

M E M O R A N D U M

TO: Local Agency Formation Commission

FROM: Stephen Lucas, Executive Officer

SUBJECT: **Agenda Item 6.1 - Executive Officer's Report**

DATE: January 25, 2023 for the meeting of February 3, 2023

ADMINISTRATION:

- Alternate City Commissioner Reynolds was not re-elected and is therefore ineligible to serve on the Commission. The City Selection Committee will meet on February 6, 2023, to select a new Alternate City Member.
- Special District Regular Enterprise Commissioner Sharman's term ends on May 31, 2023. As electing special district representatives has historically taken months to complete, Staff will be sending out a call for nominations this month with the hope of completing the election process by the end of May 2023.
- County Administrative staff, without the review or consent of the Board of Supervisors, informed Staff that it will unilaterally terminate human resources services from our current Contractual Services Agreement effective February 23, 2023. The Agreement was intended to establish the unique relationship between the County and LAFCo (a former County department) and directed the County to treat LAFCo *"in the same manner as provided county departments."* The County shifted to a new organizational platform called Workday in December 2021, which resulted in issues with LAFCo, contracted payroll services. The County Human Resources Department has proposed a very substantial increase (400%) in their costs for payroll services, which Staff believes, is inconsistent with the overall purposes of the Agreement. The LAFCo Chair and EO met with the County CAO on October 14, 2022, at which the CAO agreed to rescind the termination of HR services and explore ways that Workday can be modified to treat LAFCo as a department within the County as required by the LAFCo/County Agreement. Additional discussions will be necessary. The County Administration in their letter of December 28, 2022, (**Attachment 1**) has rescinded the prior termination notice and set a new termination date of June 26, 2023. During this period solutions to the issue will continue to be explored. To be clear, Staff believes retaining Human Resources/Payroll services is in the best interest of LAFCo and consistent with the intent of the original Agreement.
- The annual financial audit is underway with the consultant meeting with staff to review our books. The audit is expected to be presented to the Commission at its March meeting.

PROJECT/GENERAL NOTES:

The following issues/proposals are at various stages of being reviewed, discussed and/or considered.

- **NEW County Libraries** - Staff was contacted by County Administration to explore opportunities to establish long-term funding resources for the operation of the County library system, to include different models for the delivery of the service.
- **NEW Proposed Cemetery District Formation** – A group of Durham residents have approached the County and LAFCo seeking a solution to the long-term maintenance and operation of the historical Durham Cemetery to include forming a new independent cemetery district, contracts with other service

providers, County operation under the umbrella of the dependent (BOS) Thompson Flat Cemetery District. As with most service issues, funding is the need and the goal. Discussions are ongoing.

