



UKIAH VALLEY FIRE DISTRICT Regular Meeting AGENDA

(to be held both at the physical and virtual locations below)

**Ukiah Conference Center ♦ 200 South School
Street ♦ Ukiah ♦ CA ♦ 95482
(Please use the backdoor entrance off of Oak Street)**

To participate go to the following link: <https://zoom.us/j/97717635120>
Call (toll free) 1-833-548-0276 or 833-543-0282

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- Raise hand: enter *9
- To Speak after being recognized: enter *6 to unmute yourself

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US: [+16699009128](tel:+16699009128), [97717635120#](tel:+197717635120) or [+12532158782](tel:+12532158782), [97717635120#](tel:+197717635120)

To view the meeting (without participating) go to: <http://www.cityofukiah.com/meetings/>

**February 14, 2023
6:00 PM**

1. **CALL TO ORDER**

2. **ROLL CALL AND PLEDGE OF ALLEGIANCE**

3. **ANNOUNCEMENTS**

4. **PUBLIC COMMENT ON NON-AGENDA ITEMS**

If you wish to speak on a matter that is not on this agenda that is within the subject matter jurisdiction of the Ukiah Valley Fire District Board, you may do so at this time. Please limit your comments to 3 minutes per person and a total of 10 minutes per subject. The Brown Act regulations do not allow action to be taken on audience comments in which the subject is not listed on the agenda.

5. **APPROVAL OF MINUTES**

5.a. Approval of the Draft Minutes of November 29, 2022, a Special Meeting.

Recommended Action: Approve the Draft Minutes of November 29, 2022, a Special Meeting.

Attachments:

1. November 29, 2022, Special UVFD Mtg Minutes-draft

5.b. Approval of the Draft Minutes of December 13, 2022, a Regular Meeting.

Recommended Action: Approve the Draft Meeting Minutes of December 13, 2022, a Regular Meeting.

Attachments:

1. December 13, 2022, UVFD Mtg. Minutes -draft

5.c. Approval of the Draft Minutes of January 3, 2023, a Special Meeting.

Recommended Action: Approve the Draft Minutes of January 3, 2023, a Special Meeting.

Attachments:

1. January 3, 2023, Special UVFD Mtg. Minutes-draft

6. UNFINISHED BUSINESS - DISCUSSION/ACTION

7. NEW BUSINESS - DISCUSSION/ACTION

- 7.a. Approval and adoption of Fiscal Years 2021-22 and 2022-23 Ukiah Valley Fire District the Gann Limit Resolutions.

Recommended Action: Taken Separately:

1. Approve and adopt Gann Limit resolution for fiscal year 2021-22,
2. **Approve and adopt Gann Limit resolution for fiscal year 2022-23.**

Attachments:

1. Resolution 2023-Draft; Gann Appropriations Limit FY 2021-22
2. Resolution 2023-Draft; Gann Appropriations Limit FY 2022-23

8. COMMUNICATIONS RECEIVED AND FILED - INFORMATION

- 8.a. Law Office of Rapport & Marston; Darcy Vaughn, Assistant City Attorney; 405 W. Perkins Ukiah, CA 95482; January 5, 2023; Incompatibility of Offices of the Planning Commission and the Ukiah Valley Fire District Board of Directors.

Recommended Action:

Attachments:

1. Rapport & Marston - UVFD & PC Incompatibility of Office

- 8.b. LAFCo; Uma Hinman, Executive Officer; 200 South School St. Ukiah, CA 95482; January 17, 2023; The 2023 Election Outcome for Special Districts.

Recommended Action:

Attachments:

1. LAFCo Special District Election Outcome for 2023

- 8.c. LAFCo; Uma Hinman, Executive Officer; 200 South School St. Ukiah, CA 95482; January 23, 2023; Notice of Vacancy to fill the unexpired term for 2021-2024, for a Regular Special District Member.

Recommended Action:

Attachments:

1. LAFCo Notice of Vacancy for the Unexpired Term of a Regular Member

- 8.d. Law Office of H. James Lance, Attorney for Ukiah Valley Fire District; 941 Grove St. Healdsburg, CA 95448; January 17, 2023, Incapability of Offices of the Planning Commission and Ukiah Valley Fire District Board of Directors.

Recommended Action:

Attachments:

1. H. James Lance District Attorney; UVFD & PC Incompatibility of Office

9. DIRECTOR'S REPORT

10. CHIEFS REPORTS

- 10.a. Measure B Annual Report FY 21-22

Recommended Action: Receive Report

Attachments:

1. UVFD Measure B Annual Report FY 21-22

11. CLOSED SESSION

- Closed Session may be held at any time during the meeting

12. ADJOURNMENT

Please be advised that the Ukiah Valley Fire District complies with ADA requirements and needs to be notified 72 hours in advance of a meeting if any specific accommodations or interpreter services are needed in order for you to attend. Materials related to an item on this Agenda submitted to the Ukiah Valley Fire District after distribution of the Agenda Packet, are available for public inspection at the front counter at the Ukiah Valley Fire District Office, 1500 South State Street, Ukiah, CA 95482, during normal business hours Monday through Friday, 8:00 am to 4:00 pm.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted at the following location: Ukiah Valley Fire District Office - 1500 South State Street; Ukiah Conference Center, 200 South School Street, Ukiah, California; and online not less than 72 hours prior to the meeting set forth on this agenda. To view the meeting, click on the name of the meeting at: www.cityofukiah.com/meetings.

Stephanie Abba, Clerk of the Board

Dated: February 10, 2023



UKIAH VALLEY FIRE DISTRICT BOARD OF DIRECTORS

PETER BUSHBY – MICHAEL GRAHAM – KEVIN JENNINGS – DAVID B. HAAS

SPECIAL MEETING MINUTES

Ukiah Conference Center 200 South School St. Ukiah, CA 95482

November 29, 2022

6:00 P.M.

