

**LAFCO**

**Meeting Date:** 05/27/2021

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**Information**

**SUBJECT**

Public Hearing to consider approval of **Resolution 2021-04** adopting the Joint Powers Agency (JPA) Service Review for the Yolo Habitat Conservancy (YHC) (LAFCo No. 21-03)

**RECOMMENDED ACTION**

1. Receive staff presentation on the JPA Service Review and open the Public Hearing for any comments on this item.
2. Close the Public Hearing and consider the information presented in the staff report and during the Public Hearing. Discuss and direct staff to make any necessary changes.
3. Consider approval of Resolution 2021-04 adopting the JPA Service Review for YHC.

**FISCAL IMPACT**

No fiscal impact. The JPA Service Review was prepared "in-house" and appropriate funds were budgeted.

**REASONS FOR RECOMMENDED ACTION**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), is LAFCo's governing law and outlines the requirements for preparing periodic Municipal Service Reviews (MSRs) and Sphere of Influence (SOI) updates. MSRs and SOIs are tools created to empower LAFCo to satisfy its legislative charge of "discouraging urban sprawl, preserving open space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances".

While MSRs are not legally required of Joint Powers Agencies/Authorities, LAFCo has been requested by the cities and County (i.e. JPA member agencies) to provide MSR-like service reviews of selected types of JPAs in the county. LAFCo has the authority to furnish informational studies and analyze independent data to make informed recommendations regarding the efficient, cost-effective, and reliable delivery of services to residents, landowners, and businesses via these JPAs. With this intention, LAFCo has modified its MSR checklist to conduct service reviews of JPAs.

## **BACKGROUND**

### **Agency Information**

The Yolo County Habitat / Natural Community Conservation Plan Joint Powers Agency, now referred to as the Yolo Habitat Conservancy (YHC), was created in 2002 pursuant to the Joint Exercise of Powers Act and is a public agency separate from its members. YHC was formed to (1) assist in the planning, preparation, and subsequent administration of the Yolo Habitat Conservation Plan / Natural Community Conservation Plan (Yolo HCP/NCCP or Plan) and the Yolo Local Conservation Strategy; and (2) to facilitate acquisition of conservation easements to mitigate adverse effects on the Swainson's hawk habitat during the planning process. The Plan provides a process for landowners and developers to comply with the requirements of federal and state endangered species laws without having to work directly with federal and state conservation agencies. In exchange for obtaining the Plan's benefits, landowners and developers must pay a fee to the YHC for mitigation of the adverse effects of their development on the Plan's 12 covered species and their habitat.

In 2005, the YHC entered into a Planning Agreement with the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (USFWS) that defined the initial scope of the Yolo HCP/NCCP program as well as the roles and responsibilities of the parties involved in the development of the Yolo HCP/NCCP. The YHC prepared the Yolo HCP/NCCP, a model conservation plan to provide incidental take permits pursuant to the federal Endangered Species Act and the Natural Communities Conservation Planning Act for infrastructure (e.g. roads, bridges, and levees) and development activities (e.g. agricultural facilities, housing, and commercial buildings), identified for construction over the next 50 years in Yolo County.

In June 2018, the member agencies amended and restated the original agreement as a means of affirming the Conservancy's role as the local agency responsible for Yolo HCP/NCCP implementation and to ensure that it has adequate legal authority to carry out its duties as the implementing entity, including but not limited to the adoption of mitigation fees for development projects within the plan area. The Plan was fully approved and permitted as of January 11, 2019. Implementation of the Plan has proceeded from that date. The Plan provides a centralized process for the coordinated establishment of contiguous conservation land reserves in Yolo County, which effectively benefits the Plan's 12 covered species.

The YHC also developed a voluntary, non-regulatory, Yolo Regional Conservation Investment Strategy/Local Conservation Plan (RCIS/LCP) that provides a framework for the conservation of natural communities and certain sensitive species, including those not covered by the Yolo HCP/NCCP. The Yolo HCP/NCCP was approved by the CDFW in November 2020.

YHC is governed by a Board of Directors of its member agencies; two members of the Yolo County Board of Supervisors, one member each from the city councils of the cities of Davis, West Sacramento, Winters, and Woodland, and one nonvoting, ex officio member from the University of California, Davis (UCD). In addition, YHC utilizes a Science and Technical Advisory Committee and is in the process of establishing members for an Implementation Advisory Committee to advise the Board of Directors.