- **Paradise Sewer Project** – The Town of Paradise has explored options to provide wastewater treatment services to its existing commercial land uses that are limited from expanding due to sewage disposal constraints. The selected option is to convey the Town cores' wastewater directly to the City of Chico's Water Pollution Control Plant. This alternative would represent an extension of services (GC56133) by the City of Chico outside of its jurisdictional and sphere of influence boundaries requiring LAFCo approval. These efforts can be tracked at <https://paradisesewer.com>. Projected costs are estimated to be approximately \$184 million: \$2M for environmental studies, \$30M for design and right-of-way acquisition, \$152M for construction. The Town released a Notice of Preparation (NOP) for the Environmental Impact Report (EIR) and Staff prepared and submitted NOP comments on May 20, 2022. On November 7th, 2022, the Paradise Town Council unanimously voted to adopt the EIR for the Paradise Sewer Project. **NEW** The Town has informed Staff that both the City and Town are prepared to act in February to approve the contractual agreement between the two agencies and submit an application to LAFCo to consider the service extension.
- **City of Biggs – Annexation Plan** – The City of Biggs has developed a long-range annexation plan that is anticipated to occur in three phases and be driven by market demand for new homes. City staff have worked very cooperatively with LAFCo staff during this process. Staff had a pre-application consultation with Biggs planning staff in April to discuss Phase 1 of the Plan, an approximately 70 acre area which include Biggs School Property on the east boundary of the City. **NEW** An application for Phase 1 was submitted to LAFCo on January 13, 2023.
- **City of Chico – Valleys Edge Specific Plan** - The City of Chico is currently processing the Public Review Draft Valley's Edge Specific Plan (VESP) related Draft Environmental Impact Report (EIR) which can be found on the City's website at <https://chico.ca.us/valleys-edge-specific-plan>. The City of Chico 2030 General Plan (GP 2030) provides a comprehensive and long-range framework for the growth of Chico and identified five new growth areas, designated Special Planning Areas (SPA), which are to be developed as connected and complete neighborhoods with a mix of housing types, services, employment, and shopping opportunities, along with parks and open space. The VESP is the blueprint for the planning area within the 1,448 acres identified in the Chico General Plan as the Doe Mill/Honey Run Special Planning Area (SPA). The VESP territory was placed in the City of Chico Sphere of Influence in 2013 and will require an annexation application to LAFCo in order to proceed. **NEW** The City Council approved the Valleys Edge Specific Plan on January 17, 2023.
- **Gridley-Biggs Area of Concern** – LAFCo adopted the Gridley-Biggs Area of Concern (AOC) in 2004 in response to increased development opportunities that existed between the Cities of Biggs and Gridley. It was agreed by all affected agencies that the AOC would be the growth area for each city moving forward in order to reduce development pressure on substantial agricultural lands bordering the cities and AOC. This was also supported by the Butte County Farm Bureau as well. Recently, development interest has returned to both cities and this has created a great opportunity for the affected agencies to renew their efforts to plan the AOC in such a way that:
 - maximizes density (rooftops!)
 - establishes efficient service patterns for the cooperating cities and special districts
 - creates adequate and effective agricultural buffers to reduce agricultural impactsStaff is coordinating the discussions between stakeholder agencies.
- **County of Butte – General Updates** - The County is currently undertaking the following notable planning efforts:

[General Plan 2040 Update](#) -The General Plan establishes the community's long-term vision for the future, including where people in Butte County will live, work, shop, learn, and recreate. It will shape

future housing, support job growth, foster healthy and resilient neighborhoods, protect and manage natural resources and agricultural lands, ensure community safety, and promote social and economic equity. A variety of factors contribute to the need to update the General Plan. The existing General Plan 2030 was adopted nearly 12 years ago (October 26, 2010) - updates are needed to keep the plan topical and relevant to changing conditions such as: the redistribution of population and impacts and recovery needs of the Camp Fire, North Complex Fire and Dixie Fire, Legislative mandates from the State concerning climate change and adaptation policy, environmental justice policy, and fire hazard impacts, and the updated of the Housing Element in 2022 for the next effective period until 2030. The county has posted the Notice of Availability for the Draft Environmental Impact Report (DEIR) which establishes 45 days period for comments to close on February 21, 2023.

[Tuscan Ridge Planned Development \(PUD21-0001\)](#) - The proposed project would include subdivision of the project site to develop a total of 165 single-family residential lots. The lots would range in size from 4,000 square feet (sf) to 40,000 sf. The proposed project would additionally include commercial development occupying approximately 31 acres of the project site, including approximately four acres for improved buildings and parking and approximately 27 acres for mini storage units (53,000 square feet) and outdoor RV and boat storage. The 163 acre site on the south side of Skyway about 3 miles west of Paradise and 4 miles east of Chico which was used as staging area for Camp Fire workers in 2018/19 and was previously the former Tuscan Ridge Golf Course. The site is to be served by an existing on-site well for domestic water and an existing permitted on-site wastewater treatment system, both of which were initially proposed to be managed by a newly formed Community Service District (CSD) that would require LAFCo approval. Given the issues related to a conceptual potable water pipeline and sewer line to Chico along the Skyway, this proposal does cause concerns related to service provisions, growth inducement and logical/orderly development patterns. The County now indicates that the sewage disposal and potable water systems could be maintained and operated under a contractual agreement with the Paradise Irrigation District (PID), which may or may not cause the PID to initiate annexation of the site, which is currently not contiguous to the PID boundaries. The County has released a Notice of Preparation for the Environmental Impact Report on February 23, 2022. The updated project description indicates the PID will annex the territory and maintain the water and sewer systems on-site. Staff has provided initial observations to the project consultant. The issue of greatest importance to LAFCo staff at this time is the proposed expansion of the PID powers and service area expansion and the District is in need of an updated MSR/SOI. This issue is further complicated by the fact that the Town of Paradise has not net updated its 1994 General Plan and therefore, LAFCo and PID do not have the benefit of post Camp Fire land use plan with associated infrastructure requirements and demands.

