

Colusa Local Agency Formation Commission

Regular Meeting Agenda

Thursday – December 7, 2023

**Board of Supervisors Chambers
546 Jay Street
Colusa, CA.**

3:00 PM

**1. Call to Order/Roll Call
Commissioners**

Kent Boes (Vice-Chair, County)
Katherine Dunlap, (Williams, City)
Brandon Ash (Public)

Alternates

Ryan Codorniz (City Alternate)
Janice Bell (County Alternate)
John Loudon, (Public Member Alternate)

Staff

John Benoit, Executive Officer
P. Scott Browne, Legal Counsel

Greg Ponciano (Chair, Colusa, City)
Merced Corona (Chair, County)

Paige Hensley Clerk

2. Approval of minutes from the September 7th and October 5 , 2023 meetings

Action:

- a. Approve minutes from the September 7th and October 5th, 2023 meetings*

3. Public Comment

This is the time for the public to address the Commission on any matter not on the agenda. Testimony related to an item on the agenda should be presented at the time that item is considered

4. Consent Agenda

Action:

- a. Payment of claims for the months of October and November 2023.*

5. Correspondence:

6. Colusa Basin Drainage District (CBDD)

1. *Review LAFCo Counsel Opinion regarding the Colusa Basin Drainage District*
2. *Presentation from Merrilee Vanderwall, Manager of the Colusa Basin Drainage District regarding District activities.*

7. Review of the Calafco Annual Conference from October 18-20th

8. LAFCo Regular meeting schedule for 2024

- a. *Adopt meeting schedule*

9. Retirement of Executive Officer effect around June 30, 2024

- a. *Discussion and options for recruitment of a new Executive Officer*
- b. *Appoint an ad hoc committee to make a recommendation to the Commission*

10. Executive Officer's Report:

Williams Service Review

11. Commissioner Reports - Discussion

This item is placed on the agenda for Commissioners to discuss items and issues of concern to their constituency, LAFCO, and legislative matters

12. Next Colusa LAFCo meeting: The next LAFCo meeting will take place on January 4th 2024

Any member appointed on behalf of local government shall represent the interests of the public as a whole and not solely the interest of the appointing authority Government Code Section 56331.4

Pursuant to Government Code Section 54954.2, Commission members may make a brief announcement or report on activities. Commission members may also provide a reference to staff or other resources for factual information, request staff to report back to the Commission at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

Public Comment

Members of the public may address the Commission on items not appearing on the agenda, as well as any item that does appear on the agenda, subject to the following restrictions:

- Items not appearing on the agenda must be of interest to the public and within the Commission's subject matter jurisdiction.
- No action shall be taken on items not appearing on the agenda unless otherwise authorized by Government Code Section 54954.2 (known as the Brown Act, or California Open Meeting Law).
- The total amount of time allotted for receiving public comment may be limited to 15 minutes.
- Any individual's testimony may be limited to 5 minutes. Time to address the Commission will be allocated on the basis of the number of requests received.

Public Hearings

Members of the public may address the Commission on any item appearing on the agenda as a Public Hearing. The Commission may limit any person's input to 5 minutes. Written statements may be submitted in lieu of or to supplement oral statements made during a public hearing.

Agenda Materials

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda are available for review for public inspection in the Colusa County Clerk's office located at the Colusa County Courthouse 546 Jay Street, Colusa CA. [such documents are also available on the Colusa LAFCO website as noted below to the extent practicable and subject to staff's ability to post the documents prior to the meeting].

Accessibility

An interpreter for the hearing-impaired may be made available upon request to the Executive Officer 72 hours before a meeting. The location of this meeting is wheelchair-accessible.

