



VENTURA LOCAL AGENCY FORMATION COMMISSION

AGENDA

Wednesday November 20, 2013

9:00 A.M.

Hall of Administration, Board of Supervisors Hearing Room
800 S. Victoria Avenue, Ventura CA

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Commission Presentations and Announcements
 - a. Acknowledgement of Commissioner Morehouse for his service on LAFCo

PUBLIC COMMENTS

5. This is an opportunity for members of the public to speak on items not on the agenda.

(The Ventura Local Agency Formation Commission encourages all interested parties to speak on any issue on this agenda in which they have an interest; or on any matter subject to LAFCo jurisdiction. It is the desire of LAFCo that its business be conducted in an orderly and efficient manner. All speakers are requested to fill out a Speakers Card and submit it to the Clerk before the item is taken up for consideration. All speakers are requested to present their information to LAFCo as succinctly as possible. Members of the public making presentations, including oral and audio/visual presentations, may not exceed five minutes unless otherwise increased or decreased by the Chair, with the concurrence of the Commission, based on the complexity of the item and/or the number of persons wishing to speak. Speakers are encouraged to refrain from restating previous testimony.)

CONSENT ITEMS

6. Minutes of the Ventura LAFCo October 16, 2013 Meeting
7. Minutes of the Ventura LAFCo October 23, 2013 Special Meeting

RECOMMENDED ACTION: Approval

COMMISSIONERS AND STAFF

COUNTY: Kathy Long Linda Parks, Vice Chair <i>Alternate:</i> Steve Bennett	CITY: Carl Morehouse Janice Parvin <i>Alternate:</i> Carol Smith	DISTRICT: Bruce Dandy Gail Pringle, Chair <i>Alternate:</i> Elaine Freeman	PUBLIC: Linda Ford-McCaffrey <i>Alternate:</i> Lou Cunningham
Executive Officer: Kim Uhlich	Dep. Exec. Officer Kai Luoma	Office Mgr/Clerk Debbie Schubert	Legal Counsel Michael Walker

ACTION ITEMS

8. Presentation by County of Ventura RMA, Planning Division Staff Regarding the Land Conservation Act Program
RECOMMENDED ACTION: Receive and File

9. Land Conservation Act (Williamson Act) - Policy Direction
Consider policies relating to annexation proposals where territory proposed to be annexed to a city is under a current Land Conservation Act contract.
RECOMMENDED ACTION: Direct Staff as Appropriate

10. LAFCo's Authority Related to Agricultural Land Preservation
Report from staff regarding LAFCo's authority to impose terms and conditions related to land use and summary of the process by which the Commission last adopted policies to address impacts to agricultural lands.
RECOMMENDED ACTION: Receive and File

11. Presentation by Legal Counsel on Conflicts of Interest Laws Governing Commissioners and Staff
(Materials to be provided at meeting)
RECOMMENDED ACTION: Receive and File

12. Public Employment: LAFCo Executive Officer
The Commission will discuss the upcoming Executive Officer vacancy and receive a report from County Human Resources on the status of the recruitment.
RECOMMENDED ACTION: Provide Staff Direction

CLOSED SESSION

Pursuant to Government Code § 54957, it is the intention of the Ventura Local Agency Formation Commission to meet in Closed Session to consider the following items:

PUBLIC EMPLOYMENT - Title: LAFCo Executive Officer

PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: LAFCo Executive Officer

EXECUTIVE OFFICER'S REPORT

Next Regular Scheduled LAFCo meeting: January 15, 2014

COMMISSIONER COMMENTS

INFORMATIONAL ITEMS

ADJOURNMENT

WEB ACCESS:

**LAFCo Agendas, Staff Reports
and Approved Minutes can be found at:**

www.ventura.lafco.ca.gov

Written Materials - Written materials relating to items on this Agenda that are distributed to the Ventura Local Agency Formation Commission within 72 hours before they are scheduled to be considered will be made available for public inspection at the LAFCo office, 800 S. Victoria Avenue, Administration Building, 4th Floor, Ventura, CA 93009-1850, during normal business hours. Such written materials will also be made available on the Ventura LAFCo website at www.ventura.lafco.ca.gov, subject to staff's ability to post the documents before the meeting.

Public Presentations - Except for applicants, public presentations may not exceed five (5) minutes unless otherwise increased or decreased by the Chair, with the concurrence of the Commission. Any comments in excess of this limit should be submitted in writing at least ten days in advance of the meeting date to allow for distribution to, and full consideration by, the Commission. Members of the public who wish to make audio-visual presentations must provide and set up their own hardware and software. Set up of equipment must be complete before the meeting is called to order. All audio-visual presentations must comply with the applicable time limit for oral presentations and thus should be planned with flexibility to adjust to any changes to the time limit established by the Chair. For more information about these policies, please contact the LAFCo office.

Quorum and Voting – The bylaws for the Ventura LAFCo Commissioner's Handbook provide as follows:

1.1.6.1 Quorum: Four (4) members shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time.

1.1.6.2 Voting: Unless otherwise provided by law or these By-Laws, four affirmative votes are required to approve any proposal or other action. A tie vote, or any failure to act by at least four affirmative votes, shall constitute a denial.

Americans with Disabilities Act - In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the LAFCo office (805) 654-2576. Notification 48 hours prior to the meeting will enable LAFCo to make reasonable arrangements to ensure accessibility to this meeting.

Disclosure of Campaign Contributions - LAFCo Commissioners are disqualified and are not able to participate in any proceeding involving an "entitlement for use" if, within the 12 months preceding the LAFCo decision, the Commissioner received more than \$250 in campaign contributions from the applicant, an agent of the applicant, or any financially interested person who actively supports or opposes the LAFCo decision on the matter. Applicants or agents of applicants who have made campaign contributions totaling more than \$250 to any LAFCo Commissioner in the past 12 months are required to disclose that fact for the official record of the proceeding.

Disclosures must include the amount of the contribution and the recipient Commissioner and may be made either in writing to the Clerk of the Commission prior to the hearing or by an oral declaration at the time of the hearing.

The foregoing requirements are set forth in the Political Reform Act of 1974, specifically Government Code, section 84308.



VENTURA LOCAL AGENCY FORMATION COMMISSION

MEETING MINUTES

Wednesday October 16, 2013

Agenda Item 6

Hall of Administration, Board of Supervisors Hearing Room
800 S. Victoria Avenue, Ventura

1. Call to Order

Chair Pringle called the meeting to order at 9:00 AM.

2. Pledge of Allegiance

Alternate Commissioner Cunningham led the pledge of allegiance.

3. Roll Call

The clerk called the roll. The following Commissioners were present:

Commissioner Dandy	Commissioner Parks
Commissioner Ford-McCaffrey	Commissioner Parvin
Commissioner Long	Commissioner Pringle
Commissioner Morehouse	Alternate Commissioner Cunningham

4. Commission Presentations and Announcements

Commissioner Dandy announced that he would be retiring from the City of Oxnard on Monday.

PUBLIC COMMENTS

5. This is an opportunity for members of the public to speak on items not on the agenda.

There were no public comments.

COMMISSIONERS AND STAFF

<u>COUNTY</u>	<u>CITY</u>	<u>DISTRICT</u>	<u>PUBLIC</u>
Kathy Long	Carl Morehouse	Bruce Dandy	Linda Ford-McCaffrey
Linda Parks, Vice Chair	Janice Parvin	Gail Pringle, Chair	
<i>Alternate:</i>	<i>Alternate:</i>	<i>Alternate:</i>	<i>Alternate:</i>
Steve Bennett	Carol Smith	Elaine Freeman	Lou Cunningham
Executive Officer:	Dep. Exec. Officer	Office Mgr/Clerk	Legal Counsel
Kim Uhlich	Kai Luoma, AICP	Debbie Schubert	Michael Walker

CONSENT ITEMS

6. Minutes of the Ventura LAFCo September 18, 2013 Meeting
7. Professional Services Agreement for Audit Services – Vavrinek, Trine, Day & Co., LLP
8. Budget to Actual Reports: July and August 2013
9. Adopt a 2014 LAFCo Meeting Calendar

MOTION: Approve Item 6 as recommended: Dandy
SECOND: Parvin
AYES: Dandy, Ford-McCaffrey, Long, Parks, Parvin, Pringle
NOES: None
ABSTAINED: Morehouse
MOTION PASSES 6/0/1

MOTION: Approve Items 7 & 9, Receive and File Item 8 as recommended:
Dandy
SECOND: Parvin
AYES: Dandy, Ford-McCaffrey, Long, Morehouse, Parks, Parvin, Pringle
NOES: None
ABSTAINED: None
MOTION PASSES 7/0/0

PUBLIC HEARING ITEMS

10. City of Camarillo Sphere of Influence Amendments (LAFCo 13-07S1 – LAFCo 13-07S4) and Reorganization (LAFCo 13-07) – Camarillo Academy High School (Parcels A-C)

Chair Pringle opened the public hearing. Kai Luoma presented the staff report. The following persons gave public comments: Robert Burrow, City of Camarillo representative; Dr. Gabe Soumakian, Superintendent, Oxnard Union High School District (OUHSD); Kate Diamond, HMC Architects; Pete Peterson, OUHSD Citizens Oversight Committee; Charlotte Craven, Mayor, City of Camarillo; William Dabbs, OUHSD Assistant Superintendent of Educational Services; Wayne Edmonds, OUHSD Board President; Henry Gonzales, Ventura County Agricultural Commissioner; Kamala Nahas, Camarillo High School PTA; Lisa Williams, LSA Associates. There were no other speakers. Chair Pringle closed the public hearing.

