, Commission Clerk

CONSENT ITEMS

A motion was made by Commissioner Johnson and seconded by Commissioner Patti, to approve the Consent Calendar.

The motion for approval of the Summary Minutes of October 14, 2021 meeting was passed by a unanimous vote of the Commission.

The motion for approval for the out-of-agency service request to property located at 2913 South Odell Avenue was passed by a unanimous vote of the regular voting members of the Commission.

The motion for approval authorizing the San Joaquin Local Agency Formation Commission to conduct meetings using teleconferencing pursuant to Government Code 45953 as amended by AB 361 for the period of November 9, 2021 to December 9, 2021, was passed by a unanimous vote of the regular voting members of the Commission.

EXECUTIVE OFFICER COMMENTS

Comments from the Executive Officer

No comments were made.

COMMISSIONER COMMENTS

Comments, Reports, or Questions from the LAFCO Commissioners

Commissioner Breitenbucher wished everyone a Happy Thanksgiving.

The meeting adjourned at 1:07 p.m.

SAN JOAQUIN

LOCAL AGENCY FORMATION COMMISSION

AGENDA ITEM NO. 2

LAFCo

44 N. SAN JOAQUIN STREET SUITE 374 □ STOCKTON, CA 95202

EXECUTIVE OFFICER'S REPORT

December 9, 2021

TO: LAFCo Commissioners

FROM: James E. Glaser, Executive Officer

SUBJECT: **CITY OF ESCALON OUT-OF-AGENCY SERVICE REQUEST**

Recommendation

It is recommended that the Commission approve the request from the City of Escalon to provide out-of-agency water service under the Government Code §56133 to the property located at 25932 Miller Avenue in Escalon.

Background

Government Code Section §56133 states that the Commission may authorize a city or special district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization and that prior to providing new or extended service, the city or district must first receive approval from LAFCo. The Commission adopted a policy that conditions their approval for out-of-agency service requiring the recordation of an agreement with the landowner consenting to annexation of their property when annexation becomes feasible.

The City of Escalon submitted the request for approval to extend water services to a single-family residence outside the city limits but within the City's sphere of influence. A vicinity map is attached showing the location of the out-of-agency request. Connections to City water lines are available to the property and the property owner has paid the appropriate connection fees to the City. The request for out-of-agency service is in compliance with the Government Code §56133 and Commission policies. Staff recommends approval of the attached Resolution 1458 approving out-of-agency service.

Attachment: Resolution No. 1458
Vicinity Map

Resolution No. 1458

**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION
APPROVING AN OUT-OF-AGENCY SANITARY SEWER SERVICE FROM THE
CITY OF ESCALON TO 25932 MILLER AVENUE IN ESCALON**

WHEREAS, the above-reference requests have been filed with the Executive Officer of the San Joaquin Local Agency Formation Commission pursuant to §56133 of the California Government Code.

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

Section 1. Said out-of-agency service request is hereby approved.

Section 2. The proposal is found to be Categorically Exempt from CEQA.

Section 3. The proposal is subject to the following conditions:

- a. Prior to connection to the city sewer or water, the City of Escalon shall record a covenant and agreement with the property owners to annex to the City of Escalon in a form acceptable to the Executive Officer.
- b. This approval and conditions apply to current and future property owners.

PASSED AND ADOPTED this 9th day of December 2021, by the following roll call votes:

AYES:

NOES:

ABSENT:

MIGUEL VILLAPUDUA, Chairman
San Joaquin Local Agency
Formation Commission

Res. No. 1458
12-09-21

LAFCo

44 NORTH SAN JOAQUIN STREET, SUITE 374 □ STOCKTON, CA 95202

EXECUTIVE OFFICER'S REPORT

DATE: December 9, 2021

FROM: Rod Attebery, General Counsel

SUBJECT: **Discussion and Possible Action Regarding Meetings of the San Joaquin Agency Formation Commission Under AB 361 Using Teleconference During a Proclaimed State of Emergency**

Recommendation

It is recommended that the Commission approve the attached LAFCo resolution 1457 authorizing Commission to conduct meeting of the San Joaquin Local Agency Formation Commission using teleconferencing pursuant to Government Code 45942 as amended by AB 361 for the period of December 9, 2021 to January 8, 2022.

Background

On September 16, 2021, Governor Gavin Newsom signed Assembly Bill 361 ("AB 361") into law, amending the Ralph M. Brown Act (Gov. Code, § 54950 *et seq.*) (the "Brown Act"). AB 361 codified certain modified requirements for teleconference meetings held by public agencies, similar to those previously authorized and extended by executive order during the COVID-19 State of Emergency.