Disclosure & Disqualification Requirements

Colusa LAFCO

Pursuant to Government Code Sections 56100.1, 56300(b), 56700.1, and 81000 et seq., and Colusa LAFCO's Policies and Procedures for the Disclosure of Contributions and Expenditures in Support of and Opposition to Proposals, any person or combination of persons who directly or indirectly contribute \$1000 or more or expend \$1000 or more in support of or opposition to a change of organization or reorganization that has been submitted to Colusa LAFCO must comply with the disclosure requirements approved by Colusa LAFCO. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. Additional information may be obtained at the Colusa County Elections Department 546 Jay Street, Colusa, CA 95932. (530) 458-0500

A LAFCO Commissioner must disqualify herself or himself from voting on an application involving an "entitlement for use" (such as an annexation or sphere amendment) if, within the last twelve months, the Commissioner has received \$250 or more in campaign contributions from the applicant, any financially interested person who actively supports or opposes the application, or an agency (such as an attorney, engineer, or planning consultant) representing the applicant or an interested party. The law (Government Code Section 84308) also requires any applicant or other participant in a LAFCO proceeding to disclose the contribution amount and name of the recipient Commissioner on the official record of the proceeding.

Contact LAFCO Staff LAFCO staff may be contacted at (530) 619-5128 or by mail at Colusa LAFCO P.O. Box 2694, Granite Bay Ca 95746 or by email at lafco@countyofcolusa.com or j.benoit4@icloud.com

Webpage Reports, agendas, minutes and general information about LAFCO are available on the LAFCO Webpage at www.colusalafco.org

#2

**LOCAL AGENCY FORMATION COMMISSION
COLUSA COUNTY
MINUTES OF MEETING
SEPTEMBER 7, 2023**

1. Call to Order/Roll Call:

Chair, Ponciano called the meeting to order at 3:00 p.m. There was a quorum present.

Commissioners Present:

Greg Ponciano – City Member
Merced Corona, County Member
Kent Boes – County Member
Katherine Dunlap - City Member
Brandon Ash – Public Member

Alternates Present:

Ryan Codorniz – City Alternate
Janice Bell – County Alternate
John Loudon – Public Alternate

Also present:

John Benoit, Executive Officer
Scott Browne, Legal Counsel
Paige Hensley, Clerk

2. Consider Meeting Minutes from July 6, 2023.

Action: Upon motion from Commissioner Cordona and a second from Commissioner Dunlap, the commission approved the minutes for July 6 , 2023; Motion carried by roll call vote. Commissioner Boes - Abstained

3. Public Comment: None

4. Consent Agenda:

a. Payment of Claims for the months of July and August 2023.

Action: Upon motion from Commissioner Corona, and a second from Commissioner Ponciano, the commission approved the consent agenda; Motion carried by roll call vote.

5. Correspondence:

None to report.

6. GCID MSR and SOI Discussion:

- a) Executive Officer's introduction
- b) Review and discuss comments re: the GCID MSR and SOI
- c) Receive GCID's response
- d) Provide clear direction to staff
- e) Set public hearing to a date and time certain

John Benoit updated the Commission of the need to update some of the data in the MSR and informed them Zachary Dickens from GCID is no longer with the district. He explained GCID is in agreement with taking in all the refuges. John Benoit stated it may be premature to set a public hearing.

Commissioner Ponciano asked if the SOI comes up to the Colusa Refuge.

John Benoit explained it does come up to the SOI boundary but does not include it and explained the need to have the map updated.

Public Comment:

Ben King expressed his agreement with updating the SOI and stated the Glen Colusa Irrigation District is one of the most important public agencies in both Glenn and Colusa County. Ben stated the district is central to irrigation and drainage and gave the Commission some historical context on the area.

John Benoit suggested staff will follow up with updates to the Commission in the future as issues are addressed.

The Commission directed the project back to staff in accordance with the comments that had been received.

7. Review the Colusa Basin Drainage District (CBDD) Legislation and make determination as to Colusa LAFCO's jurisdiction and obligations.

Requested Action:

- a. Review the CBDD authorizing legislation Section 127-50. Application of other provisions (Page 4) and determine Colusa LAFCO's Jurisdictions and obligations.

Scott Browne explained his initial opinion is that formation is not subject to LAFCO but any changes after that would be subject to LAFCO, however he will research it further to make a final determination.

Ben King offered a little background and also discussed the overlap of services between multiple districts.

Scott Browne explained an MSR is to determine the efficiency of service districts and to address any possible duplicate services.

Ben King suggested inviting the Director of RD108 to a future LAFCO meeting to explain what is going on in their district.