MOTION: Approve A-F as recommended: Long
SECOND: Morehouse
AYES: Dandy, Long, Morehouse, Parvin, Pringle
NOES: Ford-McCaffrey, Parks
ABSTAINED: None
MOTION PASSES 5/2/0

11. LAFCo 13-13S City of Fillmore Sphere of Influence Review and Update
 Chair Pringle opened the public hearing. Kim Uhlich presented the staff report. There were no public speakers. Chair Pringle closed the public hearing.
 MOTION: Review the Sphere of Influence and determine no update is necessary: Long
 SECOND: Morehouse
 AYES: Dandy, Ford-McCaffrey, Long, Morehouse, Parks, Parvin, Pringle
 NOES: None
 ABSTAINED: None
 MOTION PASSES 7/0/0
12. Follow Up on Fillmore-Piru Memorial District Sphere of Influence Review and Update
 Chair Pringle opened the public hearing. Kim Uhlich presented the staff report. The following person gave public comment: William L. Morris, Board Member, Fillmore-Piru Memorial District. There were no other speakers. Chair Pringle closed the public hearing.
 MOTION: Determine no further action is necessary at this time: Long
 SECOND: Parvin
 AYES: Dandy, Ford-McCaffrey, Long, Morehouse, Parks, Parvin, Pringle
 NOES: None
 ABSTAINED: None
 MOTION PASSES 7/0/0

CLOSED SESSION

The Commission recessed to closed session. Pursuant to Government Code § 54957, it is the intention of the Ventura Local Agency Formation Commission to meet in Closed Session to consider the following item:

PUBLIC EMPLOYMENT - Title: LAFCo Executive Officer

The Commission reconvened to open session and scheduled a special meeting for Wednesday, October 23, 2013 to discuss options to fill the upcoming Executive Officer vacancy.

EXECUTIVE OFFICER'S REPORT

Kim Uhlich reminded the Commission that their next regular meeting was scheduled for November 20.

COMMISSIONER COMMENTS

ADJOURNMENT:

Chair Pringle adjourned the meeting at 11:50 a.m.

These Minutes were approved on November 20, 2013.

Motion:

Second:

Ayes:

Nos:

Abstains:

Date	Chair, Ventura Local Agency Formation Commission
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VENTURA LOCAL AGENCY FORMATION COMMISSION

MEETING MINUTES

SPECIAL MEETING

Agenda Item 7

Wednesday October 23, 2013

Hall of Administration, Board of Supervisors Hearing Room

800 S. Victoria Avenue, Ventura

1. Call to Order

Chair Pringle called the meeting to order at 9:00 AM.

2. Pledge of Allegiance

Commissioner Dandy led the pledge of allegiance.

3. Roll Call

The clerk called the roll. The following Commissioners were present:

Commissioner Dandy

Commissioner Ford-McCaffrey

Commissioner Morehouse

Commissioner Parks

Commissioner Parvin

Commissioner Pringle

Alternate Commissioner Cunningham

4. Commission Presentations and Announcements

There were no announcements.

PUBLIC COMMENTS

5. This is an opportunity for members of the public to speak on items not on the agenda.

There were no public comments.

ACTION ITEMS

6. Public Employment: LAFCo Executive Officer

Kelly Shirk, Human Resources Director for the County of Ventura, provided options to the Commission for filling the upcoming Executive Officer vacancy. Following a discussion, the Commission requested the assistance of the County Human Resources Department to implement an open recruitment process as soon as possible. The Commission further directed that the position announcement include language indicating that a Master's degree in public administration or similar field is desirable and that written work samples be required from each applicant.

COMMISSIONERS AND STAFF

<u>COUNTY</u>	<u>CITY</u>	<u>DISTRICT</u>	<u>PUBLIC</u>
Kathy Long	Carl Morehouse	Bruce Dandy	Linda Ford-McCaffrey
Linda Parks, Vice Chair	Janice Parvin	Gail Pringle, Chair	
<i>Alternate:</i>	<i>Alternate:</i>	<i>Alternate:</i>	<i>Alternate:</i>
Steve Bennett	Carol Smith	Elaine Freeman	Lou Cunningham
Executive Officer:	Dep. Exec. Officer	Office Mgr/Clerk	Legal Counsel
Kim Uhlich	Kai Luoma, AICP	Debbie Schubert	Michael Walker

MOTION: Determine that the alternate members have an essential role to play in subsequent closed sessions concerning the pending Executive Officer vacancy thereby allowing them to attend such closed sessions: Parvin
SECOND: Dandy
AYES: Dandy, Ford-McCaffrey, Morehouse, Parks, Parvin, Pringle
NOES: None
ABSTAINED: None
MOTION PASSES 6/0/0

ADJOURNMENT:

Chair Pringle adjourned the meeting at 9:21a.m.

These Minutes were approved on November 20, 2013.

Motion:

Second:

Ayes:

Nos:

Abstains:

Date: _____ **Chair, Ventura Local Agency Formation Commission**



VENTURA LOCAL AGENCY FORMATION COMMISSION
STAFF REPORT

Meeting Date: November 20, 2013

Agenda Item 9

TO: LAFCo Commissioners
FROM: Kai Luoma, Deputy Executive Officer
SUBJECT: Land Conservation Act (Williamson Act) – Policy Direction

RECOMMENDATION:

Direct staff as appropriate.

BACKGROUND:

In April 2013, the Commission considered whether to direct staff to develop policies that would apply to LAFCo actions affecting land under a Land Conservation Act (LCA) contract, also known as a Williamson Act contract. After discussion, the Commission directed staff to provide additional information and continued the matter to the September meeting. At the September 18 meeting, the Commission directed staff to provide information regarding policies that other LAFCos have adopted pertaining to actions involving LCA-contracted land and schedule the matter for Commission discussion at the November meeting.

Similar to the mission of LAFCo, the LCA seeks to prevent the premature conversion of agricultural lands and open space. In short, under the LCA program landowners receive lower property tax assessments in exchange for agreeing to keep the land in agricultural or open space uses for a minimum of 10 or 20 years (10-year contracts are far more common). The contracts automatically renew each year for the subsequent 10-year (or 20-year) period. In the absence of extraordinary circumstances, the only manner by which a contract may be canceled is through the filing of a notice of non-renewal, which begins a 9-year (or 19-year) period during which property tax assessments incrementally increase. The contract is canceled at the end of this non-renewal period and the landowner no longer receives the benefit of lower property tax assessments. The provisions of the LCA are discussed in detail in the April staff report. The staff reports prepared for the April and September meetings are attached.

COMMISSIONERS AND STAFF

COUNTY: Kathy Long Linda Parks, Vice Chair <i>Alternate:</i> Steve Bennett	CITY: Carl Morehouse Janice Parvin <i>Alternate:</i> Carol Smith	DISTRICT: Bruce Dandy Gail Pringle, Chair <i>Alternate:</i> Elaine Freeman	PUBLIC: Linda Ford-McCaffrey <i>Alternate:</i> Lou Cunningham
Executive Officer: Kim Uhlich	Dep. Exec. Officer Kai Luoma	Office Mgr/Clerk Debbie Schubert	Legal Counsel Michael Walker

DISCUSSION

Below are various policies adopted by other LAFCoS followed by a brief discussion. Some LAFCoS have adopted policies that pertain to the inclusion of contracted land within a sphere of influence. Others have policies that apply to changes of organizations. Still other LAFCoS have adopted policies that apply to both spheres of influence and changes of organization. The following may not be an exhaustive list of all such LAFCo policies, as some LAFCo policy manuals were unavailable.

Policies for Including LCA-Contracted Land within Spheres of Influence

- Colusa LAFCo, Lake LAFCo, and Plumas LAFCo: “The Commission will not normally approve a change to the Sphere of Influence of a local government agency of land that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (the Williamson Act) if that local government agency provides or would provide facilities and services related to sewers, nonagricultural water, or streets and roads to the land unless these facilities or services benefit land uses that are allowed under the contract and the landowner consents to the change to the Sphere of Influence.”
- Sonoma LAFCo: “Pursuant to Government Code §56426.5, the Commission may approve the inclusion of territory subject to the Agricultural Preserve Contract within the sphere of influence of a city or special district able to provide sewers or nonagricultural water if it complies with all of the following criteria:
 1. Territory that is subject to a contract for which a notice of nonrenewal has been served pursuant to Section 51245 and has less than five (5) years remaining in the term of the contract.
 2. Territory that is subject to a contract for which a tentative cancellation has been approved pursuant to Section 51282 and has less than five (5) years remaining in the term of the contract.
 3. Territory for which the governing body of the county or city administering the contract has given its written approval to the change and the landowner consents to the change and has less than five (5) years remaining in the term of the contract.”
- Stanislaus LAFCo: “Territory not in need of urban services, including open space, agriculture, nonprotected, or protected and not upheld Williamson Act contracted lands, shall not be assigned to an agency’s sphere of influence, unless the area’s exclusion would impede the planned, orderly and efficient development of this area.”

Discussion: The first policy adopted by three separate LAFCoS (Colusa, Lake, and Plumas) generally discourages the inclusion of contracted land within a sphere of influence under all circumstances. No exceptions are made if a notice of non-renewal has been served. The second policy, adopted by Sonoma LAFCo, allows for the inclusion of contracted land within a sphere of influence so long as the appropriate steps have been taken to non-renew or cancel the contract. It appears that this policy acknowledges that the inclusion of territory within a sphere of influence is usually a precursor to urban development and such development can only occur once the contract is no longer in effect. Stanislaus LAFCo’s policy prohibits inclusion of contracted land within a sphere of influence unless its exclusion

would “impede the planned, orderly and efficient development of this area.” However, no definition of “planned, orderly and efficient development” is provided.

