



# San Diego County Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

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# 8a

**AGENDA REPORT**  
Business | Discussion

October 4, 2021

**TO:** Commissioners

**FROM:** Keene Simonds, Executive Officer

**SUBJECT: First Quarter Update on the Adopted Workplan &  
Related Referral on Public Inquiry to Establish Policies for Fire Prone Areas**

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## SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will receive a quarterly update on the adopted workplan for 2021-2022. The update is marked by work commencing on nearly one-half of all 30 projects through the end of the first quarter with two now completed (office move and translation policy) and a third nearing completion (Fallbrook-Rainbow Ad Hoc Committee). The update also highlights projects expected to be a focus in the second quarter along with addressing a referral from the Commission on a public inquiry to consider a policy involving LAFCO actions in fire prone areas. The item is for discussion and provides an opportunity to provide feedback and identify potential amendments.

## BACKGROUND

### 2021-2022 Workplan

San Diego LAFCO's current fiscal year workplan was adopted at a noticed public hearing held in May 2021. The workplan includes 30 projects and divided into two distinct categories – statutory and administrative – along with priority assignments ranging from high to low. The Commission reserves discretion to amend the workplan during the fiscal year to address changes in priorities or resources as well as to continue projects into subsequent fiscal years.

#### Administration

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General Public

The Commission has approved one amendment to the workplan to date and summarized in the accompanying footnote.<sup>1</sup>

## DISCUSSION

This item provides San Diego LAFCO a quarterly update on accomplishing projects calendared as part of the adopted workplan in 2021-2022. The update tracks the Commission's progress as the first quarter draws to a close with nearly one-half – 14 of the 30 – of the calendared projects having commenced with two already completed. The completed projects involve relocating the LAFCO office out of the County of San Diego's Operations Center in Kearny Mesa to a private space in downtown San Diego as well as establishing policies to guide translation protocols and accommodations. A third project is separately nearing completion and involves the work of the Fallbrook-Rainbow Ad Hoc Committee. All adopted workplan projects and their current statuses are detailed in Attachment One. Additional discussion on three high-priority projects expected to take focus in the second quarter follows along with addressing a Commission referral on a related request from a member of the public.

### Highlighted Projects for the 2<sup>nd</sup> Quarter

- Legislative Proposal to Amend Government Code Section 56133(e)

This high-priority project involves amending Government Code Section 56133 and its provisions directing cities and special districts to receive LAFCO approval before providing services by contract beyond their boundaries less certain exemptions. This section was made effective in 2001 and chaptered as part of legislation authored by former San Diego LAFCO Commissioner Mike Gotch. Administering the legislation has proven challenging. The most notable challenge involves local agencies self-qualifying themselves for the exemptions provided in statute without consultation with LAFCOs; a dynamic that has directly resulted in local conflicts with the Commission as well as other cities and districts. An amendment is accordingly being sought to clarify and make certain that all exemptions in subsection (e) – such as grandfathering eligibility and contracts between two or more public agencies in which the subject services are equal substitutes for services already provided – are determined by the Commission or, if delegated, the Executive Officer.

LAFCO's initial activities on this workplan project began in Fall 2020 and included outreach with stakeholders – including other LAFCOs and the California Special Districts Association – and potential authors before work was paused due to other workplan priorities and resource considerations. Staff is now returning to the project with the enlistment of CALAFCO as a co-sponsor and the goal of securing an author for introduction into the 2022 session. The proposed amendment as currently drafted is provided as Attachment Two.

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<sup>1</sup> At the recommendation of the Executive Officer, the Commission amended the adopted workplan in August 2021 to split the Oceanside-Carlsbad Regional Municipal Service Review and in doing so allow for separate studies on these subregions. A corresponding amendment was also made to remove and defer the Encinitas Regional Municipal Service Review.

- Escondido Region Municipal Service Review: Part II

This high-priority project involves completing the second and final part of a scheduled municipal service review on the Escondido region specific to the City of Escondido. This two-part project ties to the Commission’s separately adopted study schedule and follows the earlier competition of Part I involving the Rincon del Diablo Municipal Water District and Deer Springs Fire Protection District. Part II – notably and distinct from Part I – is being primarily prepared by the City of Escondido via Concordia Homes based on an earlier agreement with LAFCO and done so to allow the developer to sync the document with their pending subdivision project now known as “Harvest Hills.” Subsequent sphere of influence updates for all agencies in the region will draw on both Parts I and II. The completion of this two-part project will also enable the Commission to proceed with a separate workplan project involving a governance study on the Escondido region to explore reorganization options between the City of Escondido and Rincon del Diablo Municipal Water District.