8. Executive Officer's Report:

- a. Upcoming Projects – John Benoit stated there is an annexation coming up in Arbuckle.
- b. Calafco Conference October 17-20, 2023 – John explained there are 4 Commissioners signed up for the Calafco Conference.

9. Commissioner Reports – Commissioner Loudon discussed the need for a 3 story ladder fire truck needed for new 3 story housing.

10. Next Colusa LAFCO meeting: The next Colusa LAFCO meeting is scheduled for October 5th, 2023.

The meeting was adjourned at 3:48 p.m.

**LOCAL AGENCY FORMATION COMMISSION
COLUSA COUNTY
MINUTES OF MEETING
October 5th, 2023**

1. Call to Order/Roll Call:

Chair, Ponciano called the meeting to order at 3:02 p.m. There was a quorum present.

Commissioners Present:

Greg Ponciano – City Member
Merced Corona, County Member
Katherine Dunlap - City Member
Brandon Ash - Public Member

Alternates Present:

John Louden- Public Alternate
Janice Bell – County Alternate

Also present:

John Benoit, Executive Officer
Scott Browne, Legal Counsel
Paige Hensley, Clerk

2. Consider Meeting Minutes from September 7, 2023.

The minutes from September 7, 2023, were continued to the next meeting.

3. Public Comment:

Ben King, landowner, stated the General Manager for SOI GCID has resigned. He also made a correction in his assumption of the salt load regarding the contamination of ground water at the Colusa and Sacramento Refuge.

4. Consent Agenda:

- a. Payment of Claims for the month September, 2023.

Action: Upon motion from Commissioner Corona, and a second from Commissioner Bell, the commission approved the consent agenda; Motion carried by roll call vote.

5. Correspondence:

John Benoit explained the upcoming CALAFCo Conference agenda has been sent out.

6. Colusa Basin Drainage District (CBDD)

John Benoit asked Counsel to make determination as to Colusa LAFCO's specific jurisdiction and obligations regarding the Colusa Basin Drainage District.

John Benoit stated he would be Inviting the Colusa Basin Drainage District General Manager to a future LAFCO Meeting.

Ben King explained the need to have a MSR and SOI Update prepared.

7. Colusa County Water District Annexation and Minor Sphere Amendment (File 2023-0001).

John Benoit gave a summary of the Executive Officer Report

Shelly Murphy explained the Colusa County Water District's capacity to provide water.

Public Hearing:

Ben King questions whether there is adequate water supply and expressed concern of adding acreage to the district. He raised the question of inadequate notification to neighbors and wonders about the 218 ramifications.

Shelly Murphy explained the applicants were the ones to reach out to the district and explained others have the same opportunity to submit a letter to the district.

Action:

1. Upon motion of Commissioner Bell and seconded by Commissioner Corona, the commission unanimously voted to approve LAFCO Resolution 2023-0006 adopting a 123.32 acre Sphere of Influence Amendment for Colusa County Water District
2. Upon motion of Commissioner Ponciano and seconded by Commissioner Bell, the commission unanimously voted to approve LAFCo Resolution 2023-0007 annexing 758 acres more or less to the Colusa County Water District.

8. Executive Officer's Report:

- a. Williams Service Review – John Benoit stated staff is working on a Municipal Service Review for Williams.
- b. Calafco Conference – John Benoit briefed the commission on the upcoming CALAFCo Conference.

9. Commissioner Reports:

Scott Brown, LAFCO Counsel explained there is a new proposition on the November ballot, and if passed will affect LAFCO annexations in the future. The proposition is intended to further Prop 218 to fill in loopholes that have been used and would require any geographical extension into a district (that already has a special tax) to be conditioned upon a Prop 218.

10. Next Colusa LAFCO meeting: The next Colusa LAFCO meeting is scheduled for December 7th, 2023.

The meeting was adjourned at 3:35 p.m.