Should the Commission consider development of policies similar to these, it should be noted that the Ventura LAFCo Commissioner’s Handbook (Handbook) provides that for the inclusion of agricultural land within a sphere of influence that will likely result in the conversion of that agricultural land to other uses, the Commission must determine that the territory is likely to be developed within 5 years and has been designated for non-agricultural use by the applicable general plan (Section 4.3.2.1(a)).

Policies Regarding Changes of Organization Involving LCA-Contracted Land

LAFCo Policies Generally Prohibiting Annexation of Contracted Land

Several LAFCos have adopted policies that generally prohibit the annexation of LCA-contracted land to a city or district that provides urban-type services, unless the services will benefit land uses allowed under the contract. These include the following:

- Colusa LAFCo, Lake LAFCo, and Plumas LAFCo: “LAFCO will not normally approve or conditionally approve a change of organization or reorganization that would result in an annexation to a city or a special district of land that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (the Williamson Act), if that city or special district provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads to the territory, unless these facilities or services benefit land uses that are allowed under the contract.”
- Marin LAFCo: “Land which is...identified as agricultural land under Williamson Act contract shall not be annexed to a city or a sanitary sewer agency for the purpose of promoting urban development.”
- Mendocino LAFCo: “The commission shall not approve a change of organization or reorganization that would result in the annexation to a city or special district of territory that is subject to a contract entered into pursuant the Williamson Act if that city or special district provides or would provide sewers or nonagricultural water, or streets or roads to the territory unless these facilities or services benefit the uses that are allowed under the contract.”
- Sonoma LAFCo: “Proposals establishing or amending spheres of influence and/or annexations for territory to a or [sic] city or district providing sewers or nonagricultural water or cities, with an existing Williamson Act Agricultural Preserve Contract shall be prohibited, unless these facilities or services benefit land uses that are allowed under the contract and the landowner consents.”

Discussion: These policies provide no exceptions for the annexation of contracted land for which a notice of non-renewal has been served or if a contract has been tentatively cancelled. The LCA prohibits urban development on contracted land until the contract has been fully cancelled. These policies appear to generally prevent the annexation of contracted land for

purposes of urban development so long as the contract prohibiting potential development remains in effect.

Such policies appear to be consistent with the current Commission policies regarding changes of organization found in the Handbook.

LAFCo Policies Allowing Annexation if Contract Undergoing Cancellation Process

Other LAFCos have adopted policies that allow for the annexation of LCA-contracted land if the contract has been tentatively cancelled or a notice of non-renewal of the contract has been served:

- Solano LAFCo: “Lands included within agricultural preserves under the Williamson Act are to be protected except where land is proposed by the General Plan for eventual urbanization and where the owner had already filed a notice of non-renewal, or where an agency officially protested inclusion of the land under the Williamson Act. In the former situation, the filing of a notice of non-renewal by a landowner starts a ten-year period until the removal is completed, unless findings for cancellation of an agricultural preserve contract are made and penalty tax payments and other requirements for contract cancellation are met. In cases where cancellation of a contract will be required, evidence supporting the cancellation shall be provided to demonstrate that the findings can reasonably be made.”
- Yolo LAFCo: “Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:
 1. The area is within the annexing agency's sphere of influence.
 2. The Commission makes findings required by Government Code Section 56856.5. *[Note: The findings found in Section 56856.5 generally provide that 1) the agency that will administer the contract has adopted policies to ensure the continuation of agricultural uses, 2) the change of organization encourages planned, well-ordered, and efficient urban development patterns, or 3) the change of organization is necessary to provide services to planned, well-ordered, and efficient urban development patterns.]*
 3. The parcel is included in an approved city specific plan.
 4. The soil is not categorized as prime.
 5. Mitigation for the loss of agricultural land has been secured at least at a 1:1 ratio of agricultural easements for the land lost.
 6. There is a pending, or approved, rescission for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
 7. The property has been non-renewed if still awaiting rescission approval.”

Discussion: Similar to the policies in the previous section, these policies appear to acknowledge that annexation to an urban service provider is generally intended to support future development and that development of contracted land can occur only if the contract is cancelled. However, these policies also appear to acknowledge that the non-renewal/cancellation process will eventually lead to the removal of the development restrictions

on the property and that annexation to an urban service provider may be appropriate if development is anticipated once the contract is cancelled.

For contracts undergoing the non-renewal process, these policies provide no limitation on the number of years remaining on the contract. They would allow for the annexation of contracted land under non-renewal with up to 9 years remaining on the contract. Such a policy may be inconsistent with current Commission policies. For example, Handbook Section 3.3.5.1(b) provides that for the annexation of agricultural land, the Commission must find that development is likely within 5 years. In addition, Handbook Section 3.1.6 provides that all discretionary development entitlements pertaining to the territory, including subdivisions, must be approved before an application for annexation will be accepted. It should be noted that, pursuant to the Subdivision Map Act, the subdivision of contracted land for non-agricultural purposes is generally prohibited unless there are no more than 3 years remaining on the contract. Thus, it appears that discretionary development approvals that include subdivisions cannot occur if there are more than three years remaining on a contract.

LAFCo Policies Allowing Annexation if Contract to Remain in Effect

Some LAFCos have adopted policies that allow for the annexation of contracted land to a city so long as the annexation will not promote urban development or the removal of the land from the Williamson Act contract. The following are examples of such a policy:

- Kings LAFCo: “Pursuant to Section 51243.5, LAFCO shall determine whether a city may exercise its option to not succeed to the rights, duties, and powers of a ‘Williamson’ Act land conservation contract, and so state in its resolution approving such an annexation or reorganization. City annexation of contracted land will be subject to requirements as set forth in Section 56889.” [Note: Section 56889 requires that LAFCo impose a condition that the annexing City shall adopt the rules and procedures required by the Williamson Act, i.e. become a participant in the Williamson Act program.]
- Tulare LAFCo: “Conditions relating to city annexation of Williamson Act land:
 1. If the Commission determines that a city has a valid Williamson Act contract protest and the city exercises its option to not succeed to the contract, a Certificate of Contract Termination must be recorded at the same time as the Certificate of Completion.
 2. If there is no valid protest, the city shall not provide services to the site which support uses not allowed by the Williamson Act during the remaining life of the contract.
 3. If there is no valid protest, the city shall adopt (if not already adopted) the rules and procedures required by the Williamson Act, including but not limited to the rules and procedures required by GC §§51231, 51237 and 51237.5.”
- Trinity LAFCo: “LAFCo may approve a change in organization which will result in the conversion of prime agricultural land in open space use to other uses only if the Commission finds: that the proposal will lead to the planned, orderly and efficient development of an area. For purposes of this standard, a proposal leads to the planned, orderly and efficient development of an area only if the commission finds that all of the following criteria are met:

- a. The land to be annexed, for whatever purpose, will not promote its removal from a Williamson Act contract.”

Discussion: These LAFCo policies accommodate the annexation of agricultural land that is expected to remain in long-term agricultural use. Such a policy would appear to be inconsistent with Handbook Sections 3.3.5.1(b) and 3.1.6, as discussed in the previous section. They also appear inconsistent with past Commission practice to consider the annexation of agricultural land that is not planned for development to be premature.

LAFCo Policies Allowing Annexation if Contract Undergoing Cancellation Process or Contract to Remain in Effect

Other LAFCos have adopted policies that allow for annexation of LCA-contracted land if a notice of non-renewal or cancellation has been filed or there are policies in place that allow for the continuation of agricultural uses:

- Alameda LAFCo: “LAFCo shall disapprove proposals including annexation of territory subject to a Williamson Act contract if any city or special district would provide facilities or services related to sewers, nonagricultural water, or streets and roads in the territory under contract unless:
 1. A notice of nonrenewal has been served pursuant to §51245 and the annexing agency has agreed that no services will be provided to the territory prior to contract expiration unless they solely support contracted land uses;
 2. A tentative cancellation has been approved pursuant to §51282;
 3. Facilities or services provided to the contracted territory only support the continuance of contracted agricultural and open space uses;
 4. The post-annexation contract administrator has adopted policies and feasible mitigation measures to ensure continuation of agricultural and other permitted uses on the site over the long term; and/or
 5. The proposal encourages and provides planned, well-ordered and efficient urban development patterns that include appropriate consideration of agricultural and open space lands within these development patterns (§56856.5).”
- Riverside LAFCo: “The annexation of land located within an agricultural preserve may be approved only when:
 1. A notice of non-renewal or cancellation has been filed on the affected property proposed for annexation, or,
 2. The jurisdiction’s General Plan contains appropriate language:
 - a. To allow for the effective and continued operation of agricultural uses, and;
 - b. To provide guidelines for the ultimate development of agricultural land at the time the preserve is terminated or development is proposed.”

Discussion: As discussed in previous sections of this report, it appears that the provisions within these policies that allow for the annexation of agricultural land that is intended to remain in long-term agricultural use may be inconsistent with existing Commission policies.

Other Policies

Imperial LAFCo policies provide a level of protection against the premature conversion of contracted land:

- Imperial LAFCo: “The LAFCO will protect agricultural and open space lands from premature conversion as required under State Law, and in particular agricultural conservation land such as lands in the Williamson Act.”