1. CALL TO ORDER

2. ROLL CALL AND PLEDGE OF ALLEGIANCE

The Ukiah Valley Fire District Board of Directors met on November 29, 2022, having been legally noticed on November 22, 2022. President Haas called the meeting to order at 6:03 P.M. with the following **Directors Present:** Peter Bushby, Michael Graham, and David Haas; **Directors Absent:** None **Staff Present:** Douglas Hutchison, Fire Chief, and Stephanie Abba, Clerk of the Board.

The Pledge of Allegiance was led by Michael Graham.

3. PUBLIC COMMENT ON NON-AGENDA ITEMS

No public comment was received.

4. NEW BUSINESS – DISCUSSION/ACTION

a. Consideration of Options to Fill two (2) Vacancies on the board of Directors.

Presenter: Doug Hutchison, Fire Chief

The Board of Directors interviewed three members of the public. Mark Hilliker, Kevin Jennings, and Cody Snodgrass.

Motion/Second: Bushby/Graham to appoint Kevin Jennings to the Ukiah Valley Fire District Board of Directors. Motion **carried** by the following votes: AYES: Bushby, Graham, and Haas; NOES: None; ABSTAIN: None; ABSENT: None.

Motion/Second: Graham/Bushby to appoint Mark Hilliker to the Ukiah Valley Fire District Board of Directors. Motion **carried** by the following votes: AYES: Bushby, Graham, and Haas; NOES: None; ABSTAIN: None; ABSENT: None.

5. ADJOURNMENT

There being no further business, the meeting was adjourned at 7:43 P.M.

David B. Haas, President

Stephanie Abba, Clerk of the Board



UKIAH VALLEY FIRE DISTRICT BOARD OF DIRECTORS

PETER BUSHBY –MICHAEL GRAHAM – KEVIN JENNINGS – DAVID B. HAAS

REGULAR MEETING MINUTES

Ukiah Conference Center 200 South School St. Ukiah, CA 95482

December 13, 2022
6:30 P.M.

1. CALL TO ORDER

2. ROLL CALL and PLEDGE OF ALLEGIANCE

The Ukiah Valley Fire District Board of Directors met on December 13, 2022, having been legally noticed on December 9, 2022. President Haas called the meeting to order at 6:46 P.M. with the following **Directors Present:** Peter Bushby, Michael Graham, Kevin Jennings, and David Haas; **Directors Absent:** None **Staff Present:** Douglas Hutchison, Fire Chief, Justin Buckingham, Battalion Chief, and Stephanie Abba, Clerk of the Board.

The Pledge of Allegiance was recited

3. ANNOUNCEMENTS

None

4. PUBLIC COMMENT ON NON-AGENDA ITEMS

No public comment

5. APPROVAL OF MINUTES

a. Minutes of October 11, 2022, a Regular Meeting

Motion/Second: Graham/Bushby to approve Minutes of October 11, 2022, as submitted. Motion **carried** by the following roll call votes: AYES: Bushby, Graham, Jennings, and Haas. NOES: None. ABSENT: None. ABSTAIN: None.

6. NEW BUSINESS

a. Annual Organizational Meeting to Elect Board Officers for 2023 and Appoint a New Board Member to the Fire Executive Committee to fill the vacancy

After discussion on whether or not there needs to be a Secretary/Treasurer on the Board of Directors, it was decided that the Nomination of this position will be postponed to a date certain at the next board meeting on February 14, 2023.

Motion/Second: Jennings/Graham to Nominate Bushby as Vice President. Motion **carried** by the following roll call votes: AYES: Bushby, Graham, Jennings, and Haas. NOES: None. ABSENT: None. ABSTAIN: None.

Motion/Second: Graham/Bushby to Nominate Haas as President. Motion **carried** by the following roll call votes: AYES: Bushby, Graham, Jennings, and Haas. NOES: None. ABSENT: None. ABSTAIN: None.

7. **UNFINISHED BUSINESS**

No Unfinished Business was agendized

8. **COMMUNICATIONS RECEIVED**

No Communications were received.

9. **DIRECTOR'S REPORT**

No report received

10. **CHIEF'S REPORT**

Report Received from Chief Hutchison

Public Comment: Mark Hilliker

Report received on updating the Fire Code and the need for an Ad Hoc Committee from Battalion Chief Justin Buckingham.

11. **CLOSED SESSION**

No Closed Session

12. **ADJOURNMENT**

There being no further business, the meeting adjourned at 7:36 p.m.

David B. Haas, Board President

Stephanie Abba, Clerk of the Board



UKIAH VALLEY FIRE DISTRICT BOARD OF DIRECTORS

PETER BUSHBY –MICHAEL GRAHAM – KEVIN JENNINGS – DAVID B. HAAS

SPECIAL MEETING MINUTES

Ukiah Conference Center 200 South School St. Ukiah, CA 95482

January 3, 2023

6:00 P.M.

1. **CALL TO ORDER**

2. **ROLL CALL and PLEDGE OF ALLEGIANCE**

The Ukiah Valley Fire District Board of Directors met on January 3, 2023, having been legally noticed on December 29, 2022. President Haas called the meeting to order at 6:01 P.M. with the following **Directors Present:** Peter Bushby, Michael Graham, Kevin Jennings, and David Haas; **Directors Absent:** None **Staff Present:** Douglas Hutchison, Fire Chief, and Stephanie Abba, Clerk of the Board.

The Pledge of Allegiance was led by Michael Graham.

3. **PUBLIC COMMENT ON NON-AGENDA ITEMS**

No Public Comment

4. **NEW BUSINESS**

a. Vote for One Candidate to serve as a Regular Special District Member on Mendocino LAFCo. There are two candidates running for this position, Francois Christen of Anderson Valley Community Services District and Candace Horsley of Ukiah Valley Sanitation District.

