

# SAN BENITO LOCAL AGENCY FORMATION COMMISSION

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## REGULAR MEETING AGENDA

Thursday, November 10, 2022 – 4:00 P.M.

Board of Supervisors Chambers  
481 Fourth Street, Hollister CA

Pursuant to California Governor Gavin Newsome’s Executive Order No. N-29-20 issued on March 19, 2020, relating to the convening of public meetings in response to the COVID-19 pandemic, members of the Commission are allowed to attend the meeting via teleconference and to participate in the meeting to the same extent as if they were present.

The meetings are open to the public, under the following conditions: All Attendees may attend the Commission meeting in person and follow the State guidelines. If an attendee is not fully vaccinated it is highly recommended that an attendee wears a face covering or face shield. All attendees must comply with any other rules of procedures/instructions announced by the LAFCO Commission and/or LAFCO Staff. The meeting will be available through Zoom for those who wish to join or require accommodations with the instructions below:

The meeting can also be accessed by the public in the following methods: Through Zoom (<https://zoom.us/join>) per the instruction stated below, and other methods as described further below with the following ID and Password:

Webinar ID: 831 7791 0570

Webinar Password: 808525

### Participating by Zoom:

Three ways to attend Zoom meetings: on a web browser, through the Zoom App, or over the phone. Each webinar will have a webinar ID and password, which is a unique number associated with an instant or scheduled meeting (found at the top of this text). The chat feature is disabled for all participants. Additionally, the video function is not available to the public.

Zoom regularly provides new versions of the Zoom desktop client and Zoom mobile app to release new security features and fix bugs. To ensure you can join the meeting and participate through public comment, please launch the web address to download the Zoom application: <https://zoom.us/support/download>. Furthermore, we recommend upgrading to the latest version of Zoom once it is available. Please visit <https://support.zoom.us/hc/en-us/articles/201362233-Upgrade-update-to-the-latest-version> to ensure you have the newest Zoom update.

#### Zoom on Web-browser:

- a. If joining through web-browser, launch the address <https://zoom.us/join> or open the direct link listed below: <https://zoom.us> or launch the Zoom app on your Tablet or Smartphone.
- b. Select “JOIN A MEETING”
- c. The participant will be prompted to enter Webinar ID and Password listed above and name to join the meeting. The meeting agenda can be found at <https://www.cosb.us/>
- d. The participant can launch audio through their computer or set it up through the phone.
- e. Public Comment: Select the “Participants Tab” and click “Raise hand” icon, and the Zoom facilitator will unmute you when your turn arrives.

#### Zoom Audio Only (phone):

- a. If you are calling in as audio-only, please dial US: +1 669 900 6833 or +1 408 638 0968
- b. It will ask you to enter the Webinar ID listed above, followed by the “#” key (pound key), then enter Webinar Password listed above at the top page of the agenda. The meeting agenda can be found at <https://www.cosb.us/>
- c. It will then ask for a Participant ID, press the “#” key (pound key) to continue.
- d. Once you enter the Zoom meeting, you will automatically be placed on mute.
- e. Public Comment: If you are using a phone, please press “\*9” (star-nine) to raise your hand, and the Zoom facilitator will unmute you when your turn arrives.

#### Written Comments & Email Public Comment

Members of the public may submit comments via email by 5:00 PM on the Wednesday prior to the meeting to the LAFCO Clerk at [VDelgado@cosb.us](mailto:VDelgado@cosb.us).

#### Public Comment Guidelines

- a. The Commission welcomes your comments.
- b. If participating on Zoom, once you are selected you will hear that you have been unmuted: At this time, please state your first name, last name, and county you reside in for the record.
- c. Each individual speaker will be limited to a presentation total of three (3) minutes, or such other time as may be designed by the Chair.
- d. Please keep your comments, brief, to the point, and do not repeat prior testimony, so that as many people as possible can be heard. Your cooperation is appreciated.

If you have any questions, please contact the LAFCO Clerk at (831) 636-4000, Ext. 13 or email [VDelgado@cosb.us](mailto:VDelgado@cosb.us)

1. Call to Order and Roll Call
2. Recitation of the Pledge of Allegiance
3. Approve Affidavit of Posting Agenda

#### BUSINESS ITEMS – GENERAL BUSINESS, NON-HEARING ITEM

4. Adopt proposed resolution authorizing teleconferencing options for meetings of the Local Agency Formation Commission for the period of November 10, 2022, to December 10, 2022, pursuant to AB 361.