Other LAFCos have adopted general policies that simply require Commission consideration of the impacts on agricultural resources that might occur if land within an agricultural preserve (but not an actual LCA contract) are either included within a sphere of influence or annexed. These LAFCos include Napa, Monterey, San Luis Obispo, Santa Cruz, and San Mateo.

Attachment: LAFCo Staff Report dated September 18, 2013



**VENTURA LOCAL AGENCY FORMATION COMMISSION
STAFF REPORT**

Meeting Date: September 18, 2013

TO: LAFCo Commissioners
FROM: Kai Luoma, Deputy Executive Officer
SUBJECT: Land Conservation Act (Williamson Act) – Policy Direction

RECOMMENDATION:

Direct staff as appropriate.

BACKGROUND:

In April 2013, the Commission considered whether to direct staff to develop policies that would apply to LAFCo actions affecting land under a Land Conservation Act (LCA) contract, also known as a Williamson Act contract. After discussion, the Commission directed staff to provide additional information and continued the matter to the September meeting to allow time for commissioners to consult with the staff from their respective agencies. The requested information was provided in a memorandum to the Commission on April 18 (and again on July 31) and is attached to this report (Attachment 1).

Similar to the mission of LAFCo, the LCA seeks to prevent the premature conversion of agricultural lands and open space. In short, under the LCA program landowners receive lower property tax assessments in exchange for agreeing to keep the land in agricultural or open space uses for a minimum of 10 or 20 years (10-year contracts are far more common). The contracts automatically renew each year for the subsequent 10-year (or 20-year) period. In the absence of extraordinary circumstances, the only manner by which a contract may be canceled is through the filing of a notice of non-renewal, which begins a 9-year (or 19-year) period during which property tax assessments incrementally increase. The contract is canceled at the end of this non-renewal period and the landowner no longer receives the benefit of lower property tax assessments. The provisions of the LCA are discussed in more detail in the April staff report (Attachment 2).

COMMISSIONERS AND STAFF

<p>COUNTY: Kathy Long Linda Parks, Vice Chair <i>Alternate:</i> Steve Bennett</p>	<p>CITY: Carl Morehouse Janice Parvin <i>Alternate:</i> Carol Smith</p>	<p>DISTRICT: Bruce Dandy Gail Pringle, Chair <i>Alternate:</i> Elaine Freeman</p>	<p>PUBLIC: Linda Ford-McCaffrey <i>Alternate:</i> Lou Cunningham</p>
<p>Executive Officer: Kim Uhlich</p>	<p>Dep. Exec. Officer Kai Luoma</p>	<p>Office Mgr/Clerk Debbie Schubert</p>	<p>Legal Counsel Michael Walker</p>

Also discussed in the April staff report are the various bodies of law that reference the LCA or apply to agency decisions to enter into a LCA contract. These include LAFCo law, the Subdivision Map Act, and California Environmental Quality Act. Various other statutes also apply to the annexation and/or development of LCA-contracted land.

DISCUSSION

Inclusion of LCA-Contracted Land within a Sphere of Influence

LAFCo law generally prohibits the inclusion of LCA-contracted land within a sphere of influence unless the public services the agency provides would benefit the uses that are allowed under the contract. LAFCo may nevertheless approve the inclusion of contracted land within a sphere if the Commission finds either of the following:

1. The change would facilitate planned, orderly, and efficient patterns of land use or provision of services, and the public interest in the change substantially outweighs the public interest in the current continuation of the contract;
2. The change is not likely to adversely affect the continuation of the contract.

Potential Policy Consideration: LAFCo law does not define “planned, orderly, and efficient patterns of land use.” To provide further guidance to staff and the public, the Commission could consider the adoption of factors and/or standards to determine what constitutes “planned, orderly, and efficient patterns of land use.”

Changes of Organization Involving LCA-Contracted Land

In part, section 56856.5 of LAFCo law generally prohibits the approval of a change of organization or reorganization that would result in the annexation of LCA-contracted land to a city or special district if that city or special district provides or would provide sewer, non-agricultural water, or street/road services unless such services benefit the (agricultural) uses of land allowed under the contract. LAFCo may nevertheless approve a change of organization or reorganization that would result in the annexation of LCA-contracted land if it finds any of the following:

1. The city or county that would administer the contract after annexation has adopted policies and feasible implementation measures ensuring the continuation of agricultural uses and other uses allowable under the contract on a long-term basis;
2. The change of organization or reorganization “encourages and provides planned, well-ordered, and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns”; or
3. The change of organization or reorganization is “necessary to provide services to planned, well-ordered, and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns”.

When a change of organization includes the annexation of LCA-contracted land to a city, LAFCo must determine whether the city must succeed to the contract or may choose not to. Section 56754 of LAFCo law provides that if a change of organization or reorganization would result in the annexation to a city of land that is subject to a LCA contract, then the Commission shall determine one of the following: That the annexing city shall succeed to the rights, duties, and powers of the county under the contract pursuant to section 51243 of the LCA, or that the city may exercise its option to not succeed to the rights, duties and powers of the county under the contract, pursuant to section 51243.5 of the LCA. In short, a city may exercise its option to not succeed to the rights, duties, and powers of the county under the contract if:

1. The land being annexed was within one mile of the city's boundary when the contract was executed, and
2. The city filed a resolution protesting the execution of the contract with the board of supervisors (if executed before December 8, 1971) or with LAFCo (if executed before 1991).

As far as LAFCo staff is aware, no city within the county meets the criteria necessary to exercise its option to not succeed to a LCA contract, in which case each city which proposes to annex land under a LCA contract must succeed to the contract. Thus, the expectation would be that an annexing city would cancel the contract to accommodate development.

Potential Policy Consideration:

- LAFCo law does not define “planned, well-ordered, and efficient urban development patterns.” To provide further guidance to staff and the public, the Commission could consider the adoption of factors and/or standards to determine what constitutes “planned, well-ordered, and efficient urban development patterns.”

Changes of Organization Involving LCA-Contracted Land for which a Notice of Non-Renewal has been Served

The above limitations do not apply to territory subject to a LCA contract for which a tentative cancellation has been approved or for which a notice of non-renewal has been served and the annexing agency agrees that no services will be provided that would support land uses not otherwise allowed under the contract. Under such a circumstance, the Commission may approve the annexation of LCA-contracted land without consideration given to the amount of time remaining on the non-renewed contract (up to 9 years).

Potential Policy Consideration: Though the Commission has the authority to approve a change of organization or reorganization that would result in the annexation of LCA-contracted land at any point during the non-renewal period, the Subdivision Map Act generally prohibits the subdivision of LCA-contracted land for non-agricultural purposes if there are more than three years remaining of the non-renewal period (§ 66474.4). Because Commission policies require that, unless exceptional circumstances exist, all discretionary approvals, including subdivisions, must be approved prior to LAFCo consideration of an annexation, the request to annex land under a non-renewed contract may be premature if there are more than three years left of the non-renewal period. To provide further guidance to staff and the public, the Commission could consider a policy identifying a point during the non-renewal period at which the annexation of the land should or should not be considered.

- Attachments (1) April 18, 2013 Memorandum and attachments
(2) April 17, 2013 LAFCo Staff Report regarding Land Conservation Act (Williamson Act) – Policy Direction



MEMORANDUM

DATE: April 18, 2013

TO: LAFCo Commissioners

FROM: Kai Luoma, AICP
Deputy Executive Officer 

SUBJECT: Land Conservation Act (Williamson Act) – Requested Information

At the April 17, 2013 LAFCo meeting, the Commission received a report regarding the possible development of policies pertaining to proposals that involve land within a Land Conservation Act (LCA) contract (Agenda Item 11). The Commission requested the following:

- The findings in LAFCo law that the Commission must make in order to include LCA-contracted land within a sphere of influence
- The findings in LAFCo law that the Commission must make in order to annex LCA-contracted land within a sphere of influence
- The findings that a city or county must make in order to cancel a LCA contract
- LCA contract cancellation fees
- The powerpoint presentation that was given by staff (attached)

This information is provided below.

Inclusion of the LCA-contracted land within a sphere of influence

The section of LAFCo law containing the provisions regarding the inclusion of LCA-contracted land within a sphere of influence are found in Government Code 56426.6, as follows:

56426.6. (a) The commission shall not approve a change to the sphere of influence of a local government agency of territory that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965...if that local government agency provides, or would provide, facilities or services related to sewers, nonagricultural water, or streets and roads to the territory, unless these facilities or services benefit land uses that are allowed under the contract and the landowner consents to the change to the sphere of influence.

(b) (1) Notwithstanding subdivision (a), the commission may nevertheless approve a change for that territory if it finds either of the following:

(A) That the change would facilitate planned, orderly, and efficient patterns of land use or provision of services, and the public interest in the change substantially outweighs the public interest in the current continuation of the contract beyond its current expiration date.

(B) That the change is not likely to adversely affect the continuation of the contract beyond its current expiration date.

(2) In making a determination pursuant to this subdivision, the commission shall consider all of the following:

(A) The policies and implementation measures adopted by the city or county that would administer the contract both before and after any ultimate annexation, relative to the continuation of agriculture or other uses allowable under the contract.

(B) The infrastructure plans of the annexing agency.

(C) Other factors that the commission deems relevant.

(c) This section shall not apply to any of the following:

(1) Territory that is subject to a contract for which a notice of nonrenewal has been served pursuant to Section 51245.

(2) Territory that is subject to a contract for which a tentative cancellation has been approved pursuant to Section 51282.

(3) Territory for which the governing body of the county or city administering the contract has given its written approval to the change and the landowner consents to the change.