Presenter: Doug Hutchison, Fire Chief

Motion/Second: Jennings/Bushby to Vote for Francois Christen of Anderson Valley Community Services District to serve as a Regular Special District Member on Mendocino LAFCo. Motion **carried** by the following roll call votes: AYES: Bushby, Graham, Jennings, and Haas. NOES: None. ABSENT: None. ABSTAIN: None.

b. Appointment of two Board Members to meet with the City Ad hoc to discuss the adoption of the Fire Code.

President Haas stated that he wants the same people who are serving on the Fire Executive Committee to serve on this Ad hoc Committee. Director Jennings and Director Bushby were appointed to the Ad hoc Committee to discuss the Adoption of the Fire Code.

5. **ADJOURNMENT**

There being no further business, the meeting adjourned at 6:17 p.m.

David B. Haas, Board President

Stephanie Abba, Clerk of the Board



AGENDA SUMMARY REPORT

SUBJECT: Approval and adoption of Fiscal Years 2021-22 and 2022-23 Ukiah Valley Fire District the Gann Limit Resolutions.

DEPARTMENT: Finance

PREPARED BY: Olga Keough, Controller

Sage Sangiacomo, City Manager

PRESENTER: Dan Buffalo, Finance Director

Mary Horger, Financial Services Manager

ATTACHMENTS:

1. Resolution 2023-Draft; Gann Appropriations Limit FY 2021-22
2. Resolution 2023-Draft; Gann Appropriations Limit FY 2022-23

Summary: The Board will consider for approval and adoption through resolutions the Ukiah Valley Fire District's Gann Limits for the fiscal years 2021-22 and 2022-23.

Background: During the budget approval and adoption for fiscal years 2021-22 and 2022-23 staff inadvertently omitted the GANN limit calculations. Presented here are the GANN limit calculations for fiscal years 2021-22 and 2022-23.

Discussion: Pursuant to Government Code section 7910, the District Board must establish its appropriation limit for each fiscal year. During the budget approval and adoption for fiscal years 2021-22 and 2022-23 staff inadvertently omitted the GANN limit calculations.

To adopt the GANN limit, Board will approve and adopt:

1. Fiscal year 2021-22 the Appropriations (Gann) Limit calculations and associated resolution (Attachment 1). This information is part of the overall budget document for Fiscal Year 2021-22.
2. Fiscal year 2022-23 the Appropriations (Gann) Limit calculations and associated resolution (Attachment 2). This information is part of the overall budget document for Fiscal Year 2022-23.

Recommended Action: Taken Separately:

1. Approve and adopt Gann Limit resolution for fiscal year 2021-22,
2. Approve and adopt Gann Limit resolution for fiscal year 2022-23.

BUDGET AMENDMENT REQUIRED: N/A

CURRENT BUDGET AMOUNT: N/A

PROPOSED BUDGET AMOUNT: N/A

FINANCING SOURCE: N/A

PREVIOUS CONTRACT/PURCHASE ORDER NO.: N/A

COORDINATED WITH: N/A

Approved: 
Sage Sangiacomo, City Manager

RESOLUTION NO. 2023-

A RESOLUTION OF THE UKIAH VALLEY FIRE DISTRICT ESTABLISHING THE FISCAL YEAR 2021-22 APPROPRIATIONS LIMIT FOR THE UKIAH VALLEY FIRE DISTRICT

WHEREAS; pursuant to *Government Code* Section 7910, the District Board must, by resolution, establish its appropriations limit for each fiscal year.

NOW, THEREFORE, BE IT RESOLVED THAT the appropriations limit for the Ukiah Valley Fire District for the 2021-22 Fiscal Year shall be two million, two hundred seventy thousand, three hundred eighty-nine dollars (\$2,270,389). The appropriations subject to this limit are estimated to be one million, one hundred fifty-one thousand dollars (\$1,151,000).

This resolution was adopted by the City Council of the City of Ukiah at a regular meeting thereof on the 14th day of February 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

David B. Haas, President

ATTEST:

Stephanie Abba, Clerk of the Board

EXHIBIT A**Gann Limit Calculation**

FY 2021-22

Per Capita Cost of Living Change = 5.73 percent
 Population Change (1) = -1.02 percent

Per Capita Cost of Living converted to a ratio: $\frac{5.73 + 100}{100} = 1.0573$ (a)

Population converted to a ratio: $\frac{-1.02 + 100}{100} = 0.9898$ (b)

Calculation of factor for FY 2021-22: (a) x (b) = 1.0465 (c)

Appropriations Limit, Fiscal Year 2020-21: \$ 2,169,475 (d)

Appropriations Limit, Fiscal Year 2021-22: **\$2,270,389**
 [(c) x (d)]

FY 2021-22 appropriations subject to Gann Limit
Tax Revenue**Budget Estimates**

Property tax	\$ 373,000
Measure J	0 612,000
Measure B	166,000

\$ 1,151,000

Percentage Use of Appropriations Limit 50.70%

(1) When calculating its appropriation limit, the District may use either the change in population for the jurisdiction or Mendocino County as a whole.

RESOLUTION NO. 2023-

A RESOLUTION OF THE UKIAH VALLEY FIRE DISTRICT ESTABLISHING THE FISCAL YEAR 2022-23 APPROPRIATIONS LIMIT FOR THE UKIAH VALLEY FIRE DISTRICT

WHEREAS, pursuant to *Government Code* Section 7910, the District Board must, by resolution, establish its appropriations limit for each fiscal year.

NOW, THEREFORE, BE IT RESOLVED THAT the appropriations limit for the Ukiah Valley Fire District for the 2022-23 Fiscal Year shall be four million, six hundred thirty-eight thousand, nine hundred thirty-eight dollars (\$4,638,938). The appropriations subject to this limit are estimated to be two million, two hundred twenty-seven thousand, one hundred twenty dollars (\$2,227,120).