### PUBLIC COMMENT PERIOD

5. Public Comment Period - This is an opportunity for members of the public to speak on items that are not on the agenda.

### CONSENT AGENDA

6. Approval of Minutes of the October 13, 2022 Commission Meeting.

### CLOSED SESSION

7. PUBLIC EMPLOYMENT (Government Code section 54957) – LAFCO Executive Officer
8. PUBLIC EMPLOYEE APPOINTMENT (Government Code section 54957) – LAFCO Executive Officer

### INFORMATIONAL

9. Commissioner Announcements and Requests for Future Agenda Items
10. Executive Officer oral status report on pending proposals and other LAFCO business items
11. Adjourn to next regular meeting on December 8, 2022, unless meeting is cancelled by the Chair

Disclosure of Campaign Contributions – LAFCO Commissioners are disqualified and are not able to participate in proceedings 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 a financially interested person who actively supports or opposes the LAFCO decision on this matter.

Those who have made such contributions are required to disclose that fact for the official record of the proceedings. Disclosures must include the amount of the contribution and the recipient Commissioner and may be made either in writing to the Executive Officer 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 in Government Code section 84308.

Disability Accommodations - Persons with a disability who require any disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the meeting are asked to contact the LAFCO Clerk’s Office at least three (3) days prior to the meeting by telephone at 831-636-4000, Ext. 13 or by email at [VDelgado@cosb.us](mailto:VDelgado@cosb.us).

*LOCAL AGENCY FORMATION COMMISSION  
2301 Technology Parkway  
Hollister, CA 95023*



**CERTIFICATE OF POSTING**

Pursuant to Government Code § 59454.2(a) I, Vanessa Delgado, Clerk of the Board of Supervisors, certify that the REGULAR MEETING AGENDA for the

**SAN BENITO COUNTY LOCAL AGENCY FORMATION COMMISSION**

Scheduled for November 10, 2022 was posted at the San Benito County Planning Department, 2301 Technology Parkway, Hollister, CA and at the San Benito County Administration Office, 481 Fourth Street, Hollister, CA on this 3rd Day of November, 2022.

All locations freely accessible to the general public.

*Vanessa Delgado*  
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Vanessa Delgado  
Clerk of the Board of Supervisors

**BUSINESS ITEMS –**  
**GENERAL BUSINESS, NON-**  
**HEARING ITEM**

4. Adopt proposed resolution authorizing teleconferencing options for meetings of the Local Agency Formation Commission for the period of October 13, 2022, to November 12, 2022, pursuant to AB 361.



**LOCAL AGENCY FORMATION COMMISSION**  
SAN BENITO COUNTY

2301 Technology Parkway  
Hollister, CA 95023  
Phone: (831) 637-5313 Fax: (805) 647-7647

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DATE: November 10, 2022

TO: Local Agency Formation Commission

FROM: Kate McKenna, Acting Executive Officer 

**Proposed Resolution authorizing teleconferencing option for meetings of the Local Agency Formation Commission for the period of November 10, 2022 to December 10, 2022 pursuant to AB 361 (Agenda Item 4)**

REQUEST

It is requested the Commission adopt the proposed Resolution No. 2022-05 authorizing teleconferencing options for meetings of the Local Agency Formation Commission for the period of November 10, 2022 to December 10, 2022 pursuant to AB 361.

DISCUSSION

On June 11, 2022, Governor Gavin Newsom issued Executive Order N-08-21, amending his prior Executive Order N-29-20 and waiving certain provisions of the Brown Act relating to teleconferences / remote meetings by local agency legislative bodies. The Executive Order waived, among other things, the provisions of the Brown Act that otherwise required the physical presence of members of local agency legislative bodies or other personnel in a particular location as a condition of participation or as a quorum for a public meeting. These modifications remained in effect through September 21, 2021.

On September 16, 2021, the Governor signed Assembly Bill (AB) 361, a bill that codifies certain teleconferencing procedures that local agencies have adopted in response to the Governor's Brown Act-related Executive Orders. Specifically, AB 361 allows a local agency to continue to use teleconferencing under the same basic rules as provided in the Executive Orders under certain prescribed circumstances or when certain findings have been made and adopted by the legislative body.