Annexation of LCA-contracted land

The section of LAFCo law containing the provisions regarding the annexation of LCA-contracted land are found in Government Code 56856.5, as follows:

56856.5. (a) The commission shall not approve or conditionally approve a change of organization or reorganization that would result in the annexation to a city or special district of territory that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1), other than a contract entered into pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Part 1 of Division 1, if that city or special district provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads to the territory, unless these facilities or services benefit land uses that are allowed under the contract.

(b) This section shall not be construed to preclude the annexation of territory for the purpose of using other facilities or services provided by the agency that benefit land uses allowable under the contract.

(c) Notwithstanding subdivision (a), the commission may nevertheless approve a change of organization or reorganization if it finds any of the following:

(1) The city or county that would administer the contract after annexation has adopted policies and feasible implementation measures applicable to the subject territory ensuring the continuation of agricultural use and other uses allowable under the contract on a long-term basis.

(2) The change of organization or reorganization encourages and provides planned, well-ordered, and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns.

(3) The change of organization or reorganization is necessary to provide services to planned, well-ordered, and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns.

(d) This section shall not apply to territory subject to a contract for which either of the following applies:

(1) A notice of nonrenewal has been served pursuant to Section 51245, if the annexing agency agrees that no services will actually be provided by it for use during the remaining life of the contract for land uses or activities not allowed under the contract.

(2) A tentative cancellation has been approved pursuant to Section 51282.

Cancellation of a LCA contract

The provisions of the LCA regarding the cancellation of a LCA contract are found in Government Code Section 51282, as follows:

51282. (a) The landowner may petition the board or council for cancellation of any contract as to all or any part of the subject land. The board or council may grant tentative approval for cancellation of a contract only if it makes one of the following findings:

(1) That the cancellation is consistent with the purposes of this chapter.

(2) That cancellation is in the public interest.

(b) For purposes of paragraph (1) of subdivision (a) cancellation of a contract shall be consistent with the purposes of this chapter only if the board or council makes all of the following findings:

(1) That the cancellation is for land on which a notice of nonrenewal has been served pursuant to Section 51245.

(2) That cancellation is not likely to result in the removal of adjacent lands from agricultural use.

(3) That cancellation is for an alternative use which is consistent with the applicable provisions of the city or county general plan.

(4) That cancellation will not result in discontinuous patterns of urban development.

(5) That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land. As used in this subdivision "proximate, noncontracted land" means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land. As used in this subdivision "suitable" for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontinuous parcels.

(c) For purposes of paragraph (2) of subdivision (a) cancellation of a contract shall be in the public interest only if the council or board makes the following findings: (1) that other public concerns substantially outweigh the objectives of this chapter; and (2) that there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

As used in this subdivision "proximate, noncontracted land" means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land.

As used in this subdivision "suitable" for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontinuous parcels.

(d) For purposes of subdivision (a), the uneconomic character of an existing agricultural use shall not by itself be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(e) The landowner's petition shall be accompanied by a proposal for a specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use, and the provisions and requirements of Section 51283.4 shall be fully applicable thereto. The

level of specificity required in a proposal for a specified alternate use shall be determined by the board or council as that necessary to permit them to make the findings required.

(f) In approving a cancellation pursuant to this section, the board or council shall not be required to make any findings other than or in addition to those expressly set forth in this section, and, where applicable, in Section 21081 of the Public Resources Code.

(g) A board or council shall not accept or approve a petition for cancellation if the land for which the cancellation is sought is currently subject to the process specified in Section 51250, unless the cancellation is a part of the process specified in Section 51250.

LCA contract cancellation fees

The provisions of the LCA regarding cancellation fees are found in Government Code Section 51283, as follows:

51283. (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee. At the same time, the assessor shall send a notice to the landowner and the Department of Conservation indicating the current fair market value of the land as though it were free of the contractual restriction and advise the parties, that upon their request, the assessor shall provide all information relevant to the valuation, excluding third-party information. If any information is confidential or otherwise protected from release, the department and the landowner shall hold it as confidential and return or destroy any protected information upon termination of all actions relating to valuation or cancellation of the contract on the property. The notice shall also advise the landowner and the department of the opportunity to request formal review from the assessor.

(b) Prior to giving tentative approval to the cancellation of any contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee that the landowner shall pay the county treasurer upon cancellation. That fee shall be an amount equal to 12 1/2 percent of the cancellation valuation of the property.

(c) If it finds that it is in the public interest to do so, the board or council may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the land and its economic return

to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, if all of the following occur:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.

(2) The board or council has determined that it is in the best interests of the program to conserve agricultural land use that the payment be either deferred or is not required.

(3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the board or council is consistent with the policies of this chapter and that the board or council complied with this article. In evaluating a request for a waiver or extension of time, the secretary shall review the findings of the board or council, the evidence in the record of the board or council, and any other evidence the secretary may receive concerning the cancellation, waiver, or extension of time.

(d) The first two million five hundred thirty-six thousand dollars (\$2,536,000) of revenue paid to the Controller pursuant to subdivision (e) in the 2004-05 fiscal year, and any other amount as approved in the final Budget Act for each fiscal year thereafter, shall be deposited in the Soil Conservation Fund, which is continued in existence. The money in the fund is available, when appropriated by the Legislature, for the support of all of the following:

(1) The cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 65570.

(2) The soil conservation program identified in Section 614 of the Public Resources Code.

(3) Program support costs of this chapter as administered by the Department of Conservation.

(4) Program support costs incurred by the Department of Conservation in administering the open-space subvention program (Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2).

(5) The costs to the Department of Conservation for administering Section 51250.

(e) When cancellation fees required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivision (d) of this section and subdivision (b) of Section 51203. The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the execution of a

certificate of cancellation of contract by the board or council, as specified in subdivision (b) of Section 51283.4.

(f) It is the intent of the Legislature that fees paid to cancel a contract do not constitute taxes but are payments that, when made, provide a private benefit that tends to increase the value of the property.

Powerpoint presentation

The powerpoint presentation for Agenda Item 11, dated April 17, 2013 is attached.



**VENTURA LOCAL AGENCY
FORMATION COMMISSION**

AGENDA ITEM 11

Land Conservation Act Policy Direction

Land Conservation Act (LCA)

- Established a program to preserve agriculture and open space lands
 - Voluntary contract between a public agency (county or city) and landowner
 - Restricts land to agricultural and open space uses
 - Landowner receives lower property tax assessments - property tax assessment based on farming/open space use NOT on the market value of land
 - Contracts effective a minimum of 10 or 20 years, renew automatically each year

LCA Contract Cancellation

- Notice of non-renewal – preferred method
 - Begins 9 year term (or 19 year term) during which assessment is gradually increased to market value
 - At end of term contract is considered cancelled
- Cancellation
 - Requires presence of extraordinary circumstances
 - Landowners charged cancellation fee
 - Supreme Court – Contracts may not be cancelled merely because development would be more profitable

Local Government Participation

- Local government participation requires adoption of policies consistent with LCA
- County of Ventura has adopted LCA policies
 - Over 1,000 LCA contracts in unincorporated area
 - Over 127,000 acres are under contract
 - Over 90% of contracts are for minimum 10 year period
- Cities of Santa Paula and Camarillo
 - Number of contracts not available to LAFCo staff



LAFCo Law: Inclusion of Land within Sphere

- Generally prohibited unless the public service(s) the agency provides would benefit uses allowed under the contract
- LAFCo may nevertheless approve the inclusion of contracted land in a sphere subject to certain findings:
 - It would lead to planned, orderly, and efficient patterns of land use, or
 - It would not affect the continuation of the contract

LAFCo Law: Inclusion of Land within Sphere

Does not define “planned, orderly, and efficient patterns of land use”

Policy Considerations

For inclusion in a sphere of influence:

- Does the Commission wish to consider factors/standards to determine what constitutes “planned, orderly, and efficient patterns of land use”?
- If so, should standards/factors be more permissive of more restrictive?

LAFCo Law: Annexation/Development of Contracted Land

- Annexation of LCA land to a district
 - Contract remains in full force and effect
 - County remains a party to the contract
- Annexation of LCA land to a city
 - City succeeds County as a party to the contract
 - City empowered to cancel contract
 - Expectation that city would cancel contract

LAFCo Law: Annexation of Contracted Land

Generally prohibited unless the public service(s) the agency provides would benefit uses allowed under the contract

- Annexation to water district for irrigation
- Annexation to drainage district

LAFCo Law: Annexation of Contracted Land

LAFCo may nevertheless approve the annexation of contracted land subject to certain findings

- Local policies ensure long term agricultural use
- Annexation would encourage planned, well-ordered and efficient urban development patterns, or
- Annexation is necessary to provide services to planned, well-ordered and efficient urban development patterns

Does not define “planned, well-ordered and efficient urban development patterns”

Policy Considerations

For annexations:

- Does the Commission wish to consider factors/standards to determine what constitutes “planned, well-ordered and efficient urban development patterns”?
- If so, should standards/factors be more permissive of more restrictive?

LAFCo Law: Annexation of Contracted Land

No limitations on approving annexation of territory subject to a contract if a notice of non-renewal has been filed AND annexing agency agrees that no services to support incompatible uses will be provided for remaining life of contract

If agency does not agree, annexation may be approved subject to findings but no consideration given to amount of time remaining on contract (0-9 years)

Policy Considerations

For land under contract for which a notice of non renewal has been filed:

- Is there a point during the non-renewal period at which annexation of land should or should not be considered?

Discussion/Direction

For inclusion in a sphere of influence:

- Does the Commission wish to consider factors/standards to determine what constitutes “planned, orderly, and efficient patterns of land use”?
- If so, should standards/factors be more permissive of more restrictive?