Colusa Local Agency Formation Commission

4

CLAIMS

October and November 2023

Authorize payment of the following claims:

FY 2023-2024 EXPENSES:

Claims for October and November 2023:

Nov1, 2023	Staff Svcs and Exp. –October 2023	\$ 4,917.04
Nov 1, 2023	Williams MSR SOI Oct	\$ 1,534.00
Dec 1, 2023	CSDA 2024 Dues	\$ 500.00
9.16-23-10-15.23	Legal Svcs. P. Scott Browne	\$ 2,229.00
Dec 1, 2023	Staff Svcs and Exp Nov 2023	\$ 4,540.06
10.16-23-11-15.23	Legal Svcs. P. Scott Browne	\$ 2,229.00
Oct 18-20, 23	Calafco Exp. Reimb Colusa G. Ponciano	\$ 1,000.23
TOTAL:		\$ 21,407.33

DATED: Dec 7, 2023

APPROVED: Dec 7, 2023

**Greg Ponciano , Chair or Kent Boes, Vice-Chair
Colusa Local Agency Formation Commission**

Attest:

**John Benoit
Executive Officer**

2023-2024

Acct 520-500

City Expenditure titles Expenditure Category City Coding	Ex Officer Cont Executive Off. Co	Clerical Support Clerical Suppt	Workers Co Workers Com	Contactural Lgl Services	Liability Insurance	Office Exp Office Suppli	Postage and Postage	Copies Copies	Dues-Subs Memberships
	7338	7320	7016	7321	7315	7339	7322	7322	7319
	\$53,523.46	\$3,657.00	\$50.00	\$26,761.73	\$2,919.00	\$375.00	\$500.00	\$750.00	\$2,027.00
Calafco Dues 2022-2023 (2022-06)									-\$1,486.00
SDRMA Insurance 22-23 #72123					-\$2,807.81				
Calafco Reg JB,Jb,KD, GP &RC									
Browne Ending 7.15.23				-\$2,229.00					
Staff Svcs July 2023	-\$4,458.00	-\$175.00				-\$32.20	-\$1.39	-\$30.70	
Browne Endign 8.15.2023				-\$2,229.00					
Staff Svcs August 2023	-\$4,458.00					-\$15.00			
Staff Svcs Sept 2023 2024-07	-\$4,458.00					-\$20.00			
Browne Ending 9.15.23				-\$2,229.00					
Browne Ending 10.15.23				-\$2,229.00					
Browne Ending 11.15.23				-\$2,229.00					
r4rr	-\$4,458.00							-\$60.00	
Staff SVCS NOVEMBER 2023	-\$4,458.00						-\$2.00	-\$3.50	
CSDA 2024 Member Invoice									-\$500.00
Conf Reimb Ponciano for Colusa									

Total Expended in FY 21-22	-\$22,290.00	-\$175.00	\$0.00	-\$11,145.00	-\$2,807.81	-\$67.20	-\$3.39	-\$94.20	-\$1,986.00
Total Remaining In FY 21-22	\$31,233.46	\$3,482.00	\$50.00	\$15,616.73	\$111.19	\$307.80	\$496.61	\$655.80	\$41.00

P. SCOTT BROWNE
ATTORNEY AT LAW
12440 The Hollow Road
Grass Valley, California 95945-6501

Business mail: P.O. Box 764
Rough and Ready, California 95975

scott@scottbrowne.com
(530) 320-5163

October 18, 2023

TO: John Benoit, Executive Officer
Colusa Local Agency Formation Commission

FROM: P. Scott Browne, Commission Legal Counsel

RE: Whether The Colusa Basin Drainage District is a Special District Subject to LAFCo Authority for All Changes of Organization Other than Formation

You have requested that I research the legal authority of LAFCo to approve changes of organization for the Colusa Basin Drainage District (Hereinafter "the District"). If so, then does LAFCo also have responsibility to prepare an MSR and Sphere of Influence for the District?:

My conclusion is that under the special legislation that created the District, the Colusa Basin Drainage Act ("the Act") the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) and applicable caselaw, the Colusa Basin Drainage District is a special district subject to LAFCo authority for all changes of organization other than formation. Because it is subject to LAFCo authority, LAFCo has an obligation to prepare an MSR and Sphere of Influence for the District,

The District was created by special legislation in 1987, and is set out in Chapter 127 of the Water Appendix. The stated purpose for the district is "to study, plan, and facilitate the implementation of plans, as specified in Chapter 2 (commencing with Section 610) of Part 6, leaving, wherever possible, the implementation of the plan to the local agency or other district which is best able to carry out that function. (Section 127-413) Nevertheless the District is given broad powers under the Act to establish water works and drainage facilities.