Part II has been underway since early 2017 with several restarts along the way due to a variety of external factors to LAFCO. Staff has remained in contact with Concordia Homes and this includes providing comments on administrative drafts to help ensure LAFCO’s informational needs are addressed. Towards this end, the most recent administrative draft reviewed in July 2021 appears largely complete and staff is now coordinating with the Concordia Homes and the City in bringing the item forward to the Commission by the end of the calendar year. The presentation to the Commission will include the draft report prepared by Concordia Homes and an addendum from LAFCO staff addressing – among other items – key conclusions and recommendations.

- Fallbrook-Rainbow Region Municipal Service Review

This high-priority project ties to the Commission’s separately adopted study schedule and covers four local agencies: Fallbrook Public Utility District; Rainbow Municipal Water District; North County Fire Protection District; and County Service Area 81. The municipal service review will directly inform subsequent sphere of influence updates for all four agencies. The municipal service review also serves as a prerequisite for the Commission to proceed with three separate applications already on file with LAFCO and headlined by related requests by Rainbow Municipal Water District and Fallbrook Public Utility District to detach from the County Water Authority and annex into Eastern Municipal Water District (Riverside County). The third associated proposal involves a stand-alone request by Fallbrook Public Utility District to activate latent powers to provide park and recreation services.

Work on this high-priority project has been purposefully aligned to follow the Fallbrook-Rainbow Ad Hoc Committee process given their overlapping assessment of water rates and water reliability. Draft agency profiles have now been completed for three of the four agencies and currently under technical review by the subject agencies. The fourth profile involving County Service Area No. 81 is currently underway. Staff anticipates bringing the draft report on the municipal service review to the Commission before the end of the calendar year.

## Referral on Public Request | Policy Discussion Involving Fire Prone Areas

At the August 2021 meeting, the Commission received a public comment from Patricia Borchmann regarding a recent New York Times article on insurance companies limiting and/or cancelling fire coverage policies in California. Ms. Borchmann requested the Commission consider an agenda item in October 2021 to discuss the establishment of one or more LAFCO policies to curb or restrict actions under its authority in fire prone areas. With concurrence from the Commission, the Chair referred Ms. Borchmann's comment to the Executive Officer and asked for a staff response in October. To this end, and after speaking with Ms. Borchmann offline, staff proposes the Commission table the otherwise merited topic and incorporate it into the scheduled fire services review calendared for 2023-2024. Ms. Borchmann supports this approach (Attachment Three).

### ANALYSIS

San Diego LAFCO is generally proceeding as planned as the first quarter comes to an end with two high-priority projects already completed (office move and translation policy) and a third nearing completion (Fallbrook-Rainbow Ad Hoc Committee). Other projects underway are reflected in Attachment One and highlighted by the above-discussed priority projects that staff anticipates focusing LAFCO resources during the second quarter and presumably will be forwarded to the Commission before the end of December. Other priority projects staff anticipates focusing resources on during the second quarter – albeit to a lesser degree to the preceding items – involve policy actions on city island annexations, categorizing special district service functions and classes, and environmental justice. Separately, tabling a discussion on LAFCO's regulatory and planning roles in fire prone areas advantageously syncs with a scheduled municipal service review on fire service providers and related opportunities to further rationalize jurisdictional boundaries.

### RECOMMENDATION

This item is presented to San Diego LAFCO for discussion and feedback only.

### ALTERNATIVES FOR ACTION

None.

(continued)

## PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for discussion as part of the business calendar. The following procedures apply.

- 1) Receive verbal report from staff unless waived.
- 2) Initial questions or request for clarifications.
- 3) Discuss item and provide feedback as requested.

Respectfully,



Keene Simonds  
Executive Officer

Attachments:

- 1) 2021-2022 Workplan with Status Notations
- 2) Proposed Amendment to Government Code Section 56133
- 3) Response from Ms. Borchmann

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Subdivision of the State of California  
REGIONAL SERVICE PLANNING

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# Workplan

2021-2022

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# San Diego LAFCO's Commission



San Diego LAFCO is governed by a 13-member "Commission" comprising county, city, special district, and public members. All Commissioners are appointed elected officials with the exception of the two public members. Commissioners serve four-year terms and divided between "regulars" and "alternates" and must exercise their independent judgment on behalf of the

interests of residents, landowners, and the public as a whole. Commissioners are subject to standard disclosure requirements and must file annual statements of economic interests. The Commission has sole authority in administering its legislative responsibilities and decisions therein are not subject to an outside appeal process.