When the state of emergency lasts longer than 30 days, as in the case presently, the legislative body must make findings every 30 days to continue using the bill's exemption to the Brown Act teleconferencing rules. AB 361 mandates that the legislative body must find that there is a continuing need for teleconferencing due to dangers posed by the ongoing state of emergency. This means that local agencies will have to put an item on the public meeting agenda at least every 30 days to make the findings regarding the circumstances of the emergency and to vote to continue relying on the law's teleconferencing provisions.

Reducing the circumstances in which people come into close contact remains a vital component of the County's COVID-19 response strategy. Local agency public meetings are an essential government function and the last 30 months have proven that the hybrid format protects public access while minimizing exposure to COVID-19.

Local Agency Formation Commission  
Adoption of Resolution Authorizing Teleconferencing Options for Meetings Pursuant to AB 361  
November 10, 2022  
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Staff therefore recommends that the Commission adopt findings that conducting in person meetings at the present time would present an imminent risk to the health and safety of attendees allowing a hybrid meeting format is a necessary option. Enclosed is a resolution to that effect and directing staff to return every 30 days to afford the Commission the opportunity to reconsider such findings. If the Commission adopts the proposed resolution, they may continue to meet under the modified Brown Act teleconference rules of AB 361 through December 10, 2022.

Enclosure – Resolution No. 2022-05

LAFCO No. 2022-05

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF SAN BENITO COUNTY AUTHORIZING CONTINUED REMOTE TELECONFERENCE MEETINGS PURSUANT TO AB 361

WHEREAS, the Local Agency Formation Commission of San Benito County is committed to preserving and nurturing public access and participation in Commission meetings subject to the Ralph M. Brown Act ("Brown Act"); and

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

WHEREAS, on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic; and,

WHEREAS, the proclaimed state of emergency remains in effect; and,

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 that suspended the teleconferencing rules set forth in the California Open Meeting law, Government Code section 54950 et seq. (the "Brown Act"), provided certain requirements were met and followed; and,

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 that clarified the suspension of the teleconferencing rules set forth in the Brown Act, and further provided that those provisions would remain suspended through September 30, 2021; and,

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 that provides that a legislative body subject to the Brown Act may continue to meet without fully complying with the teleconferencing rules in the Brown Act provided the legislative body determines that meeting in person would present imminent risks to the health or safety of attendees, and further requires that certain findings be made by the legislative body every thirty (30) days; and,

WHEREAS, California Department of Public Health ("CDPH") and the federal Centers for Disease Control and Prevention ("CDC") caution that the Delta variant of COVID-19, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations (<https://www.cdc.gov/coronavirus/2019-ncov/variants/delta-variant.html>); and,



San Benito LAFCO  
LAFCO Resolution No. 2022-05

WHEREAS, the transmission and existence of COVID-19 remains prevalent in the Community, as evidenced by the statistics located on the San Benito County website at: <https://hhsa.cosb.us/public-health/covid-19/>

WHEREAS, the Commission has an important governmental interest in protecting the health, safety, and welfare of those who participate in meetings subject to the Brown Act; and,

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the Local Agency Formation Commission of San Benito County deems it necessary to find that a requirement to meet in person for meetings of the Commission would present imminent risks to the health or safety of attendees, and thus, intends to invoke the provisions of AB 361 related to teleconferencing; and,

WHEREAS, the Commission has considered all information related to this matter, as presented at the public meetings of the Commission, including but not limited to the current circumstances related to the state of emergency, which continues to remain in active.

WHEREAS, the Commission further finds that the state of emergency continues to directly impact the ability of the members to meet safely in person.

NOW, THEREFORE, BE IT RESOLVED, by the Local Agency Formation Commission of the County of San Benito as follows:

1. The Commission finds that the facts set forth in the recitals to this Resolution are true and correct.
2. The above findings and this resolution apply to all meetings of the Local Agency Formation Commission of San Benito County subject to the Brown Act for the period of October 13, 2022, to November 12, 2022.
3. As long as the State Emergency remains in effect or until directed otherwise by the Commission, staff shall present to the Commission at every meeting as necessary, an item to continue the findings required by AB 361.
4. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of thirty (30) days from adoption of the Resolution or such time the Commission adopts a subsequent Resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Commission may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953; and,

San Benito LAFCO  
LAFCO Resolution No. 2022-05

5. The Executive Officer and LAFCO Counsel are directed to take such other necessary or appropriate actions to implement the intent and purposes of this resolution.