For annexations:

- Does the Commission wish to consider factors/standards to determine what constitutes “planned, well-ordered and efficient urban development patterns”?
- If so, should standards/factors be more permissive of more restrictive?

For a notice of non renewal:

- Is there a point during the non-renewal period at which annexation of land should or should not be considered?

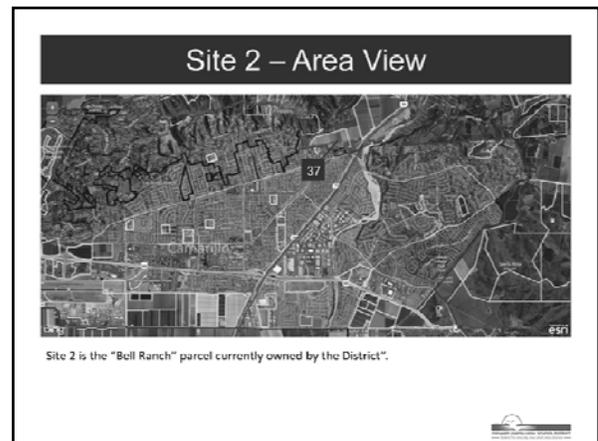
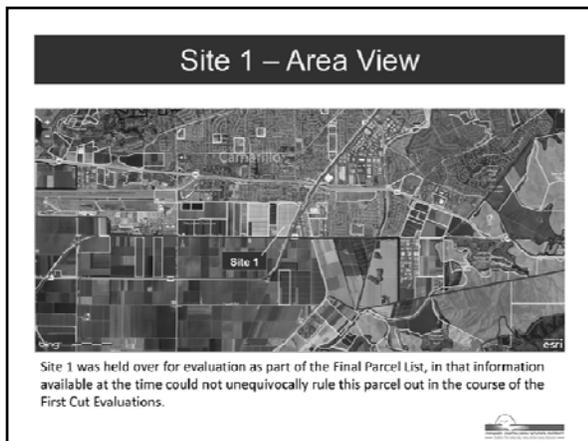
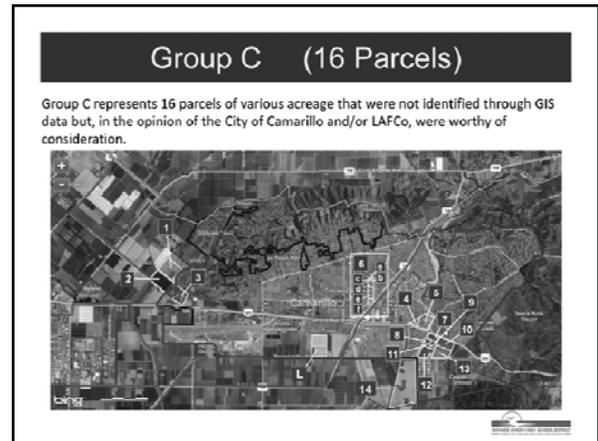
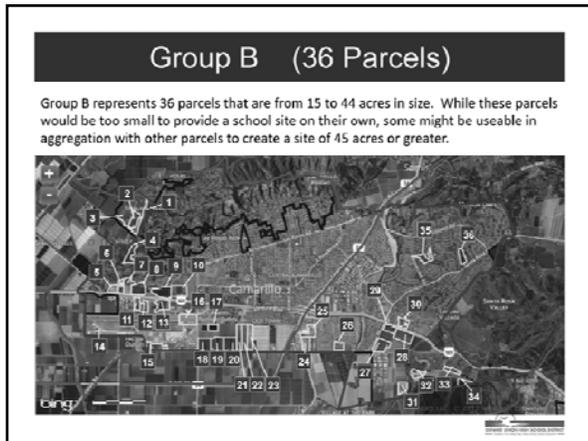
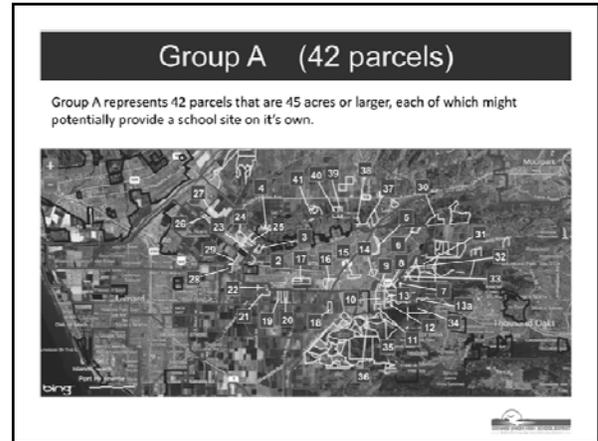
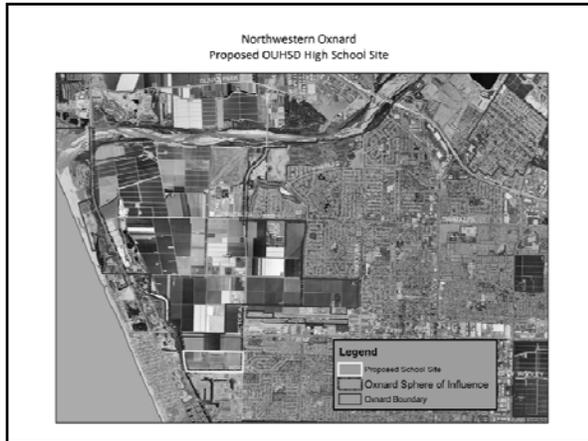


VENTURA LOCAL AGENCY
FORMATION COMMISSION

AGENDA ITEM 12

Proposed High Schools in the Cities of Camarillo and Oxnard





Site 3 – Area View



Site 3 is a 103 acre site with substantial frontage on Pleasant Valley Road. Site 3 was held over for evaluation as part of the Final Parcel List, in that information available at the time could not unequivocally rule this parcel out in the course of the First Cut Evaluations.



Site 4 – Area View



Formerly referred to as Group V, sites 6d through F, this site is commonly known as the old Los Altos School Site.

For final analysis, this is Site 4.



Site 5 – Area View



Subsequent to the recent Public Information Meeting, the location of the Bailey Fault was confirmed to have impact upon one or more parcels within the group of sites used to produce Sites 3 and 4. The assumed active status of the fault is noted with the City of Camarillo General Plan, Safety Element. As a result, a new aggregation of smaller sites was developed that responded to the presence of the active fault line. This site has been designated as Site 5 of the Final Site Evaluation.





VENTURA LOCAL AGENCY FORMATION COMMISSION
STAFF REPORT

Meeting Date: April 17, 2013

Agenda Item 11

TO: LAFCo Commissioners
FROM: Kai Luoma, Deputy Executive Officer 
SUBJECT: Land Conservation Act (Williamson Act) – Policy Direction

RECOMMENDATION:

Direct staff as appropriate.

BACKGROUND:

The California Land Conservation Act of 1965 (LCA) (also known as the Williamson Act) established a program to preserve and protect agricultural and open space lands. The intent of the LCA is consistent with one of the primary purposes of LAFCos, which is to preserve open-space and prime agricultural lands. Under the LCA program local government agencies may enter into a voluntary contract with landowners for the purpose of restricting land to agricultural or related open space uses. In return landowners receive property tax assessments which are lower than normal because they are based on farming and open space uses as opposed to full market value. The contracts are effective for a minimum of either 10 or 20 years and automatically renew each year for the subsequent 10 or 20 year period (ten year contracts are far more common in Ventura County accounting for over 90% of all contracts).

Should a landowner wish to terminate a LCA contract, the legally preferred method in most circumstances is to file a notice of non-renewal. Nonrenewal is a process whereby the property taxes are gradually increased starting the next contract anniversary date and continuing over the remaining term (usually nine years) until they are equivalent to the unrestricted tax rate. If the land is restricted by a 20 year contract, the contract winds down over the remaining 19 years, with the property taxes gradually increasing to the unrestricted tax rate at the end of the nonrenewal period. Under limited circumstances and conditions set forth in Government Code §51280 et seq. where the continued agricultural use of the

COMMISSIONERS AND STAFF

COUNTY: Kathy Long Linda Parks, Vice Chair <i>Alternate:</i> Steve Bennett	CITY: Carl Morehouse Janice Parvin <i>Alternate:</i> Carol Smith	DISTRICT: Bruce Dandy Gail Pringle, Chair <i>Alternate:</i> Elaine Freeman	PUBLIC: Linda Ford-McCaffrey <i>Alternate:</i> Lou Cunningham
Executive Officer: Kim Uhlich	Dep. Exec. Officer Kai Luoma	Office Mgr/Clerk Debbie Schubert	Legal Counsel Michael Walker

land is neither necessary nor desirable and the public interest no longer requires that the contract be continued, a landowner may pay a cancellation fee of 12.5 percent (25 percent for a 20 year contract) of the current fair market value of the land and file a petition requesting cancellation of a contract prior to the expiration of the nonrenewal period. However LCA contracts are generally not intended to be cancelled except in extraordinary situations. In a 1981 case, the California Supreme Court concluded that land preservation contracts which forbid the development of agricultural land in exchange for reduced property taxed cannot be cancelled merely because development of the property will be more profitable than continued agricultural use (Sierra Club v. City of Hayward (1981) 28 Cal.3d 840, 852-853).

In order for a local government to participate in the LCA program, it must adopt policies consistent with the provisions of the LCA. The County of Ventura has adopted such policies as part of the County's Land Conservation Act Guidelines. There are over 1,000 LCA contracts in unincorporated Ventura County covering approximately 127,000 acres.