This resolution was adopted by the City Council of the City of Ukiah at a regular meeting thereof on the 14th day of February 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

David B. Haas, President

ATTEST:

Stephanie Abba, Clerk of the Board

EXHIBIT B**Gann Limit Calculation**

FY 2022-23

Per Capita Cost of Living Change = 7.55 percent
 Population Change(1) = 89.98 percent

Per Capita Cost of Living converted to a ratio: $7.55 + 100 = 1.0755$ (a)

100

Population converted to a ratio: $89.98 + 100 = 1.8998$ (b)
 100

Calculation of factor for FY 2022-23: (a) x (b) = 2.0432 (c)

Appropriations Limit, Fiscal Year 2021-22: \$ 2,270,389 (d)

Appropriations Limit, Fiscal Year 2022-23: \$ 4,638,938
 [(c) x (d)]

FY 2022-23 appropriations subject to Gann Limit**Tax Revenue****Budget
Estimates**

Property tax	\$ 381,000
Measure J	1,435,000
Measure B	270,000
Measure P	141,120
	<u>\$ 2,227,120</u>

Percentage Use of Appropriations Limit 48.01%

(1) When calculating its appropriation limit, the District may use either the change in population for the jurisdiction or Mendocino County as a whole. Due to annexation, the District population was increased by 16,080 (prior population was 17,734) or 90.68%. County population decreased by 0.78%, which makes a total change of 89.98%.

Law Offices Of

RAPPORT AND MARSTON

An Association of Sole Practitioners

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MEMORANDUM

TO: Stephanie Abba, Clerk of the Board, Ukiah Valley Fire Authority
FROM: Darcy C. Vaughn, Assistant City Attorney
DATE: January 5, 2023
SUBJECT: Are the Offices of Planning Commissioner and Fire District Director
Incompatible under Government Code § 1099?

QUESTION

You have asked: May a current member of the Planning Commission of the City of Ukiah serve as a director for the Board of the Ukiah Valley Fire Protection District?

ANSWER

No. Under California Government Code § 1099 and the common law prohibition on holding incompatible offices, there is a possibility of a significant clash of duties or loyalties between the offices of Planning Commissioner and Fire District director. The Planning Commission's jurisdiction is completely within the Fire District's jurisdiction, and both offices are considered public offices. There is a possibility that there could be a conflict of duty and loyalties between the two offices based on the powers and duties of both offices set forth in state law.

DISCUSSION

Under the common law doctrine, offices are incompatible if one of the offices has a supervisory, auditory, or removal power over the other or if there would be any significant clash of duties or loyalties in the exercise of official duties. Only one potential significant clash of duties or loyalties is necessary to make offices incompatible. If the performance of the duties of either office could have an adverse effect on the other, the doctrine precludes acceptance of the second office. If the second office is accepted, such acceptance constitutes an automatic resignation from the first office. *People ex rel. Chapman v. Rapsey* (1940) 16 Cal.2d 636, 641-644 ("Rapsey").

In 2005, the Legislature codified the common law rule by enacting Government Code section 1099. (a) of that section provides:

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(a) A public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, shall not simultaneously hold two public offices that are incompatible. Offices are incompatible when any of the following circumstances are present, unless simultaneous holding of the particular offices is compelled or expressly authorized by law:

(1) Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body.

(2) Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices.

(3) Public policy considerations make it improper for one person to hold both offices.

Here, subparagraph (1) doesn't apply since neither office has any sort of supervisory or removal authority over the other. The issue here is whether there could be a possibility of any conflicts of duties or loyalties between the offices as stated in subparagraph (2)

Legal Standard for Incompatible Offices

In the *Rapsey* case cited above, the CA Supreme Court stated that two offices can be deemed incompatible, "when the holder cannot in every instance discharge the duties of each. Incompatibility arises, therefore, from the nature of the duties of the offices, when there is an inconsistency in the functions of the two. . . as where antagonism would result in the attempt by one person to discharge the duties of both offices...." *Rapsey*, 16 Cal.2d at 641-642. (Emphasis added). While there's not much case law development analyzing and interpreting either the common law standard for incompatible offices or the standard set forth in Govt Code § 1099(a)(2), there are a large number of California Attorney General opinions on whether various public offices are incompatible. These opinions have consistently stated that the *Rapsey* standard covers prospective or potential as well as present clashes of loyalty. "Potential as well as actual conflicts of duties and loyalties are encompassed by the doctrine." 63 Ops.Cal.Atty.Gen. 623, 626 (1980). The 1980 AG opinion quoted here goes on to state:

The rule does not await the occurrence of an actual clash before taking effect, but intercedes to prevent it; the mere possibility of a conflict is sufficient to make two offices incompatible. . . . Regardless of the honor or integrity of the incumbent, one individual cannot hold two incompatible offices at the same time. It is the nature of the office, not the character of the individual, that determines the rule's application. The essence of the doctrine of incompatible offices is that a public officer should never be in the position of having to disqualify himself or herself from performing the functions of one office because he or she happens to

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be the incumbent of another office.

. . . The potential for significant clashes is sufficient to render the offices incompatible. As stated by the leading authority in the field of municipal law: “... Neither is it pertinent to say that the conflict in duties may never arise, it is enough that it may, in the regular operation of the statutory plan” (3 McQuillin, Municipal Corporations (3d Ed. 1973), § 12.67, p. 297.)

Id.

Only a single, possible significant clash of duties and loyalties is required to make offices incompatible. 64 Ops. Cal. Atty. Gen. 288, 289 (1981). As implied in the lengthy quote above, the fact that an officer could recuse themselves from a particular conflict does not remove the incompatibility or avoid putting the officer in a compromising position, since recusal or other such method of avoiding conflict “neither changes the nature of the potential conflict nor provides assurance that they would be employed.... Once incompatibility of office is found to exist, acceptance of the second office creates an automatic vacancy in the first. *Id.*

Analysis

The City needs to carefully look at the facts, specifically the duties and powers of each office as set forth in state law, to determine whether possible conflicts could arise. For example, if the two offices involve powers and duties that could not possibly overlap, there would be no potential for a conflict. This is why, to use the example provided by Stephanie Abba in her correspondence with City Clerks, a Menlo Park Fire District director could simultaneously serve as a San Mateo County Harbor District director.