- **Lake Oroville Area Public Utility District - Palermo Sewer Project** – This is a decades long effort to bring sanitary sewer services to the residents of the Palermo community. LOAPUD is re-initiating its efforts with the preparation of an updated study to consider the technical and fiscal issues in the path to a solution. The LAFCo role will be to monitor the process and ultimately consider the annexation of the Palermo area into the LOAPUD.
- **Oroville Region Sewer and Water Service Providers MSR** - The State Department of Housing and Community Development (HCD) has awarded a \$100,000 SB2 Planning Grant to Butte County to contract with LAFCo for the development of a MSR update for backbone service providers in the Oroville region, including the SFWPA, LOAPUD, TWSD and SCOR. LAFCo entered into an Agreement with SWALE Inc. to conduct the study and prepare the documents. A kick-off meeting was held on March 17, 2021 with all the affected Districts staff. The Draft MSR is expected to be released for public review in winter 2022/23.
- **City of Gridley MSR/SOI Update** – The City has expressed an interest in updating its MSR and SOI Plan in anticipation of new development proposals being considered. Staff anticipates that the City and LAFCo may enter into a Letter Agreement to conduct this effort, similar to agreements with the City of Chico and City of Oroville.

- **Thermalito Sewer and Water District** - Sphere of Influence Amendment and Annexation of the state owned clay pits recreation area southeast of the Oroville airport along Larkin Road. The State has yet to resolve a conflict between the State Parks Department and Department of Fish and Wildlife who share authority over the affected territory.
- **City of Oroville MSR Update** – The City of Oroville is starting the process to evaluate its growth goals and has determined that the City needs to update its SOI to accommodate new development goals and at the same time update its MSR to reflect its current service capabilities and financial position. The City has requested LAFCo update its MSR at City expense and executed a Letter Agreement with LAFCo to prepare the MSR update. The City has entered into a contract with Policy Consulting Associates to complete the project under LAFCo supervision. The administrative draft is under review.

CALAFCO: None.

LEGISLATION: The 2022/23 Legislative session is underway. Commissioner Connelly, the Executive Officer and Legal Counsel are voting members of the Legislative Committee. CALAFCO priorities for the coming year include:

1. In response to a 2022 decision from a Second District Court of Appeals, CALAFCO will seek legislation to provide clear authority to LAFCo to require indemnification agreements. In that case, a LAFCo denied an annexation application and was sued by the applicants. The LAFCo prevailed in court and presented the \$400,000 bill for attorney fees and costs to the applicants who refused to pay. Complaints and Cross-Complaints were filed seeking recovery of the fees. The cross-complaint was based on the indemnity provision of the LAFCo annexation application. The Court of Appeals found that the LAFCo was not entitled to legal fees. It opined that LAFCos operate only under and within the authorities expressly given to them by the legislature and, consequently, determined that LAFCo has no statutory authority to impose an indemnity agreement as a condition of a LAFCo application. After consideration of the above, the CALAFCO Board approved seeking legislation to amend existing Government Code Section 56383 to add the following new Subsection (h):

(h) A Commission may require, as a condition for processing a change of organization or reorganization, a sphere amendment or a sphere update, an out-of-agency service or exemption request pursuant to Government Code §§56133 or 56134, or any other action or determination requested of LAFCo, that the applicant defend, indemnify, and hold harmless the Commission, its agents, officers, and employees from any claim, action, or proceeding against the Commission, its agents, officers, or employees to attack, set aside, invalidate void, or annul, a determination of the commission.
- Clarifications to GC56133 (service extensions) that will specifically direct that all service extension exemptions are approved by each local LAFCo as opposed to local agencies “self-exempting” from the law. CALAFCO will join San Diego LAFCo in developing this legislation and related lobbying effort.