AB 361 was introduced to provide a longer-term solution for teleconference meetings during states of emergency, effective until January 1, 2024. AB 361 amends Section 54953 of the Government Code to allow the legislative body of a local agency to meet remotely without complying with the normal teleconference rules for agenda posting, physical location access, or quorum rules. To do so, one of three scenarios must exist, all of which require that the Governor has proclaimed a State of Emergency pursuant to Government Code section 8625:

- A. State or local officials have imposed or recommended measures to promote social distancing;
- B. The agency is holding a meeting for the purpose of determining whether meeting in person would present imminent risks to the health or safety of attendees; or

C. The agency is holding a meeting and has determined that meeting in person would present imminent risks to the health or safety of attendees.

(Gov. Code, § 54953(e)(1).)

An agency and any committee that is required to comply with the Brown Act, that holds a meeting under either of the three scenarios must continue to post its agenda in the time required by the Brown Act, and ensure that the public is able to address the agency or committee directly through teleconference means. (*Id.* at subd. (e)(2). If a disruption prevents the agency or committee from broadcasting the meeting or receiving public comments in real time, the agency or committee cannot take further action until those functions are restored; any actions taken during such a disruption are subject to legal challenge. (*Id.*)

Assuming the State of Emergency remains in effect, if the San Joaquin Local Agency Formation Commission (“LAFCo” or the “Commission”) or LAFCo committees wish to continue meeting under the modified rules, then the Commission, and each committee that wants to continue to meet using teleconference must each individually adopt an initial resolution within 30 days of the first teleconference meeting, and then must adopt an extension resolution at least every 30 days thereafter. (*Id.* at subd. (e)(3).) The resolutions must contain findings stating that the Commission or committee has reconsidered the circumstances of the State of Emergency and either (1) the State of Emergency continues to directly impact the ability of the members to meet safely in person; or (2) State or local officials continue to impose or recommend measures to promote social distancing. (*Id.*)

Where consecutive regular meetings fall outside the 30-day time frame, the Commission or committee should hold a special “AB 361” remote meeting within the 30-day window simply to reauthorize the AB 361 exceptions. Without the AB 361 exceptions, the Commission or committee will be required to return to normal in-person meetings or provide public access at each remote location under the traditional teleconference rules, as of October 1, 2021. Therefore, if the AB 361 authorization lapses and the Commission or a committee wishes to hold a teleconference meeting, it will be required to post agendas and provide public access at each remote location, identify those locations in the agenda, and maintain a quorum of the Commission within agency boundaries. If a meeting is not held in conformity with AB 361, commissioners may not teleconference from their residences or other locations which are not open and accessible to the public.

FISCAL IMPACT:

None.

Attachment: Resolution 1459

Resolution No. 1459

**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION
AUTHORIZING COMMISSION TO CONDUCT MEETINGS OF THE SAN JOAQUIN
LOCAL AGENCY FORMATION COMMISSION USING TELECONFERENCING
PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED BY AB 361 FOR THE
PERIOD DECEMBER 9, 2021 TO JANUARY 8, 2022**

WHEREAS, the San Joaquin Local Agency Formation Commission (“LAFCo”) is committed to preserving and nurturing public access and participation in meetings of the Commission; and

WHEREAS, all meetings of LAFCo’s legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch LAFCo’s legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), as amended by AB 361 (2021), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, Cal-OSHA adopted emergency regulations (Section 3205) imposing requirements on California employers, including measures to promote social distancing; and

WHEREAS, an Order of the San Joaquin County Public Health Officer acknowledges that close contact to other persons increases the risk of transmission of COVID-19; and

WHEREAS, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations, therefore, meeting in person would present imminent risks to the health or safety of attendees.

NOW, THEREFORE, BE IT RESOLVED, that the San Joaquin Local Agency Formation Commission approves

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

Section 2. Finding of Imminent Risk to Health or Safety of Attendees. LAFCo does hereby find that the current dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations has caused, and will continue to cause, conditions of peril to the safety of persons, thereby presenting an imminent risk to health and/or safety to LAFCo's employees and attendees of the Commission's public meetings; and

Section 3. Teleconference Meetings. LAFCo does hereby determine as a result of the State of Emergency proclaimed by the Governor, and the recommended measures to promote social distancing made by State and local officials that the Commission may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e)(1)(A) and (B) of section 54953, and shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

Section 4. Direction to Staff. The Executive Officer and LAFCo staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED this 9th day of December 2021, by the following roll call vote:

AYES:

NOES:

ABSENT:

MIGUEL VILLAPUDUA, Chairman
San Joaquin Local Agency
Formation Commission