A fire district is formed for the purpose of supplying its inhabitants with fire protection and suppression facilities for the area that the district comprises. As set forth in Health and Safety Code § 13861, a fire district’s authority includes the power to:

- Sue and be sued;
- Acquire any property, including water facilities for providing fire protection, within the district by any means, to hold, manage, occupy, dispose of, convey and encumber the property, and to create a leasehold interest in the property for the benefit of the district;
- Acquire by eminent domain any property necessary to carry out its powers or functions;
- Enter into contracts, including Joint Powers Agreements; and
- Establish and enforce rules and regulations for the operation of its services.

As set forth in the CA Planning Commissioner’s handbook and at Government Code sections 65103, 65401, 65402, a city council may assign any or all of the following tasks to its planning commission:

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- Assist in writing the general plan and community or specific plans and hold public hearings on such plans;
- Hold hearings and act upon proposed amendments to the general plan and community or specific plans;
- Hold hearings and act upon proposed changes to the zoning ordinance and zoning maps;
- Hold hearings and act on tentative subdivision maps;
- Annually review the jurisdiction's capital improvement program and the public works projects of other local agencies for consistency with the general plan;
- Promote public interest in the general plan;
- Consult with and advise public officials and agencies, utilities, organizations and citizens regarding implementation of the general plan;
- Coordinate local plans and programs with those of other public agencies;
- Report to the legislative body on the conformity of proposed public land acquisition or disposal with the adopted general plan; and,
- Undertake special planning studies as needed.

I have not found any cases or AG opinions examining the question of whether the offices of City Planning Commissioner and Fire District Director are incompatible. There are opinions regarding whether the office of Planning Commissioner is incompatible with the offices of Sanitary District Director, Water District Director, and school district trustee. In addition, there is an opinion on whether the office of Fire District Director is incompatible with the office of City Council member. In all instances, the AG found the offices to be incompatible unless abrogated by action of the Legislature or ordinance of a Charter City.

In the opinion evaluating possible conflicts between the offices of planning commissioner and water district director, the AG noted the planning commission's responsibility for preparation and implementation of the city's general plan, as well as review of public works projects of other agencies for consistency with the general plan and specific plans. More specifically, the AG observed that the general plan must include a conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force. The conservation element is to be "developed in coordination . . . with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared."

With respect to the water district, the AG noted that the Water Code empowers a water district "do any act necessary to furnish sufficient water in the district for any present or future beneficial use." In addition, the Water Code also authorizes a water district to undertake numerous public works projects in order to divert, store, transport, or dispose of water from various sources for any beneficial purpose or use.

The AG believed that there was at least one possible conflict since a planning commissioner,

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may rule upon subdivision applications that could place increased demands on water supplies. The City may favor granting that application, while the District may be seeking to avoid additional water usage that further residential development would require. The AG also pointed to a planning commissioner's responsibility for preparation of the water conservation element of a general plan and making determinations as to whether public works projects of a water district are consistent with the City's general and specific plans. "[T]he exercise of defendant's judgment and discretion in promoting the best interests of the City in matters of water consumption and the best interests of the District as a provider of water might be compromised." 82 Ops. Cal. Atty. Gen. 68, 70-72 (1999)

Another relevant AG opinion analyzed whether a Riverbank city council member could simultaneously serve as a member of the Board of Directors of the Stanislaus Consolidated Fire Protection District¹. As here, Riverbank is entirely located in the Stanislaus Fire District. The AG deemed those offices incompatible, noting that the "Riverbank City Council and the Fire District board could have conflicting views and interests regarding any potential change in the organization of Riverbank or the District. For example, the Riverbank City Council may in the future favor the detachment of Riverbank from the Fire District, or the Fire District may consider further consolidation with one or more other districts. Separate from a change of organization, the Fire District could seek to alter the types of services or level of service it provides to an area within the district. A person who is both Mayor of Riverbank and a director of the Fire District might be conflicted as to whether to use a city perspective or a district-wide perspective in making decisions regarding any of the situations described above." The AG's opinion also noted the Riverbank City Council's power to modify or reject fire safety building standards adopted by the district, as well as the fact that both agencies exercised the power of eminent domain and might condemn the same property or property of the other. 2019 Cal. AG LEXIS 7, *12-16.

For the purposes of analyzing potential conflicts and clashes of influence, I focus on the following powers of the Planning Commission and Fire District:

- A Planning Commission may be asked to make a recommendation to Council regarding annexation or other reorganization.
- The planning commission is required to review annually the local public works projects of other local agencies for their consistency with the general plan. (Govt. Code §§ 65103, 65401.)
- Additionally, no local public works project may be approved within an area covered by a specific plan unless it is consistent with the adopted specific plan. (Govt. Code § 65455.)
- A Fire District has the power to acquire any property, including water facilities for providing fire protection, within the district by any means, to hold, manage, occupy, dispose of, convey and encumber the property, and to create a leasehold interest in the property for the benefit of the district.
- A Fire District has the power to acquire by eminent domain any property necessary to

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Date: January 5, 2023

carry out its powers or functions.

Under state law, the City Planning Commission has the power to review any public works project of the Fire District for consistency with the general plan, and would be responsible for reviewing and approving public works projects of the Fire District for consistency with an adopted specific plan. A Planning Commission could hear subdivision applications that could place increased demands on water supplies that the Fire District has an interest in preserving for fire protection purposes. As in the City of Riverbank AG opinion, the City Council (as advised by the Planning Commission) and the Fire District board could have conflicting views and interests regarding any potential change in the organization of the City or the District. The Planning Commission and Fire District board may also have diverging interests in the conservation element of the General Plan, which must be developed by the Planning Commission in coordination “all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared.” Furthermore, the Planning Commission could need to decide via public hearing on any entitlement required (use permit, variance, site development permit, etc.) for location of Fire District facilities or location of Fire Stations. Finally, the Fire District may wish to acquire property by eminent domain that the City wishes to acquire.