PASSED AND ADOPTED by the Local Agency Formation Commission of San Benito County, on this 10<sup>th</sup> day of November 2022, by the following vote:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSTAINING: COMMISSIONERS

ABSENT: COMMISSIONERS

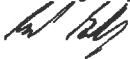
Dated: \_\_\_\_\_

Bob Tiffany, Chair  
San Benito Local Agency Formation Commission

ATTEST:

APPROVED AS TO LEGAL FORM:

DocuSigned by:



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\_\_\_\_\_  
Kate McKenna, Acting Executive Officer  
San Benito Local Agency  
Formation Commission

\_\_\_\_\_  
Reed Gallogly, LAFCO Counsel

DATE: \_\_\_\_\_

DATE: 11/1/2022

# **PUBLIC COMMENT PERIOD**

**5. Public Comment Period - This is an opportunity for members of the public to speak on items that are not on the agenda.**



# CONSENT AGENDA

**6. Approval of Minutes of the October 13, 2022  
Commission Meeting.**



**SAN BENITO LOCAL AGENCY FORMATION COMMISSION  
MINUTES OF MEETING**

October 13, 2022

Board of Supervisors Chambers - Hollister, CA

**CALL TO ORDER**

1. Chair Bob Tiffany called the meeting to order at 4:01 p.m. Those present were Acting Executive Officer Kate McKenna and Commissioners: Bob Tiffany, Bea Gonzales, Ignacio Velazquez, Richard Bettencourt, and Cesar Flores. Also present were Reed Gallogly, LAFCO Counsel, and Vanessa Delgado, Recording Secretary.

2. **INTRODUCTION OF KATE MCKENNA, ACTING EXECUTIVE OFFICER PROVIDING TEMPORARY SUPPORT IN HER CAPACITY AS MONTEREY LAFCO EXECUTIVE OFFICER.**

Chair Bob Tiffany welcomed Acting Executive Officer Kate McKenna.

Acting Executive Officer Kate McKenna made a brief introductory statement about her volunteer assistance to San Benito LAFCO.

3. Commissioner Velazquez led the **Pledge of Allegiance.**

4. **APPROVE AFFIDAVIT OF POSTING AGENDA**

*Commissioner Gonzales made a motion to accept the Affidavit of Posting, Commissioner Velazquez seconded. (5/0 vote)*

*Ayes: Tiffany, Gonzales, Velazquez, Bettencourt, and Flores  
Noes: None  
Abstain: None  
Absent: None*

**BUSINESS ITEMS – GENERAL BUSINESS, NON-HEARING ITEMS**

5. 2022 Adopt proposed resolution authorizing teleconferencing options for meetings of the Local Agency Formation Commission for the period of October 13, 2022, to November 12, 2022, pursuant to AB361.

There were no comments from members of the public.

*Commissioner Gonzales made a motion to adopt the proposed resolution authorizing teleconferencing options for meetings of the Local Agency Formation Commission for the period of October 13, 2022 to November 12, 2022, pursuant to AB 361, Commissioner Velazquez seconded. (5/0 vote)*

*Ayes: Tiffany, Gonzales, Velazquez, Bettencourt, and Flores  
Noes: None  
Abstain: None  
Absent: None*

**PUBLIC COMMENT**

6. **Public Comment Period - This is an opportunity for members of the public to speak on items that are not on the agenda**

There were no comments from members of the public.

**CONSENT AGENDA**

7. **Approval of minutes: August 11, 2022, and September 8, 2022**

There were no comments from members of the public.

*Commissioner Gonzales made a motion to approve the minutes from the meetings on August 11, 2022 and September 8, 2022, Commissioner Flores seconded. (5/0 vote)*

*Ayes: Tiffany, Gonzales, Velazquez, Bettencourt, and Flores  
Noes: None  
Abstain: None  
Absent: None*

**GENERAL BUSINESS – NON-HEARING ITEMS:**

8. **2022 CALAFCO Consideration of Exemption from LAFCO Review Under Government Code Section 56133(e)(4) for continuation of sewer service from the City of Hollister for a “HEAP” grant funded homeless transitional housing project consisting of 11 “tiny homes” located at the County Migrant Farm Labor Housing Center at 33235 Southside Road (Assessor’s Parcel Number 020-300-030). The project is proposed by the San Benito County Resource Management Agency.**

Acting Executive Officer Kate McKenna gave a brief overview prepared by former Executive Officer Bill Nicholson regarding the Exemption, history of the land use and purpose of the letter to be signed.

