

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

July 13, 2011 (Agenda)

July 13, 2011  
Agenda Item 6

LAFCO 11-01: Annexation 167B to Central Contra Costa Sanitary District (CCCSD)

PROPONENT: CCCSD by Resolution No. 2011-002 adopted January 6, 2011

ACREAGE & LOCATION The applicant proposes to annex 34.1± acres (21 properties) in four separate areas located in the vicinity of Concord and Walnut Creek as generally described below:

**Area 167B-2:** six parcels located on Arbol Via, Cielo Via and Las Lomas Way, Walnut Creek (29.6± acres)

**Area 167B-3:** two parcels located on Arbol Via and La Casa Via, Walnut Creek (1.6± acres)

**Area 167B-4:** 12 parcels located on Argonne Drive, Concord (2.6± acres)

**Area 167B-5:** one parcel (portion of Diablo Shadows Park Trail) located on Oak Grove Road, Walnut Creek (0.3± acres)

SYNOPSIS

CCCSD, on behalf of several property owners, filed an application with LAFCO to annex the properties to the District. Three property owners have petitioned CCCSD for sewer service; the District has included the remaining in-fill parcels to avoid the creation of islands, provide for logical boundaries, and streamline CCCSD staff work.

The purpose of the annexation is to extend wastewater service to various parcels. The properties include existing single family dwelling units that have converted (or are converting) from septic systems to municipal sewer service, construction of new single family homes to be connected to the CCCSD sewer system, and parcels being included to eliminate islands and provide for logical service boundaries.

DISCUSSION

The Government Code sets forth factors that the Commission is required to consider in evaluating any proposed boundary change as discussed below (Gov. Code §56668). In the Commission's review and evaluation, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

1. Consistency with the Sphere of Influence (SOI) of Any Local Agency:

The areas proposed for annexation are within CCCSD's SOI and within the County Urban Limit Line; nine parcels are located in the vicinity of Walnut Creek and 12 parcels are located in the vicinity of Concord.

2. Land Use, Planning and Zoning - Present and Future:

The city and County General Plan and zoning designations are as follows. No changes are proposed to General Plan or zoning designations as part of this proposal.

Annexation Area	General Plan Designation	Zoning Designation
167B-2	Single Family Residential Very Low Density (SFVL) and Medium (SFM)	R-40 (Single Family Residential - lot size 40,000 sq. ft. minimum) - County R-12 (Single Family Residential - lot size 12,000 sq. ft. minimum) - County
167B-3	SFVL	R-40 - County
167B-4	Single Family Residential Low (SFL)	R-12 - City of Concord
167B-5	SFM	R-10 (Single Family Residential - lot size 10,000 sq. ft. minimum) - City of Walnut Creek

3. The Effect on Maintaining the Physical and Economic Integrity of Agricultural Lands:

The properties proposed for annexation contain no prime farmland or land covered under Williamson Act Land Conservation Agreements.

4. Topography, Natural Features and Drainage Basins:

The topography of annexation and surrounding areas are as follows:

Area	Topography - Annexation Area	Topography - Surrounding Area
167B-2	Hillside	Slopes up to a ridgeline to the south
167B-3	Relatively flat	Relatively flat to the north, south and west; gently sloped up to the east
167B-4	Relatively flat	Flat in each direction
167B-5	Flat	Flat in each direction

5. Population:

There is a potential to add a maximum of 15 single family dwelling units to the annexation area 167B-2. These additional units could result in a population increase of 32± persons based on 2010 California Department of Finance estimates.

6. Fair Share of Regional Housing:

Pursuant to §56668 of the CKH Act, LAFCO must consider in the review of a proposal the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments. The proposed annexation will have minimal effect on regional housing needs.

7. Governmental Services and Controls - Need, Cost, Adequacy and Availability:

In accordance with Government Code §56653, whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency shall also submit a plan for providing services within the affected territory. The plan shall include all of the following information and any additional information required by the Commission or the Executive Officer:

- (1) An enumeration and description of the services to be extended to the affected territory.
- (2) The level and range of those services.
- (3) An indication of when those services can feasibly be extended to the affected territory.
- (4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- (5) Information with respect to how those services will be financed.