Because the LCA is intended to preserve agricultural and open space lands, there are multiple sections of state law that apply to the annexation and/or development of land under a LCA contract, including, but not limit to:

LAFCo law:

- Generally prohibits the inclusion of LCA-contracted land within the sphere of influence of a local agency that provides urban services, unless the services would benefit uses allowed under the contract. Other exceptions may also apply.
- Generally prohibits LAFCo from approving the annexation of LCA-contracted land to a city or district that provides urban services, unless the services would benefit uses allowed under the contract. Other exceptions may also apply.

LCA:

- Identifies the criteria to be used by LAFCo to determine whether a city shall not succeed to the rights, duties, and power of the county as a party to the contract.
- In order for land to be included in a LCA contract, it must first be within an agricultural preserve as established by the local agency. An agricultural preserve generally limits uses to those that are compatible with agriculture. Pursuant to the LCA, an agricultural preserve shall continue in full effect following annexation, detachment, incorporation, or disincorporation of land within an agricultural preserve.

Subdivision Map Act:

- Generally prohibits the approval of a subdivision of LCA-contracted land to parcels smaller than 10 acres on prime agricultural land and 40 acres on non-prime agricultural land unless, among other criteria, a notice of nonrenewal has been filed and there are no more than three years remaining on the contract.

CEQA

- The establishment of an agricultural preserve and the making/renewing of LCA contracts are exempt from CEQA. However, the cancellation of an agricultural preserve or LCA contract is normally an action subject to the CEQA process.
- A project that results in the cancellation of a LCA contract on 100 acres or more is considered to be a “project of statewide, regional, or areawide significance”.

Various other statutes also apply to the annexation and/or development of LCA-contracted land.

DISCUSSION

On occasion, LAFCo staff receives inquiries about annexing land under a LCA contract to a city for purposes of development. If LCA-contracted land were to be annexed, the expectation would be that the City, which would become a party to the contract, would cancel it to allow for urban development. Thus, annexation of LCA-contracted land would likely result in the facilitation of contract cancellations and conversion of agricultural land, which the LCA was established to avoid or, at least, delay for 10 years. Examples such as this have raised a number of questions, including:

- Because LCA-contracted land cannot be developed for a minimum of 10 years, should such lands to be included within the sphere of influence of a city or district? If so, under what circumstances?
- Should the Commission consider the adoption of any standards or factors by which to evaluate proposals to annex LCA-contracted when the purpose of the annexation is to accommodate urban development? If so, what specific standards or factors would be appropriate?
- If a notice of non-renewal has been filed on land that is the subject of an annexation proposal, is there a point during the non-renewal period at which annexation of the land should/should not be considered?

Staff believes that the development of local policies to address these and other issues related to the annexation of LCA-contracted land would be helpful to LAFCo, the cities, landowners, and the public. Thus, staff would appreciate comments as to the Commission’s interest in establishing specific policy language through which to consider proposals for changes of organization involving LCA-contracted lands.



VENTURA LOCAL AGENCY FORMATION COMMISSION
STAFF REPORT

Meeting Date: November 20, 2013

Agenda Item 10

TO: LAFCo Commissioners
FROM: Kim Uhlich, Executive Officer
SUBJECT: LAFCo’s Authority Related to Agricultural Land Preservation

RECOMMENDATION:

Receive and File

BACKGROUND:

As part of the discussion of the Camarillo Academy High School reorganization proposal at the October 16, 2013 LAFCo meeting, the Commission directed staff to provide further information regarding a LAFCo’s authority to impose land use conditions for the purpose of preserving agricultural land as well as a summary of the Commission’s previous efforts to consider the adoption of agricultural mitigation policies.

DISCUSSION:

Authority Concerning Land Use

The Commission’s discussion of the Camarillo Academy High School proposal included, among other considerations, the possibility of requiring additional mitigation measures or imposing conditions of approval to preserve adjacent agricultural land owned by the Oxnard Union School District. After the proposal was approved, the Commission directed LAFCo legal counsel to follow up with further clarification regarding the extent of a LAFCo’s authority concerning land use. On October 17, 2013 LAFCo legal counsel Michael Walker provided the Commission with copies of related legal opinions from previous LAFCo legal counsel Leroy Smith. Additional information from Mr. Walker is included as Attachment 1 to this report.

COMMISSIONERS AND STAFF

COUNTY: Kathy Long Linda Parks, Vice Chair <i>Alternate:</i> Steve Bennett	CITY: Carl Morehouse Janice Parvin <i>Alternate:</i> Carol Smith	DISTRICT: Bruce Dandy Gail Pringle, Chair <i>Alternate:</i> Elaine Freeman	PUBLIC: Linda Ford-McCaffrey <i>Alternate:</i> Lou Cunningham
Executive Officer: Kim Uhlich	Dep. Exec. Officer Kai Luoma	Office Mgr/Clerk Debbie Schubert	Legal Counsel Michael Walker

Prior Consideration of Policies to Address Mitigation for Impacts to Agricultural Lands

The impetus to develop agricultural mitigation policies occurred as part of the Work Plan in LAFCo's adopted FY 2005-06 budget in which the Commission directed staff to draft potential revisions to the Commissioner's Handbook to address agricultural buffer policies.

In March 2006, staff presented a status report to the Commission that identified deficiencies in CEQA documents prepared by lead agencies concerning the analysis of impacts to agricultural land resources. More specifically, the report indicated that environmental documents did not always fully analyze potentially feasible mitigation measures to compensate for losses of farmland converted to non-agricultural uses and to minimize conflicts between proposed urban land uses and adjacent uses intended to remain in agricultural production. Based on a general consensus of the Commission, staff was directed to develop draft policy language for further consideration. Staff was also directed to schedule a workshop to discuss the development of the policies and receive feedback from affected agencies and stakeholders.

In May 2006, staff presented to the Commission draft policy language to address specific LAFCo expectations for environmental analyses performed by lead agencies to address impacts on agricultural resources. In response, the Commission directed staff to make several changes to the draft language, which is included as Attachment 2 and summarized as follows:

1. For projects requiring LAFCo approval, the CEQA analysis must disclose the extent of impacts to agricultural land based on the LAFCo definition of prime agricultural land.
2. For projects that will result in a potentially significant loss of prime agricultural land, the CEQA document must include an analysis of potentially feasible mitigation measures.
3. The CEQA document must include analysis of the feasibility of agricultural buffers where appropriate.
4. Annexation that would allow incompatible land uses on lands under a Williamson Act contract shall be strongly discouraged unless, among other things, mitigation includes the preservation of other agricultural lands on a 1:1 ratio.
5. Farmworker housing projects are exempt from mitigation policies.

A workshop was held as a special meeting of the Commission in November 2006. The minutes are included as Attachment 3. Following the workshop, written comments were received from approximately 12 stakeholders including agricultural property owners, developers, and representatives of the Oxnard Chamber of Commerce and the Building Industry Association. Virtually all of the comments conveyed opposition to the adoption of the draft policy language.

In December 2006, the Commission made several changes to the draft policy language including the elimination of the draft policies regarding annexation of land under a Williamson Act contract and the exemption for farm worker housing (Attachment 4). The

removal of the farm worker housing exemption was based on a legal concern raised by LAFCo legal counsel.

In January 2007, the Commission considered further revisions to the draft policy language considered at the December meeting. The intent of the recommended revisions was to shift the focus from prescriptive requirements regarding CEQA analyses performed by lead agencies to expanding the LAFCo application requirements to obtain the information necessary for the Commission to fully understand the potential effects of proposals on agricultural lands. In February 2007, the policies were formally adopted and are currently found in Section 3.1.2 of the Commissioner's Handbook:

3.1.2.1 Proposals Involving Conversion of Agricultural Lands: Unless specifically waived by the LAFCo Executive Officer, for any proposal which could reasonably be expected to lead to the conversion of agricultural lands (as defined by Government Code Section 56016) to non-agricultural uses, information regarding the effects of the proposal on maintaining the physical and economic integrity of agricultural lands shall be submitted in conjunction with the application. Specifically, the information should address the following:

- (a) The location of, and acreage totals for, prime and nonprime agricultural land involved in the area and adjacent areas. This analysis shall be based on the definition of "prime" agricultural land pursuant to Government Code Section 56064.
- (b) The effects on agricultural lands within the proposal area.
- (c) The effects on adjacent agricultural lands.
- (d) The effects on the economic integrity of the agricultural industry in Ventura County.

In addition, information should be provided about any measures adopted to reduce the effects identified.

- Attachments: (1) Memorandum dated November 7, 2013 to the Ventura LAFCo from Michael G. Walker
- (2) Draft LAFCo Policies to Address Mitigation for Impacts to Agricultural Land Resources – Revised 5/17/2006
 - (3) Minutes of the November 9, 2006 LAFCo meeting
 - (4) Draft LAFCo Policies to Address Mitigation for Impacts to Agricultural Land Resources – Revised 12/7/2006

**MEMORANDUM
COUNTY OF VENTURA
COUNTY COUNSEL'S OFFICE**

November 7, 2013

TO: Commissioners and Alternate Commissioners,
Ventura Local Agency Formation Commission

FROM: Michael G. Walker, Chief Assistant County Counsel 

RE: LAFCO INFLUENCE OVER LAND-USE DECISIONS

At your Commission's October 16, 2013, meeting, I was asked to look into and report back on what ability, if any, a local agency formation commission (LAFCo) has, consistent with law, to directly or indirectly influence applicants to preserve agricultural lands or make other land-use decisions. As the Staff Report accompanying this memorandum explains, your Commission addressed a similar issue, in the context of agricultural lands, in 2006 and 2007 and adopted the policies set forth in Commissioner's Handbook section 3.1.2. The laws that governed the development of those policies remain in effect today and likewise govern the present issue.