There were comments and questions from Commissioners Velazquez, Bettencourt, and Tiffany.

Commissioners Velazquez and Bettencourt are in agreeance with the exemption due to historical use of the land.

Commissioners Flores and Gonzales had no comments.

*Commissioner Gonzales made a motion for the Chair to sign the letter to the City of Hollister and The San Benito County Resources Management Agency verifying that their use of the historic sewer connections for the proposed "HEAP" homeless transitional housing "tiny home" project at 3235 Southside Road is exempt from LAFCO approval under Government Code Section 56133 (e) (4). Commissioner Flores, seconded. (5/0 Vote)*

*Ayes: Tiffany, Gonzales, Velazquez, Bettencourt, and Flores  
Noes: None  
Abstain: None  
Absent: None*

There was one public comment from Elia Salinas.

#### **INFORMATIONAL BUSINESS ITEMS – GENERAL BUSINESS, NON-HEARING ITEMS**

**9. Status of Recruitment for the LAFCO Executive Officer Position (Henie Ring, Human Resources Director, San Benito County)**

Human Resources Manager Henie Ring addressed the commission regarding the current recruitment status for the LAFCO Executive Officer position: currently the position is listed on the San Benito County Website and on Governmentjobs.com.

Acting Executive Officer Kate McKenna and Commissioner Gonzales volunteered to conduct recruitment outreach during the 2022 CALAFCO Conference scheduled from October 19<sup>th</sup> through October 21<sup>st</sup>.

There were questions and comments from Commissioners Tiffany, Gonzalez, and Bettencourt.

Commissioner Bettencourt requested clarification on scheduling a special meeting which was provided by LAFCO Counsel, Reed Gallogly.

There were no comments from members of the public.

#### **INFORMATIONAL**

**10. Update on sewer extension status for projects in the Fairview Road/Airline Highway Area following planned Sunnyslope County Water District (Drew Lander) presentation to Hollister City Council on October 03, 2022 (Oral Report by Chair Tiffany)**

Sunnyslope County Water District General Manager Drew Lander addressed the Commission and explained that Sunnyslope County Water District does not have a Contract in place with the City of Hollister as he has yet to meet with the city manager. Mr. Lander has met with the new president of Gavilan College.

There was discussion among Commissioners Tiffany, Velasquez, Gonzales, and Bettencourt and Mr. Lander and Devin Felice regarding Gavilan College and the sewer extension.

There was one public comment from Elia Salinas.

Commissioner Velazquez responded to the public comment.

For the record, Commissioner Gonzales requested counsel to clarify the issue of an alternate commissioner providing public comment.

Counsel Reed Gallogly responded, referring to the memo he had previously written on the topic and procedures.

**11. Commissioner Announcements and Requests for Future Agenda Items**

Commissioner Tiffany requested an update from Commissioner Velazquez on the City of Hollister's General Plan Presentation.

Commissioner Velazquez stated they are wrapping up a few things since the Planning Director went to another agency.

Commissioner Bettencourt commented on the Executive Officer being involved in the General plan early on.

Commissioner Bettencourt requested an informational update on Gavilan College on a future agenda.

There were no comments from members of the public.

**ADJOURNMENT**

- 12. Upon a motion by Commissioner Gonzales, and seconded by Commissioner Bettencourt, and carried 5 – 0, the meeting was adjourned at 5:10 p.m.**

Final Minutes Approved by the Commission  
on \_\_\_\_\_

By: \_\_\_\_\_

Bob Tiffany, Chairman



# **CLOSED SESSION**

**7. PUBLIC EMPLOYMENT (Government Code section 54957) – LAFCO Executive Officer**

**8. PUBLIC EMPLOYMEE APPOINTMENT (Government Code section 54957) – LAFCO Executive Officer**



# **INFORMATIONAL**

**9. Commissioner Announcements and Requests for Future Agenda Items**

**10. Executive Officer oral status report on pending proposals and other LAFCO business items**

**11. Adjourn to next regular meeting on December 8, 2022, unless meeting is cancelled by the Chair**