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County of San Diego



**Chris Cate**  
Commissioner  
City of San Diego



**Jo MacKenzie**  
Commissioner  
Vista Irrigation



**Paul McNamara**  
Commissioner  
City of Escondido



**Mary Casillas Salas**  
Commissioner  
City of Chula Vista



**Nora Vargas**  
Commissioner  
County of San Diego



**Baron Willis**  
Commissioner  
Alpine Fire Protection



**Joel Anderson**  
Alternate  
County of San Diego



**Kristi Becker**  
Alternate  
City Member



**David Drake**  
Alternate  
Special District Member



**Harry Mathis**  
Alternate  
Public Member



**Marni von Wilpert**  
Alternate  
City of San Diego





Beautiful  
downtown  
San Diego



## Introduction:

Local Agency Formation Commissions' (LAFCOs) operate as political subdivisions of the State of California and are delegated regulatory and planning responsibilities to oversee the formation and subsequent development of local government agencies and their municipal service areas. Common regulatory functions include approving jurisdictional changes (annexations, detachments, etc.) and outside service requests. Common planning functions include preparing studies to independently evaluate the availability and need for municipal services and establishing and updating spheres of influence – which are the Legislature's version of urban growth boundaries and gatekeepers to future jurisdictional changes – for all cities and special districts.



## Objective:

This document represents San Diego LAFCO's formal 2021–2022 Workplan and formalizes the Commission's priorities for the fiscal year. The Workplan is divided into two distinct categories – statutory and administrative – with sequential priority rankings from high to low. The underlying intent of the Workplan is to serve as a management tool to allocate Commission resources in a transparent manner over the 12-month period. Further, while it is a stand-alone document, the Workplan should be reviewed in relationship to the adopted operating budget given the planned goals and activities are facilitated and or limited accordingly. Additionally, and as needed, the Commission reserves discretion to amend the Workplan during the fiscal year.



## Executive Summary:

The 2021–2022 Workplan continues to guide the Commission to prioritize proactive planning as an effective means to inform its regulatory responsibilities. Most notably, this includes the continued investment in preparing municipal service reviews as well as initiating policy reviews involving timely topics ranging from environmental justice to island annexations. Several administrative projects are also in the Workplan and take aim to improve LAFCO's online services – such as expanding our digital mapping content as well as introducing video enhancements to the website. LAFCO has also expanded its typical duties in the Workplan to manage its first ever State grant program to track agricultural trends in San Diego County.

# Workplan

2021-2022



Priority	Level	Project	Description	Status
Ongoing	...	Applicant Proposals and Requests	LAFCO will prioritize on an ongoing basis its available resources to process applicant proposals	
Ongoing	...	Targeted LAFCO Presentations	LAFCO will prioritize on an ongoing basis its resources to perform public outreach	
1	High	MSR   Fallbrook-Rainbow Region	Complete the scheduled review of Fallbrook PUD, Rainbow MWD, CSA 81, & North County FPD	
2	High	Fallbrook-Rainbow Ad Hoc	Complete the work of the Ad Hoc in assisting in the administrative review of the associated reorganizations	
3	High	Office Space Needs	Review office space needs and proceed with executing new office lease and related actions as needed	
4	High	MSR   Escondido Region Part II	Complete the scheduled review of the City of Escondido	
5	High	Leg Proposal   G.C. 56133(e)	Sponsor and/or facilitate amendments to clarify LAFCOs' responsibility in determining OSA exemptions	
6	High	Commission Rule No. 4	Prepare comprehensive update to Rule 4 and its provisions regulating special districts' functions and classes	
7	High	MSR   Oceanside Region	Complete scheduled review of City of Oceanside and local serving special districts in the region	
8	High	MSR   Carlsbad Region	Complete scheduled review of City of Carlsbad and local serving special districts in the region	
9	High	Translation Policy	Establish procedures and related accommodations to communicate with non-English speaking communities	
10	High	Environmental Justice Policy	Consider policy options to address environmental justice in regulatory and planning activities	
11	High-Moderate	2020-2021 Audit	Complete outside audit of financial statements for 2020-2021	
12	High-Moderate	2022-2023 Workplan + Budget	Adopt proposed and final workplan and budgets documents by March and May 2022	
13	High-Moderate	MSR   San Marcos Region	Complete the scheduled reviews of the City of San Marcos and surrounding local serving special districts	
14	High-Moderate	MSR   Vista Region	Complete the scheduled reviews of the City of Vista and surrounding local serving special districts	