The "Plan for Providing Services within the Affected Territory," as required by Government Code §56653, is on file in the LAFCO office. The properties proposed for annexation are served by various local agencies including, but not limited to, the cities of Concord and Walnut Creek, Contra Costa County, Contra Costa County Fire Protection District, Contra Costa Water District (CCWD) and East Bay Municipal Utility District (EBMUD).

The proposal before the Commission is to annex the properties to CCCSD for the provision of sanitary sewer service, including collection, treatment and disposal.

CCCSD currently serves an estimated population of 326,000 residents in a 142-square-mile service area. CCCSD's wastewater collection system consists of 1,500 miles of sewer mains with 18 pump stations. The majority of CCCSD's system operates with gravity flow with some pumping stations and force

mains. All sewer connections to the subject property will be either gravity flow or individual residential pump systems.

CCCSD's wastewater treatment plant provides secondary level treatment for an average dry weather flow of approximately 33.5 million gallons per day (mgd) of wastewater. The wastewater treatment plant has a permitted discharge limit of 53.8 mgd.

The areas proposed for annexation include service to 18 existing single family homes. In addition, there is potential for 15 new single family homes. The maximum demand for service to the potential 15 homes is approximately 3,400 gallons of wastewater per day.

CCCSD indicates that a number of the properties proposed for annexation are served by existing CCCSD facilities; others can extend sanitary sewer main lines to receive sewer services. It is not the current practice of CCCSD to compel property owners to connect their properties to the public sewer system involuntarily.

Also, annexation area 167B-4 includes 12 properties that are located within the City of Concord and connected to CCCSD, yet pay a sewer service charge to the City of Concord, rather than to CCCSD, under a previous arrangement initiated in the early 1970s.

With regard to infrastructure and improvements, CCCSD indicates that all gravity mains required to serve the affected parcels will be 8-inch diameter for gravity mains or up to 2-inch diameter for pressure mains, which are CCCSD's minimums for mains. All laterals will be 4-inch diameter, which is CCCSD's minimum for gravity laterals, or 1-1/4- to 2-inch diameter pump laterals, which is CCCSD's minimum for pump laterals, depending on the specific pump type installed.

With regard to funding, all capital costs including any required sewer main extensions, along with connections fees, will be borne by the property owners. CCCSD funds the maintenance of all sewers through its annual sewer service charge.

#### 8. Timely Availability of Water and Related Issues:

Annexation areas 167B-2, 167B-3 and 167B-5 are located within the EBMUD service area. EBMUD provides wholesale water, retail water, wastewater collection and wastewater treatment services for an area of 331± square miles in Contra Costa and Alameda counties, serving over 1.4 million people. Water service includes production, distribution, retail, treatment, recycling and conservation services. Historically, over 90% of EBMUD's water comes from the Mokelumne River watershed. Other water sources include local watershed runoff and Central Valley Project (CVP) (Sacramento River).

Area 167B-4 is fully developed and receives water from the CCWD. CCWD provides wholesale and retail water, and serves an area of 220± square miles and approximately 550,000 people. Water service includes production, distribution, retail, treatment, recycling and conservation services. The District's primary source of water supply is the United States Bureau of Reclamation's Central Valley Project.

CCCSD indicates that the proposed annexation would have a minor effect on water usage, and would not lead to the construction of new or expansion of existing water facilities.

#### 9. Assessed Value, Tax Rates and Indebtedness:

The annexation areas are within tax rate areas 02005, 79001 and 79088. The assessed value for the areas proposed for annexation is \$13,554,268 (2010-11 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

In January 2011, CCCSD, as Lead Agency, adopted an Initial Study/Negative Declaration with respect to Annexation No. 167B. The LAFCO Environmental Coordinator reviewed the document and finds it adequate for LAFCO purposes.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are more than 12 registered voters in the area proposed for annexation. Thus, the area proposed for annexation is considered inhabited.