Because there is a possibility, given powers and duties assigned to planning commissions and fire district boards under state law, that a planning commissioner and fire district director could be tasked with actions in which they would have diverging interests as members of their respective agencies, the two offices would be considered incompatible. Absent another legislative act, the same individual cannot serve in both offices simultaneously.

Please let me know if you have additional questions or concerns on this topic. I am happy to do additional research on this issue.

ⁱ The AG did determine that the state legislature had abrogated the common law incompatible offices rule for city council members or county supervisors serving on fire districts. As such, the council member in that opinion could legally serve as a fire district director. However, the legislative act in question applied explicitly to county supervisors and city council members only, not to members of subordinate boards of either agency.

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolafco.org | Web: www.mendolafco.org

DATE: January 17, 2023
TO: Independent Special Districts of Mendocino County
FROM: Uma Hinman, Executive Officer
SUBJECT: 2022 Special District Member Election Results

Pursuant to GOV §56332(f), the Mendocino Local Agency Formation Commission (LAFCo) Executive Officer conducted the Mendocino County Special Districts 2022 Election by mail. January 16, 2023, was the deadline for ballots to select a regular special district member to LAFCo. The Election was initiated with a call for nominations on April 29, 2022, and a distribution of ballots on August 19, 2022. Based on the ballots received by the deadline, a quorum of special districts was achieved (GOV §56332(f)(6)).

Ballots were received from the following independent special districts:

Anderson Valley CSD	Mendocino City CSD
Brooktrails Township CSD	Mendocino County Recreation & Park District
Calpella County Water District	Mendocino Fire Protection District
Cemetery District of the Redwoods	Millview County Water District
Covelo CSD	Potter Valley Irrigation District
Elk CSD	Redwood Valley-Calpella Fire Protection District
Elk County Water District	Redwood Valley County Water District
Gualala CSD	Russian River Cemetery District
Hopland Cemetery District	Russian River Flood Control District
Hopland Fire Protection District	Ukiah Valley Fire District
Hopland PUD	Ukiah Valley Sanitation District
Little Lake Fire Protection District	Willow County Water District
Long Valley Fire Protection District	

On January 17, 2023 at 11:00 a.m., the Mendocino LAFCo Executive Officer and LAFCo Chair Mulheren counted ballots at the LAFCo office at 200 South School Street, Ukiah, CA. The ballot count was as follows:

Regular Special District Member Seat for term 2023 – 2026		
Candidate	Sponsoring Agency	Number of Ballots Cast
Francois Christen	Anderson Valley Community Services District	5
Candace Horsley	Ukiah Valley Sanitation District	20

We welcome Candace Horsley who will be sworn in as a regular special district representative at the next regular meeting of the Commission.

Note that as the sole nominee for the alternate special district representative for the term 2023-2026, Francois Christen was sworn in as the Alternate Special District Commissioner on January 9, 2023.

Thank you to all that participated in the 2022 Special District Election. Results of individual district ballots are available upon request.

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COMMISSIONERS

Maureen Mulheren, Chair
County Member

Gerald Ward,
Vice Chair/Treasurer
Public Member

Glenn McGourty
County Member

Mari Rodin
City Member

Vacant
City Member

Candace Horsley Elected
Special District Member

Vacant
Special District Member

Francois Christen, Alternate
Special District Member

Gerardo Gonzalez, Alternate
City Member

John Haschak, Alternate
County Member

Richard Weinkle, Alternate
Public Member

STAFF

Executive Officer
Uma Hinman

Clerk/Analyst
Larkyn Feiler

Counsel
Scott Browne

REGULAR MEETINGS

First Monday of each month
at 9:00 AM in the
Mendocino County
Board of Supervisors
Chambers
501 Low Gap Road, Ukiah

Sent by Electronic Mail

January 23, 2023

To: Board of Directors of Independent Special Districts
From: Uma Hinman, Executive Officer
Subject: NEW Notice of Vacancy for Special District Member to LAFCo

Mendocino Local Agency Formation Commission (LAFCo) has a new Special District Member vacancy as of December 2, 2022 and invites **nominations to fill the remainder of the Regular Special District term of 2021-2024**. View our website for the current Commission members: <https://www.mendolafo.org/commission>.

Special District Members	Seat	Term
Vacant	Regular	2021 – 2024
Candace Horsley (<i>elected</i>)	Regular	2023 – 2026
Francois Christen	Alternate	2023 – 2026

LAFCo is an independent, quasi-legislative agency that reviews city and special district changes of organization and the establishment of boundaries and authorized services for numerous local government agencies (see website for a list of local special districts). The Commission is comprised of seven regular and four alternate members representing the county, cities, independent special districts, and general public.

In accordance with Government Code Section 56332(f), the Mendocino LAFCo Executive Officer conducts the nomination and election process on behalf of the Special District Selection Committee.

Commission members are elected to four-year terms; there are no term limits. Each district may nominate one person for the regular member seat. Nominees must be board members and nominations must be approved by the district's governing body. All nominations must be accompanied by a completed nomination form (enclosed) and may be mailed or emailed to LAFCo at eo@mendolafo.org.

If nominations are received for only one candidate by the end of the nominating period, the candidate shall be deemed appointed. If more than one nomination is received, LAFCo will prepare and send ballots to each district for an election. Contact LAFCo staff with questions at (707) 463-4470 or email the Executive Officer at eo@mendolafo.org.

The nomination and election schedule are as follows:

Election Process Step	Date
Nominations due	March 14, 2023
Ballots issued (if more than 1 nomination)	March 17, 2023
Ballots due	April 30, 2023
Term begins	May 2023

Signed nominations may be submitted by mail, email or hand delivery and must be received by March 14, 2023.