### **Agency Involvement**

LAFCo staff worked with the YHC Executive Director to provide required information. Administrative drafts were shared with YHC staff and comments/edits were discussed and resolved during virtual meetings. One additional recommendation has been added to the draft report in addition to attaching YHC's latest Annual Report. The additional text is shown in track

changes as compared to the version posted for public review on May 7th.

### **JPA Service Review Determinations and Recommendations**

Considering all the changes YHC has gone through, its remarkable this JPA is functioning so well and is very accountable and stable.

Six of the required seven MSR determinations are applicable to JPAs (the determination for disadvantaged unincorporated communities was removed for the JPA Service Review checklist). YHC's determinations and recommendations for Commission review and consideration are as follows:

#### **Growth and Population Determination**

The Yolo HCP/NCCP, administered by YHC, anticipates construction over the next 50 years in Yolo County. Therefore, YHC is prepared to accommodate development and population growth and is structured so that it can adjust to cycles in development activity. YHC has recently reduced its staffing levels to be proportionate to lower than anticipated development countywide, so it has been able to remain nimble and respond to actual development demand.

#### **Capacity and Adequacy of Public Facilities and Services Determination**

The nature of YHC is such that it created a 50-year plan to provide required mitigation for project-related potential environmental impacts countywide, therefore it is prepared for existing and future growth. Now that the HCP/NCCP has been approved, the YHC can scale with its contract staff model and remain nimble to fluctuations in development trends. The HCP/NCCP has made assumptions for future climate change events and Annual Report documents changed circumstances due to climate change.

#### **Financial Ability Determination**

YHC financial status currently looks secure. However, the new financial model may present challenges during years with little mitigation fee revenue. Staffing and use of contractor services were modified to control expenditures under this new model. As long as expenditures are controlled within available resources, the agency should remain viable. YHC should consider increasing reserves to cover management of the program during years when little or no mitigation fees are received.

#### **Financial Ability MSR Recommendation(s)**

- Consider establishing separate revenue accounts to record revenue in a more meaningful way. Currently, mitigation fees, cost reimbursements, special participating entity fees and other revenues are often grouped into "Other Miscellaneous Revenue".
- Consider separating the principal portion of endowments from the interest income to protect the principal from inadvertently being spent.
- Review the annual financial statements and compare the reported numbers to the balances in the accounting system. Any differences should be documented and understood by agency staff.
- Consider increasing reserves for use during years when little or no mitigation fees are received to ensure the ongoing operation of YHC.

#### **Shared Services Determination**

YHC is, by its very nature, an agency created for more efficient habitat conservation collectively in Yolo County. Members include Yolo County, the cities of Davis, West Sacramento, Winters, and Woodland, and the University of California, Davis (UCD). Now that the Conservation Plan is adopted, no new members outside the Plan area can join in. It provides a "one-stop shop" for

landowners/farmers to meet environmental and conservation requirements established by various local, state and federal agencies.

**Accountability, Structure and Efficiencies Determination**

The YHC obtained state and federal approval in 2019 and currently is in the implementation process. No different organizational structure is recommended for YHC’s implementation. Board members are elected officials who are appointed to the YHC board by the member agencies, therefore, there are no issues with filling vacancies. Staff sets up individual meetings with new Board members to provide information regarding program issues, easement acquisitions, and financial management.

Since approval of the HCP/NCCP, the operational model for YHC has changed as efforts shifted from plan preparation to implementation. As of July 1, 2020, YHC has contracted with Yolo County for general administration and day to day operation of YHC. Monthly financial updates, annual audits, budgets reviewed by member Chief Financial Officers. YHC is current on its officers’ Statements of Economic Interests, annual independent audits and is highly transparent and accountable with the public providing access to its records on its website.

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**Attachments**

- ATT A-YHC JPA Service Review Reso 2021-04
  - ATT B-Public Hearing Draft YHC JPA Service Review 05.18.2021
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**Form Review**

<b>Inbox</b>	<b>Reviewed By</b>	<b>Date</b>
Christine Crawford (Originator)	Christine Crawford	05/19/2021 10:09 AM
Form Started By: Christine Crawford		Started On: 05/07/2021 11:08 AM
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