LEGEND: Underway = | Pending = | Near Completion = | Completion = | Ongoing =



The San Elijo Lagoon in Cardiff-by-the-Sea



« WORKPLAN | Status as of September 30, 2021

Priority	Level	Project	Description	Status
15	High-Moderate	Special Districts Advisory Cmte.	Provide administrative support to the Districts Advisory and hold no less than three meetings in FY	
16	High-Moderate	Cities Advisory Committee	Provide administrative support to the Cities Advisory Committee and hold no less than two meetings in FY	
17	Moderate	RCD Ad Hoc Committee	Coordinate work of the Ad Hoc Committee in implementing recommendations included in the final MSR on RCDs	
18	Moderate	Legislative Proposal   RCDs	Facilitate and/or participate in a rewrite of RCD law and – among other priorities – clarify service functions	
19	Moderate	Policy Review   Island Annexations	Consider options to define “substantially surrounded” and provide related mapping to inform review	
20	Moderate	SALT Grant   Agricultural Trends	Implement two-year grant project to identify and track agricultural trends in San Diego County	
21	Moderate-Low	MSR   Pauma Valley Region	Complete the scheduled review of local serving special districts in the Pauma Valley region	
22	Moderate-Low	Report on Mutual Water Companies	Prepare informational report on private mutual water companies consistent with AB 54	
23	Moderate-Low	Social Media	Establish internal guidelines in conjunction with expanding social media presence in communicating information	
24	Moderate-Low	SANDAG	Participate in SANDAG’s Technical Working Group (TWG) and provide update to Commission	
25	Moderate-Low	Application Procedures	Streamline existing application packet to be more user-friendly	
26	Low	Mapping Outside Utility Services	Establish a new GIS layer to identify existing outside wastewater and water service approvals	
27	Low	Website Enhancement   SGMA	Add a dedicated page to the LAFCO website addressing SGMA and related GSA activities in San Diego County	
28	Low	Website Enhancement   Videos	Add video discussions on current LAFCO projects and key duties on the website and cross-connected to social media	
29	Low	Annual Local Agency Directory	Update and publish local agency directory building on the inaugural version published in 2021	
30	Low	SOI/MSR Annual Report	Update and publish an annual report documenting all recorded municipal service reviews and sphere actions	

LEGEND: Underway = | Pending = | Near Completion = | Completion = | Ongoing =



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**Government Code Section 56133  
Proposed Amendment Regarding Exception Determination**

56133.

(a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.

(c) If consistent with adopted policy, the commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory, if both of the following requirements are met:

(1) The entity applying for approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of requests made pursuant to this section to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the extended services. If the new or extended services are disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to any of the following **as determined by the commission or the executive officer:**

(1) Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

(2) The transfer of nonpotable or nontreated water.

(3) The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus

water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

(4) An extended service that a city or district was providing on or before January 1, 2001.

(5) A local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundary.

(6) A fire protection contract, as defined in subdivision (a) of Section 56134.

(f) This section applies only to the commission of the county in which the extension of service is proposed.

**From:** [patricia\\_borchmann](#)  
**To:** [Simonds,Keene](#); [Allen, Priscilla](#); [Laura Hunter](#)  
**Cc:** [patricia\\_borchmann](#)  
**Subject:** [External] LAFCO Agenda item 7a, First quarter report on adopted LAFCO Workplan (October 4, 2021)  
**Date:** Wednesday, September 22, 2021 3:30:01 PM

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Keene Simonds,

I am following up on my inquiry at the August 2021 LAFCO Commission meeting, where I requested the Commission to consider adopting a new LAFCO policy to develop restrictions for new housing in "Very High Severity Fire Hazard Zones", which were defined by Cal Fire.

Given the increased intensity, frequency, expanded size of impact areas associated with wildfires in California in 2021 and the past few years, combined with more adverse weather conditions and an abundance of science-based data regarding climate change, it seems reasonable to ask LAFCO Commission to consider a community-driven request for the Commission to take proactive steps to address realistic fire hazards, that are more than a mere abstract concept in San Diego county, or a frivolous concern.

I understand you have considered the request carefully, and you propose a plan for LAFCO Commission to consider at the October 4, 2021 meeting, to table the item, until LAFCO sets a future agenda item to explore policies to guide the Commission on activities in fire prone areas. I agree it makes sense to integrate this item into a new LAFCO workplan in FY2022-2023, and to fold this work into the planned countywide fire services study, which will benefit from having maximum attention from fire service providers and land use authorities.

To implement this plan, you propose to incorporate the follow up as part of the first quarter report on the adopted workplan, **Agenda Item No. 7a**). As long as the community-driven request for follow-up action by LAFCO Commission is not overlooked, or prematurely dismissed, to consider forming new policy, define criteria, best practices, and potential restrictions for new housing in "Very High Severity Fire Hazard Zones" in San Diego county, I wanted to inform you that I support this approach. I look forward to working with you and LAFCO staff during the future phase, so that this new item may ultimately become integrated into the LAFCO workplan in FY2022-2023.

Thank you for keeping me informed.

Additionally in case you haven't seen it already, please examine the recent report by Climate Action Campaign: <https://www.climateactioncampaign.org/sprawlreport>, since it is relevant to land use planning issues and climate policy. *"Solving Sprawl provides practical tools and solutions. San Diego families are suffering under the crushing weigh of the climate and housing affordability crises, and sprawl is NOT the solution. It is costly, ineffective, and increases our vulnerability to climate disasters like wildfires. In this new report, CAC outlined alternatives that can meet the needs of our growing workforce without destroying wildlife habitats, exacerbating our climate emergency, and deepening inequality."*



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