APPLICATION ACTIVITY:

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Project Status As of January 23, 2023								
File	Applicant	Project Name	Date Application Received	Certificate of Filing	LAFCO Hearing Date	Certificate of Completion	SBE Submittal Date	Additional Comments
11-06	Butte County	CSA No. 114 - Expansion of Powers	02/02/11	N/A	pending	N/A	N/A	Incomplete - On Hold
18-09	TWSD	Clay Pit State Recreation Area Annexation						On hold. Incomplete Application
19-12	County	CSA 158 - Mandville Park Subd. Annex	05/02/19	05/29/19	10/03/19			Approved w/ conditions - 218 Hearing
20-08	Oroville	Municipal Service Review Update (MSR)	05/20/20	N/A				In progress
20-09	LAFCO	Oroville Region Sewer & Water MSR	N/A	N/A				In progress
21-06	Landowners	Tuscan Water District Formation	02/22/21	10/01/21	12/02/21			Approved - waiting on election
22-10	Gridley	W Biggs-Gridley Rd Annexation No. 3	03/28/22	05/16/22	11/03/22			In progress
23-02	Chico	El Monte Ave Annex. No. 1	08/16/22	09/08/22	11/03/22			In progress
23-03	Chico	Chico Canyon Annex. No. 8	08/16/22	09/08/22	pending			In progress
23-04	Chico	W Sacramento Ave Annex No. 31	08/16/22	09/08/22	10/06/22			In progress
23-05	Chico	W East Ave Annex. No 1	08/16/22	09/08/22	10/06/22			In progress
23-06	El Medio	El Medio Dissolution	10/14/22	11/14/22	12/01/22			In progress
23-07	Depweg	Centennial Avenue Annex. No. 1	12/20/23	01/09/23	02/02/23			In progress
23-08	Ted Trimble	Drainage District #2 Dissolution	12/19/23	01/20/23	03/02/23			In progress
23-09	Paradise	MSR Update 2022	11/15/23	n/a				In progress
23-10	SFWPA	Milligan Lane Annex. No. 1	12/05/23	01/06/23	02/02/23			In progress
23-11	SFWPA	Foothill Blvd Annex. No. 8	01/23/23		03/02/23			In progress
23-12	Gridley	MSR Update 2022	01/06/23	n/a				In progress
23-13	Biggs	W Rio Bonito Road Annex. No. 8	01/13/23					In progress

Attachments: 1. County Administration Letter of December 28, 2022



Butte County Administration

Andy Pickett
Chief Administrative Officer

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Members of the Board
Bill Connelly | Vacant | Tami Ritter | Tod Kimmelshue | Doug Teeter

December 28, 2022

Butte Local Agency Formation Commission (LAFCo)

Attn: Stephen Lucas
1453 Downer Street, Suite C
Oroville, CA 95965

RE: Contract R41404

Steve,

Thank you for meeting with me and Supervisor Connelly on October 21st to talk about payroll services. This letter serves to rescind the August 8, 2022 letter wherein we gave notice of our intent to end County payroll services to LAFCo effective February 4, 2023.

LAFCo used to be a County agency until about 20 years ago, when it became an independent agency. Back then, the County provided payroll and other services to LAFCo since we were all part of the same organization. When LAFCo became a separate agency, we kept providing these services, and memorialized them in a Memorandum of Understanding, which outlines our mutual obligations related to these services.

As time passed, LAFCo’s benefits changed and diverged from benefits provided to County employees. These changes created the need for LAFCo-specific processes within the Human Resources Department.

The County’s implementation of Workday complicated payroll processing substantially. The ongoing variance between payroll administration and the recent complications created by Workday have resulted in additional staff time required to process payroll for LAFCo. These additional hours were quantified at approximately 512 hours annually, at a current year cost of \$50,101.

Payroll staff has been deeply impacted by the implementation of Workday, resulting in an unsustainable amount of overtime needed to finish each payroll cycle (on top of the hundreds of overtime hours they have put in over the past year implementing Workday). Therefore, on January 12, 2022, pursuant to our MOU, we sent the required 180- day notice to LAFCo that the County would be amending the contract with the intention to remove Human Resources payroll services.