LAFCos, unlike counties and cities, are creatures of the Legislature. As such, they have only those express (or necessarily implied) powers which are specifically granted to them by statute. LAFCos' statutory authority, as your Commission knows, is set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH). Regarding land use, under CKH, "a commission may not impose any conditions that would directly regulate land use, land use density or intensity, property development, or subdivision requirements." (*Gaviota Coast Conservancy v. Santa Barbara Local Agency Formation Com'n* (Apr. 29, 2010, B215836 [nonpub. opn.] (*Gaviota Coast*), citing Gov. Code, §§ 56375, subd. (a), & 56886.)^{1/} Consistent with the "negative" provisions in Government Code sections 56375 and 56886, nothing in CKH expressly grants to LAFCos the power to regulate land use. As our Supreme Court pointed out with respect to a predecessor statute, CKH "insures that final zoning

^{1/} While the *Gaviota Coast* opinion is unpublished, meaning it may not be cited in court as precedent, it was decided by Division Six of the Second District Court of Appeal, the appellate court with jurisdiction over the Ventura LAFCo, and therefore is instructive on how that court may analyze this issue.

decisions are made by the local agencies concerned,” not LAFCos. (*Bozung v. Local Agency Formation Com. of Ventura County* (1975) 13 Cal.3d 263, 284.)

However, since CKH states that LAFCos cannot “directly” regulate land use, a question arises as to the extent of LAFCos’ authority, if any, to *indirectly* regulate land use. The answer is twofold. First, LAFCos may indirectly regulate land use through the exercise of the powers expressly granted to LAFCos under CKH. For example, a LAFCo may condition an annexation or other change of organization on the “acquisition, improvement, disposition, sale, transfer, or division” of any real property (Gov. Code, § 56886, subd. (h)), which, depending on the circumstances, could indirectly have an effect on land use. Second, LAFCos may indirectly regulate land use by denying proposals that, if approved, would facilitate certain land use that otherwise would not be permitted. (This second part of the answer is actually just another example of the first, since one of LAFCos’ express powers is the power to deny a proposal for whatever reason or reasons a commission, acting in its quasi-legislative capacity, deems reasonable and appropriate.)

Accordingly, a LAFCo may deny a proposal intended to lead to the conversion of agricultural land or another land use unacceptable to the commission for the very reason that the proposal may lead to such land use. As mentioned, this is a power expressly granted to LAFCos. In addition, the effect of such a decision is, at most, an indirect, potentially temporary, regulation of land use; it does not in any way restrict the authority of the city (or county) with existing land-use jurisdiction over the land to rezone it or to permit the use deemed unacceptable to the commission. Nevertheless, within this framework, a LAFCo is not without influence over land use. A LAFCo may articulate the land-use concerns prompting its denial of a proposal and, at the same time, indicate that it may favorably consider a revised proposal that adequately addresses these concerns. From there, it is up to the city that will have land-use jurisdiction over the proposal area to lock in those revisions – whether through further proceedings under the California Environmental Quality Act or some other mechanism – in a manner satisfactory to LAFCo and resubmit the proposal for LAFCo consideration. In this manner, a LAFCo may encourage certain land-use decisions by denying a proposal. (See *Gaviota Coast, supra* [recognizing that “LAFCO decisions strongly influence land use”].)

MGW:cn

**DRAFT LAFCO POLICIES TO ADDRESS MITIGATION FOR IMPACTS TO
AGRICULTURAL LAND RESOURCES**

Revised 5/17/06

1. Environmental documents associated with projects that require LAFCO approval that identify potential impacts to agricultural resources shall disclose the degree of impact according to the definition of prime agricultural land as defined by Government Code Section 56064.
2. If the intent of a project, program or plan is to accommodate discretionary development that would result in a potentially significant loss of prime agricultural land as defined by Government Code Section 56064, project-specific environmental document (or the program EIR in the case of 'tiered' EIRs) shall include an analysis of potentially feasible mitigation measures to minimize the loss of agricultural lands. Such measures may include, but need not be limited to: the acquisition and dedication of farmland, development rights, open space and conservation easements to permanently protect adjacent and other agricultural lands within the County; participation in programs involving transfer of development rights; and in lieu payments to recognized government or non-profit organizations for purchase of agricultural lands within the County. The lack of a pre-adopted lead agency agricultural mitigation policy or program shall not constitute an exemption from this Policy.
3. A land's current zoning, pre-zoning, general plan land use designation or location relative to any locally adopted growth boundary shall not automatically exempt it from the provisions of LAFCO's polices regarding mitigation. Existing conditions shall be considered as the CEQA "baseline" for the purpose of analysis.
4. Changes of organization or contracts for service to accommodate farmworker housing projects on agricultural land would not be subject to LAFCO's polices regarding mitigation. Only those projects devoted exclusively to provision of farm worker housing shall be exempted from these policies.
5. Annexation for land uses that would conflict with an existing agricultural preserve (Williamson Act) contract shall be strongly discouraged, unless the Commission finds that it meets all the following criteria:
 - 1) The area is within the annexing agency's sphere of influence.
 - 2) The Commission makes findings required by Government Code Section 56856.5.
 - 3) The parcel or parcels are included in an approved city specific plan.
 - 4) The soil is not categorized as prime.
 - 5) Mitigation for the loss of agricultural land has been secured by the granting of a farmland conservation easement, a farmland deed restriction or other farmland conservation mechanism based on a ratio of at least one acre of like agricultural land preserved for every acre of agricultural land converted to a nonagricultural use.

- 6) There is a pending, or approved, rescission for the property that has been reviewed by the local jurisdictions and the Department of Conservation. The property has been non-renewed if still awaiting rescission approval.
6. If the intent of a project is to accommodate the development of discretionary, non-agricultural land uses adjacent to land designated as 'agricultural' in the applicable general plan, the CEQA document shall include an analysis of the feasibility of imposing an agricultural buffer. When a buffer requirement is determined to be feasible, the lead agency shall adopt a buffer requirement. All buffers shall be consistent with applicable buffer ordinances or general plan policies. For those jurisdictions that have not adopted buffer ordinances/policies, buffers shall be consistent with the current recommendations of the Ventura County Agricultural Commission's Office.



**MINUTES
SPECIAL MEETING**

Thursday, November 9, 2006
Oxnard Performing Arts & Convention Center
800 Hobson Way, Oxnard, CA
LAFCO DRAFT AGRICULTURAL POLICY WORKSHOP

- 8:15 Oxnard City Council Member and LAFCO Commissioner John Zaragoza welcomed everyone to the workshop
- Linda Parks, LAFCO Chair called Meeting to Order at 8:17 A.M.
- 8:30 Everett Millais and Kim Uhlich presented an overview of LAFCO agricultural mitigation policies
- 8:45 Whitman F. Manley, Partner, Remy, Thomas, Moose and Manley, LLP. gave a presentation on CEQA Requirements Pertaining to Impacts on Agricultural Resources and Mitigation Feasibility Analysis
- 9:15 Walter Kieser, Managing Principal, Economic & Planning Systems gave a presentation on How to Prepare a Feasibility Analysis to Address Potential Mitigation for Significant Impacts Associated with Conversion/Loss of Agricultural Land
- 9:45 Break
- 10:00 Charles Tyson, Manager, Farmland Conservancy Program, California Department of Conservation gave a presentation on Agricultural Conservation Easements and Other Means to Mitigate for Loss of Agricultural Land & Potential State/Federal Funding Sources
- 10:30 Taro Echiburú, Environmental Planning Manager, City of Elk Grove Planning Department gave a presentation on a case study: City of Elk Grove Agricultural Mitigation Requirements
- 11:00 There was a brief question and comment period.
- Commissioner Parks adjourned the meeting at 11:45 A.M.



**DRAFT LAFCO POLICIES TO ADDRESS MITIGATION FOR IMPACTS TO
AGRICULTURAL LAND RESOURCES**

Revised 12/7/2006

1. Environmental documents associated with projects that require LAFCO approval that identify potential impacts to agricultural resources should disclose the degree of impact according to the definition of prime agricultural land as defined by Government Code Section 56064.
2. If the intent of a project, program or plan is to accommodate discretionary development that would result in a potentially significant loss of prime agricultural land as defined by Government Code Section 56064, project-specific environmental document (or the program EIR in the case of 'tiered' EIRs) should include an analysis of potentially feasible mitigation measures to minimize the loss of agricultural lands. The lack of a pre-adopted lead agency agricultural mitigation policy or program may not constitute an exemption from this Policy.
3. A land's current zoning, pre-zoning, general plan land use designation or location relative to any locally adopted growth boundary may not automatically exempt it from the provisions of LAFCO's polices regarding mitigation. Existing conditions should be considered as the CEQA "baseline" for the purpose of analysis.
4. If the intent of a project is to accommodate the development of discretionary, non-agricultural land uses adjacent to land designated as 'agricultural' in the applicable general plan, the CEQA document should include an analysis of the feasibility of imposing an agricultural buffer. When a buffer requirement is determined to be feasible, the lead agency should adopt a buffer requirement. All buffers should be consistent with applicable buffer ordinances or general plan policies. For those jurisdictions that have not adopted buffer ordinances/policies, buffers should be consistent with the current recommendations of the Ventura County Agricultural Commission's Office.