CCCSD indicates that less than 100% of the affected landowners/voters have provided written consent to the annexation. Thus, the Commission's action is subject to notice, hearing, as well as conducting authority (protest) proceedings. All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the July 13 hearing.

As of this writing, LAFCO has received no communication from any affected landowner or registered voter. If no written objection is received from an affected party prior to the conclusion of the hearing on July 13, the Commission may waive the protest proceedings. However, if any objection is received at any time prior to or during the hearing, then a protest hearing is required (Gov. Code Section 56663).

12. Boundaries and Lines of Assessment:

The annexation areas are within CCCSD's SOI and are contiguous to existing CCCSD boundaries. The 2008 Central County Water/Wastewater Municipal Services Review (MSR) provided an assessment of CCCSD services. The MSR report noted that CCCSD was serving an estimated 180 parcels outside its service boundary; and that there were a number of small islands surrounded by the District and within its SOI. The MSR suggested annexing parcels receiving out of agency service, as well as islands and areas where there were concerns due to failing septic systems and related public health issues. Since 2008, CCCSD has made significant progress to validate sewer service connections and correct island and boundary irregularities. The proposed annexation would bring into CCCSD's boundaries additional parcels currently receiving out of agency service, and facilitate further clean up of pockets and islands.

13. Environmental Justice:

LAFCO is required to consider the extent to which proposals for changes of organization or reorganization will promote environmental justice. As defined by statute, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The proposed annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

ALTERNATIVES FOR COMMISSION ACTION

After consideration of this report and any testimony or additional materials that are submitted the Commission should consider taking one of the following options:

**Option 1**

Approve the annexation as submitted.

- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed the CCCSD District Annexation 167B Negative Declaration.
- B. Adopt this report and approve the proposal, to be known as CCCSD Annexation 167B subject to the following terms and conditions:
  - 1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.

2. That CCCSD has delivered an executed indemnification agreement providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is inhabited and that the annexing agency has consented to waiving the conducting authority proceedings. However, less than 100% of the affected landowners/registered voters have consented to the annexation. Should LAFCO receive any objection to the annexation from an affected party prior to or during the public hearing, then a subsequent protest hearing is required. Should no protest be received, then the Commission may waive the protest hearing and direct LAFCO staff to complete the proceedings.

**Option 2** Adopt this report and DENY the proposal.

**Option 3** If the Commission needs more information, CONTINUE this matter to a future meeting.

**RECOMMENDED ACTION:**

**Approve Option 1.**

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LOU ANN TEXEIRA, EXECUTIVE OFFICER  
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

**RESOLUTION NO. 11-01**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
ANNEXATION 167B TO CENTRAL CONTRA COSTA SANITARY DISTRICT**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, information satisfactory to the Commission has been presented that no affected landowners/registered voters within the reorganization area object to the proposal; and

WHEREAS, the Local Agency Formation Commission determines the proposal to be in the best interests of the affected area and the total organization of local governmental agencies within Contra Costa County;

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. Determine that on January 6, 2011, Central Contra Costa Sanitary District, as Lead Agency, adopted a Negative Declaration for District Annexation 167B – Walnut Creek and Concord, and that as a Responsible Agency, the Commission has considered the Negative Declaration as prepared by the Lead Agency.
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

**ANNEXATION 167B TO CENTRAL CONTRA COSTA SANITARY DISTRICT**

4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
5. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.

Contra Costa LAFCO  
Resolution No. 11-01

6. That CCCSD delivered an executed indemnification agreement between the CCCSD and Contra Costa LAFCO providing for CCCSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
7. The territory proposed for annexation is inhabited.
8. The proposal has less than 100% landowner/registered voter consent; however, no affected landowners/registered voters opposed the reorganization, and the annexing agency has given written consent to the waiver of conducting authority proceedings. Said conducting authority proceedings are hereby waived.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

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PASSED AND ADOPTED THIS 13<sup>th</sup> day of July 2011, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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MICHAEL R. McGILL, CHAIR, CONTRA COSTA LAFCO

*I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated.*

Dated: July 13, 2011

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Lou Ann Texeira, Executive Officer