You had concerns over this decision, and since that time we have exchanged a number of letters and held several discussions, looking at potential solutions to the current untenable situation. County Human Resources surveyed a number of smaller districts and other stand-alone agencies, and learned that generally speaking they use one of two methods: Keep their own payroll on QuickBooks and enter their own information on the PERS website, or contract with ADP. The County rescinded the original 180-day notice to provide additional time for LAFCo to research alternate payroll services, and simultaneously provided a second 180-day notice on August 8, 2022.

At our last meeting, you let me know that your staff did not know how to use QuickBooks, and that you would prefer not to get a quote from ADP; that you would prefer to keep your payroll with the County, despite the increased cost associated with so doing.

We agreed at that meeting that I would rescind the current 180- day notice that would effectively terminate payroll services on February 4, 2023. This letter serves to rescind that notice.

As part of our discussion, you mentioned that you had spoken with a representative of Workday, and you reported they said that they could program Workday such that your payroll could be done by the County with little to no additional work, thereby negating the need for additional costs. I agreed that this would be the best outcome, but expressed reservations on their ability to deliver, based on extensive history of such broken promises. We literally have dozens of our best employees working thousands of hours on implementing Workday, so this is not unfamiliar territory for us. Thus far, Workday has not been able to provide a simple solution like they described to you. We continue to do separate, parallel processes to perform LAFCo payroll.

At the meeting we agreed on the following plan: County Human Resources Department will continue to work with Workday to implement a technical solution. If that is successful, we will re-calculate the cost of providing the service and work with you on amending the contract for the costs.

If there is no technical solution from Workday in the next couple of months, then I will take an agenda item to the Board of Supervisors to increase appropriations for the Human Resources Department by \$50,101 to allow them to hire extra help hours to do LAFCo payroll, since they are currently working overtime to do so, which is not a sustainable practice. I will ask the Board if they would like us to bill the amount to LAFCo, or to pay it directly from the County General Fund.

The County is responsible for roughly 40% of LAFCo's budget, and the remaining 60% is spread among the Cities of Chico, Oroville, Gridley, Biggs, and the Town of Paradise. If we bill LAFCo, the costs can be spread out among all LAFCo members, including the County. However, if we pay for it from the County General Fund, the County would be paying for other jurisdictions' costs. I don't have the authority to subsidize other jurisdictions, only the Board can find that doing so is in the public interest.

Alternatively, the Board could decline to add funding to the Human Resources Department and direct them to continue using unpaid overtime to provide payroll services for LAFCo. I would strongly argue against that route, as it is unsustainable and would likely result in loss of payroll staff, putting at risk the paychecks of 2,400 County employees.

The Board could decline to continue providing payroll services to LAFCo. If that were the case, our payroll staff would be glad to provide training on how to do payroll, and can put LAFCo in touch with other small districts that use QuickBooks so staff may learn. The County can also help LAFCo request a quote from ADP for payroll services. Based on how much ADP is currently charging for payroll services to other local agencies, we believe the price would be substantially lower than our cost to provide the service.

If the Board were to take that action, per the Service Agreement MOU, we need to provide LAFCo with a 180-day written notice. Therefore, as we rescind the notice sent on August 8, 2022, in order to preserve all possible actions that the Board of Supervisors can take, we are issuing this letter as a new 180-day notice of the intent to amend contract R40414 effective June 26, 2023. The intent of the amendment is to add a term of 6 years to align the agreement with the County's current contract policy and process. The amendment may also include changes in services and/or costs of services, pending action from the Board of Supervisors.

Sincerely,



Andy Pickett
Chief Administrative Officer
Butte County Administration

Cc: Butte County Board of Supervisors
Michael Hodson, Director, Butte County General Services
Sheri Waters, Director, Butte County Human Resources
Graciela Gutierrez, Auditor-Controller, Butte County Auditor-Controller's Office
Troy Kidd, Treasurer-Tax Collector, Butte County Treasurer-Tax Collector
Paul LaValley, Director, Butte County Information Systems

Encl. Copy of contract R41404
Copy of August 8, 2022 180 day written notice
Copy of August 8, 2022 estimated cost of support services excluding Human Resources services