Nomination Form

(due to Mendocino LAFCo by March 14, 2023)

Special District Regular Member

Remainder of 4-year Term, Ending December 31, 2024

Name of District: _____

Address: _____

Telephone: _____

The Board hereby nominates _____
to serve on the Mendocino Local Agency Formation Commission.

Board action taken on the _____ day of _____, 2023 by the following
vote:

Ayes: _____

Noes: _____

Abstain: _____

Absent: _____

District Representative:

Signature

Date

Printed Name

Title

Nominations due to LAFCo by March 14, 2023

(Nomination Forms accepted by mail, email, or hand delivery)

H. JAMES LANCE

Attorney at Law

941 Grove Street
Healdsburg, CA 95448
707-367-2057
hjlance@comcast.net

To: Ukiah Valley Fire District Board of Directors and to Fire Chief, Douglas Hutchison

From: James Lance, attorney for UVFD

Re: Request for legal opinion

Question presented:

Where the Ukiah Valley Fire District's territorial jurisdiction includes the territory of the city of Ukiah, may a sitting planning commission member of the city simultaneously serve the public office of UVFD board member?

Answer:

No. Simultaneous service by the same person, within the same geographic territory, as city planning commission member and as fire district board member, would result in a violation Civil Code section 1099 and the common law Doctrine of Incompatible Public Offices.

I.

Background and Introduction

Chief Hutchison has advised that a vacancy exists on the UVFD board of directors and that the board is considering filling that vacancy by the appointment of Mr. Mark Hilliker, who currently serves as a member of the City of Ukiah Planning Commission. Further, I was provided with a copy of a legal opinion prepared by the attorneys for the City of Ukiah to the question presented. I have carefully reviewed that legal opinion and concur with the conclusions made by the city's attorneys. The city's attorneys have accurately described the applicable law to the issues presented and have correctly summarized the duties of both of the public offices at issue. Further, they have identified the statutory purposes for which both fire districts and planning commissions are formed to serve for the purpose of identifying potential areas of overlap and conflict between these agencies and their member representatives. The following memorandum prepared on behalf of the UVFD is a supplemental opinion to the question presented.

A. The Common Law.

Under historical case law or “common law” rule, an individual is precluded from simultaneously holding more than one conflicting or “incompatible” public offices. The common-law rule provides that the acceptance by a public officer of another public office which is incompatible with the first thereby vacates the first office; that is, the mere acceptance of the second incompatible office per se terminates the first office as effectively as a resignation. See, 3, McQuillan, The Law of Municipal Corporations, 3d ed. at §12:112.

The common-law was predicated on public policy that requires an officeholder to discharge his or her duties with undivided loyalty. The doctrine of incompatibility is intended to assure performance of that quality. McQuillan, *supra* at §12.112. As noted by the city’s attorneys, the leading California appellate court decision on the so-called doctrine or prohibition of incompatible public offices is the 1940 CA. Supreme Court case of *People ex rel. Chapman v. Rapsey* (1940) 16 Cal.2d 636, 641-644 (“Rapsey”). The Rapsey case establishes the criteria for the determination that two or more public offices held by the same individual may result in an incompatible conflict requiring resignation. In 2005 the legislature adopted Civil Code §1099 which codified the common law doctrine of incompatible public office, setting forth the following three enumerated circumstances resulting in incompatibility:

- (1) Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body.
- (2) Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices.
- (3) Public policy considerations make it improper for one person to hold both offices.

Of foregoing three circumstances, the one that is relevant to the subject discussion is #2. Thus, the bottom line to the question of whether the public offices of City of Ukiah Planning Commission member and UVFD board member are incompatible when served simultaneously by the same person depends on whether,

*“Based upon the powers and jurisdiction of the offices, there is a **possibility of a significant clash of duties and loyalties** between the offices*

2. Analysis

There are few recent appellate court decisions on the doctrine of incompatible public offices and Civil Code 1099 violations, and we must rely on the advisory opinions or the California Attorney General’s Office for guidance. The CA Attorney General (“AG”) has

previously determined that the doctrine of incompatible Public Offices is applicable to cases involving either a City Planning Commissioner or Fire District Board Member.

No published California Appellate Court decisions nor Attorney General Opinion could be found discussing the propriety of simultaneously holding the exact public offices as in the case at hand, i.e., City Planning Commission member and Fire District Board member. However, as discussed below, the Attorney General's office has published opinions applying the doctrine of incompatible public offices in which one of the two offices simultaneously held within a common territorial jurisdiction was that of either a city planning commission member, or a fire district board member. These opinions conclude that a significant clash of duties or loyalties may exist in violation of the doctrine of incompatible public offices when either a city planning commission member or fire district board member simultaneously holds another public office with overlapping duties or interests and within the same jurisdictional territory.

A. Application of the Doctrine of Incompatible Public Office and the public office of Planning Commission Member. (*City of Costa Mesa Planning Commission and the Costa Mesa Sanitary District; Office of the Attorney General, State of California, Opinion No. 12-602*).

In the above-referenced matter involving the City of Costa Mesa Planning Commission and the Costa Mesa Sanitary District (the "District"), the AG determined that the Doctrine of Incompatible Public Offices prohibits a member of a city planning commission, from simultaneously serving as a board member of a local sanitary district which operated within a geographic territory that included the city.

The AG noted that the District owned real property and operated extensive facilities within the City of Costa Mesa boundaries, all of which were subject to the City's general plan. The District also served Costa Mesa's governmental offices, parks, and other facilities, including the offices occupied by the Planning Commission and its staff. Similarly, in the case at hand, the Ukiah Valley Fire District owns real property and operates facilities within the boundaries of the City of Ukiah and provides extensive fire protection, prevention and other emergency services within the boundaries of the City of Ukiah.