The formation of the District was expressly exempted from CKH and LAFCo approval. But the applicable language in the Act states the limited scope of the exemption as follows:

Sec.127- 50. The Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) does not apply to the formation of the district or the formation or changes in the boundaries of any zone. For all other purposes, the district is a "district" as that term is defined in the Cortese- Knox Local Government Re§ 127-51. Judicial actions or proceedings; limitations

In the case of *Las Tunas Beach Geologic Hazard Abatement Dist. v. Superior Court (City of Malibu)* (1995) 38 Cal. App. 4th 1006] the Court of Appeal was asked to address the application of CKH to dissolution of a geologic hazard abatement district (GHAD) created by special legislation. As with the

Legal Opinion Whether The Colusa Basin Drainage District is a Special District Subject to LAFCo Authority for All Changes of Organization Other than Formation

District here, the legislation for the GHAD provided for formation of the district without LAFCo involvement but was silent as to any further exemption from CKH. The City of Malibu had attempted to dissolve the district on its own, relying on its "common law" general authority. The Court of Appeal rejected that approach, saying:

The City's reliance on these common law theories is misplaced. A GHAD is purely a creature of statute, unknown at common law. Further, Cortese-Knox expressly states it is "the sole and exclusive authority and procedure" for changes of organization, including district dissolution. (Gov. Code, §§ 56100, 56021, subd. (e).) The Legislature thus has evidenced its intention that Cortese-Knox provide the exclusive method for such changes of organization. (See Ferrini v. City of San Luis Obispo, supra, 150 Cal.App.3d at p. 247.) Therefore, the City's effort to enforce its home-grown formation condition pursuant to common law doctrines "interferes with and frustrates state [dissolution] procedures and cannot be sustained." (L.I.F.E. Committee v. City of Lodi, supra, 213 Cal.App.3d at p. 1148.)

We conclude the Public Resources Code's silence with respect to GHAD dissolution requires resort to Cortese-Knox, not to common law theories. [38 Cal. App. 4th 1012]

It would appear Cortese-Knox complements the statutory schemes pertaining to specific types of districts, such as GHAD's, by supplying the necessary procedures for changes of organization and thereby filling any gaps in the legislative scheme. fn. 7

We have a very similar situation here with respect to the Colusa Basin Drainage District. The statute exempts the formation of the district but is even clearer that for all other purposes the District "is a "district" as that term is defined in the Cortese- Knox Local Government Act" (*Water Code Appendix Section 127-50*). Under the Las Tunas decision and this statutory provision it is clear that the District is subject to LAFCo jurisdiction for all other changes of organization just like any other special district. As such, it is subject to the mandate of Gov't C §56425 and 56430 which require LAFCo to develop a sphere of influence and prepare a Municipal Services Review for the District.

I trust this clarifies LAFCo's responsibility with regard to the Colusa Basin Drainage District,

P. Scott Browne
Colusa LAFCo Legal Counsel



Colusa Local Agency Formation Commission

2024

LAFCO Regular Meeting Schedule

3:00 p.m.

**Board of Supervisors Room
546 Jay Street
Colusa, California**

January 4th

February 1st

March 7th

April 4th

May 2nd

June 6th

July 11th

(July 4th is a Holiday)

August 1st

September 5th

October 3rd

November 7th

December 5th

Regular meetings of the Commission are scheduled for the first Thursday of every month at 3:00 p.m. in the Board of Supervisor's Chambers, 546 Jay St, Colusa, California. The Commission may, at its own discretion, meet at a different time or place from time to time, provided that public notice of such time and place is given in accordance with the Open Meeting Law, Government Code Section 54954 and applicable provisions of the LAFCO Act.

The Chair or Executive Officer may call a special meeting of the Commission. The Chair shall call a special meeting if requested by two or more Commissioners. Any special meetings of the Commission shall be called in the manner provided by Section 54956 of the Government Code. The order calling the special meeting shall specify the time and place of the meeting and the business to be conducted and no other business shall be conducted at that meeting. The special meeting may be called for any day prior to the date established for the next regular meeting of the Commission.