



Lou Ann Texeira
Executive Officer

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October 31, 2012 (Agenda)

October 31, 2012
 Special Meeting
 Agenda Item 7

Contra Costa Local Agency Formation Commission
 651 Pine Street, Sixth Floor
 Martinez, CA 94553

**Results of Protest Hearing
 San Damiano Annexation to East Bay Municipal Utility District**

Dear Commissioners:

DISCUSSION

At a public hearing on September 12, 2012, the Commission approved the San Damiano Annexation to the East Bay Municipal Utility District (EBMUD). This is a proposal to annex 27.5± acres (three parcels) to EBMUD. The subject area is located in western Danville at the end of Highland Drive. The purpose of the annexation is to correct the EBMUD service area map and place the use boundary in compliance with LAFCO regulations and the EBMUD contract with the United States Bureau of Reclamation. The properties are developed and have existing water service through EBMUD.

In accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH Act”), LAFCO is the agency to conduct the protest hearing. The purpose of the protest hearing is to receive written protests from affected landowners and/or registered voters regarding the proposal and determine whether a “majority protest” exists. With regard to this annexation, which is uninhabited (i.e., contains fewer than 12 registered voters), the Commission shall take one of the following actions:

- **Order the annexation** if written protests have been filed by less than 50% of the landowners owning less than 50% of the assessed value of land within the affected territory; or
- **Terminate the proceedings** if a majority protest exists. A majority protest constitutes 50% or more of the landowners owning at least 50% of the assessed value of land.

The protest hearing was properly noticed and held on Wednesday, October 17, 2012, at 2:30 p.m. in the Board of Supervisors Chambers located at 651 Pine Street, First Floor in Martinez.

The hearing was conducted by the LAFCO Executive Officer, who is delegated the authority to conduct the protest hearing on behalf of the Commission.

At the conclusion of the hearing, the number of protests received prior to and during the hearing were counted. No protests were filed; consequently, the annexation is ordered.

RECOMMENDATION

It is recommended that the Commission adopt a resolution finding a majority protest was not received, and order the annexation subject to the terms and conditions as specified in the Commission's resolution of approval.

Sincerely,

Lou Ann Texeira
Executive Officer

c: Distribution List

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

DETERMINATION OF THE EXECUTIVE OFFICER OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION FINDING THERE ARE INSUFFICIENT WRITTEN PROTESTS TO TERMINATE THE PROCEEDINGS RELATING TO THE SAN DAMIANO ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT (LAFCO 12-03)

1. This action is taken pursuant to the Cortese Knox Hertzberg Local Government Reorganization Act (Government Code §56000 et seq.) and policies of the Contra Costa Local Agency Formation Commission (hereafter Commission).

2. Proceedings for the San Damiano Annexation to the East Bay Municipal Utility District (EBMUD) were initiated by the District and filed with the Executive Officer of the Contra Costa LAFCO on May 8, 2012, proposing the annexation of 27.5± acres (three properties) to EBMUD. The purpose of the annexation is to correct the EBMUD service map and boundary.

3. On September 12, 2012, the Commission adopted Resolution No. 12-03, making determinations and approving the proposal subject to certain conditions. A true copy of said Resolution is attached hereto and incorporated by this reference, containing the terms and conditions of the Commission's approval of this proposal.

4. Acting on delegated authority from the Commission, as Executive Officer I conducted on October 17, 2012, a properly noticed public hearing to receive protests filed against the proposed annexation and, following conclusion of the hearing, found that fewer than 50 percent of the land owners (owning less than 50 percent of the assessed value of land) within the area proposed for annexation filed written protests against the proposal.

5. Finding there are insufficient protests to terminate the proceedings, the Contra Costa LAFCO hereby orders the San Damiano Annexation to the East Bay Municipal Utility District subject to the terms and conditions contained within the Commission's resolution of approval.

This order is made on and is effective from October 31, 2012.

Lou Ann Texeira, Executive Officer
Contra Costa Local Agency Formation Commission

RESOLUTION NO. 12-03

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
SAN DAMIANO ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT

WHEREAS, a proposal to annex territory to the East Bay Municipal Utility District (EBMUD) was filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Gov. Code 56000 et seq.); and

WHEREAS, the Executive Officer has examined the application and executed her certification in accordance with law, determining and certifying that the filing is sufficient; 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, the annexing agency has consented to waiving the conducting authority proceedings; 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. That East Bay Municipal Utility District (EBMUD), as Lead Agency, found the project to be Categorical Exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15319.
2. That the project is exempt pursuant to CEQA Guidelines, consistent with the determination of EBMUD acting as Lead Agency.
3. Said annexation is hereby approved.
4. The subject proposal is assigned the distinctive short-form designation:

SAN DAMIANO ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT

Contra Costa LAFCO
Resolution No. 12-03

5. 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.
6. The subject territory shall be liable for any existing bonded indebtedness of the annexing agencies, if applicable.
7. The subject territory shall be liable for any authorized or existing taxes, charges, and assessments comparable to properties within the annexing agencies.
8. That EBMUD delivered an executed indemnification agreement between EBMUD and Contra Costa LAFCO providing for EBMUD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
9. The territory proposed for annexation is inhabited.
10. The proposal has less than 100% landowner consent and is subject to a protest hearing. Contra Costa LAFCO is designated to conduct the protest hearing; the authority for which has been delegated to the LAFCO Executive Officer, who shall give notice and conduct a public hearing on the matter pursuant to the Government Code.
11. 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.

PASSED AND ADOPTED THIS 12th day of September 2012, by the following vote:

AYES: Andersen, Blubaugh, McGill, Piepho, Schmidt, Schroder, Tatzin

NOES:

ABSTENTIONS:

ABSENT: Glover, Meadows



DON TATZIN, 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: September 12, 2012



Lou Ann Texeira, Executive Officer