In the Costa Mesa case, the AG noted that the Planning Commission was created to implement the City's general plan, and that the possibilities for influence and conflict with the interests of the local sanitation district board of directors resulted in the determination that the two public offices were incompatible:

"The Planning Commission was created to prepare and implement Costa Mesa's general plan, carry out its planning functions, and advise the City Council on matters concerning long-term community growth and development. The Commission has been delegated the powers necessary to administer the state's zoning and planning laws, and its responsibilities include monitoring other public agencies' compliance with the City's general plan and with any

applicable specific plans-including the location and operation of those agencies' facilities, and their applications for zoning variances, conditional use permits, and other non-conforming land uses.

“As may be inferred from these descriptions, there are myriad possibilities for influence and exchange between a planning commission and a local district that lies within the planning commission's territory.

....

“In light of the overlapping jurisdictions of the Commission and the District, and the potential for conflicts of interest between them, we conclude that the two public offices held by Mr. Fitzpatrick from December 2010 until mid-May of 2012 present a “possibility of a significant clash of duties or loyalties between the offices” within the meaning of Government Code section 1099(a)(2), and that they are therefore incompatible offices under section 1099 and the common-law rule.”

- B. Application of the Doctrine of Incompatible Public Office and the public office of Fire District board member. (Mayor, City of Riverdale, and board member Stanislaus Consolidated Fire District; Office of the Attorney General, State of California, Opinion No. 17-1101)

In this matter the AG determined that the public office of mayor of the City of Riverdale was incompatible with the office of Stanislaus Consolidated Fire District board member when such offices were served simultaneously by the same person.

Among the reasons cited by the AG, was the potential for conflict to the adoption of fire safety building standards among these two agencies operating within a common jurisdiction:

“We perceive a number of different situations in which the duties of the Mayor of Riverbank (or other city council member) and a director of the Fire District might conflict. Since Riverbank is wholly situated within the Fire District, Riverbank and the district cover common territory. Decisions and actions by the city council could affect the district, and vice versa. For example, Fire District directors have the authority to adopt fire safety building standards that would apply in Riverbank, but the Riverbank City Council has the power to modify or reject those standards. The ability of the council to overrule the district board in such a matter, as well as the potential clash of loyalties in determining what is best for Riverbank as opposed to what is best for the Fire District as a whole, indicate that the offices of city council member and fire district director would be incompatible, absent legislative action exempting these offices from application of the doctrine.”

Based upon the conclusion reached by the AG within the Costa Mesa and Riverbank opinions discussed above, it can be stated with certainty that in view of the potential for continuing, overlapping interests concerning, among other things, zoning, planning and other

land-use concerns, and with potential disputes concerns the adoption and adherence to fire safe building standards, there is a possibility of a significant clash of duties and loyalties between the offices of city planning commissioner and fire district board member where such agencies concurrently operate within the same jurisdictional territory.

3.

Conclusion

Based upon the foregoing analysis, the subject public offices are incompatible within the meaning of the common law and Civil Code 1099. Note: the law provides that a lawsuit may be filed by the attorney general, district attorney, or by private citizen, against any person who unlawfully holds, or exercises any public office. See CA CCP 803. In this so-called “quo warranto” proceeding, the burden is upon the persons accused of unlawfully holding two public offices to establish that the offices are not incompatible. If the defendant is adjudged guilty, the court, in its discretion, may impose on the defendant a fine, not to exceed that set forth by statute, to be paid into the State Treasury.

Respectfully submitted, H. James Lance



AGENDA SUMMARY REPORT

SUBJECT: Measure B Annual Report FY 21-22

DEPARTMENT: Fire

PREPARED BY: Stephanie Abba, Clerk of the Board

PRESENTER: Doug Hutchison, Fire Chief

ATTACHMENTS:

1. UVFD Measure B Annual Report FY 21-22

Summary: The Ukiah Valley Fire District approved Resolution 2003-7, proposing the imposition of a special tax and ordering a Special Tax Election to be consolidated with the general election of November 4, 2003, for the purpose of submitting to the voters of the District the question of whether or not such a tax should be levied.

Background: On November 4, 2003, a special tax election was held and passed. The tax went into effect on July 1, 2004, as authorized by Health and Safety Code Section 13911 and Government Code Section 500075, and is to be used for the specific purpose of replacing fire suppression vehicles, emergency equipment, and personnel safety equipment and training. A special account was created into which the proceeds are deposited.

The Fire Chief is responsible for filing an annual report with the Board of Directors at the first Board Meeting of each year indicating both of the following:

1. The amount of funds collected and expended
2. The status of any project authorized to be funded

Discussion: Staff will provide the Ukiah Valley Fire District Board with the Measure B Annual Report for FY 21-22

Recommended Action: Receive Report

BUDGET AMENDMENT REQUIRED:

CURRENT BUDGET AMOUNT:

PROPOSED BUDGET AMOUNT:

FINANCING SOURCE:

PREVIOUS CONTRACT/PURCHASE ORDER NO.:

COORDINATED WITH:

Approved:

Doug Hutchison, Fire Chief

**Ukiah Valley Fire District
Supplementary Information
For the Year Ended June 30, 2022**

Measure B Special Tax

Resolution 2003-7, approved by the taxpayers on November 4, 2003, established a special tax rate (Measure B), effective July 1, 2004. The special tax assessment is to be used for the specific purpose of replacing fire suppression vehicles, emergency equipment, personnel safety equipment, and training. The rate of tax is \$10 per unit and is accounted for by the District in separate accounts internally.

The following is a summary of the activity for the year ended June 30, 2022:

Additions:

Measure "B" Assessments	\$ 127,675
Reimbursements	26,312
Investment Income	<u>(5,930)</u>
Total Additions	<u>148,057</u>

Deductions:

Capital Outlay	-
Contract Services	16,012
Capital Lease Payments	<u>51,479</u>
Total Deductions	<u>67,491</u>

Increase (Decrease) of Measure "B" Related Funds	80,566
Beginning Balance, Measure "B" Related Funds	<u>393,016</u>
Ending Balance, Measure "B" Related Funds	<u><u>\$ 473,582</u></u>