



***SPECIAL MEETING
NOTICE AND AGENDA***

DATE/TIME: Wednesday, October 31, 2012, 1:30 PM

PLACE: Board of Supervisors Chambers
651 Pine Street, Martinez, CA 94553

NOTICE IS HEREBY GIVEN that the Commission will hear and consider oral or written testimony presented by any affected agency or any interested person who wishes to appear. Proponents and opponents, or their representatives, are expected to attend the hearings. From time to time, the Chair may announce time limits and direct the focus of public comment for any given proposal.

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by LAFCO to a majority of the members of the Commission less than 72 hours prior to that meeting will be available for public inspection in the office at 651 Pine Street, Six Floor, Martinez, CA, during normal business hours as well as at the LAFCO meeting.

All matters listed under CONSENT ITEMS are considered by the Commission to be routine and will be enacted by one motion. There will be no separate discussion of these items unless requested by a member of the Commission or a member of the public prior to the time the Commission votes on the motion to adopt.

For agenda items not requiring a formal public hearing, the Chair will ask for public comments. For formal public hearings the Chair will announce the opening and closing of the public hearing.

If you wish to speak, please complete a speaker's card and approach the podium; speak clearly into the microphone, start by stating your name and address for the record.

Campaign Contribution Disclosure

If you are an applicant or an agent of an applicant on a matter to be heard by the Commission, and if you have made campaign contributions totaling \$250 or more to any Commissioner in the past 12 months, Government Code Section 84308 requires that you disclose the fact, either orally or in writing, for the official record of the proceedings.

Notice of Intent to Waive Protest Proceedings

In the case of annexations and detachments it is the intent of the Commission to waive subsequent protest and election proceedings provided that all of the owners of land located within the proposal area have consented and those agencies whose boundaries would be changed have consented to the waiver of protest proceedings.

American Disabilities Act Compliance

LAFCO will provide reasonable accommodations for persons with disabilities planning to attend meetings who contact the LAFCO office at least 24 hours before the meeting, at 925-335-1094. An assistive listening device is available upon advance request.

As a courtesy, please silence your cell phones during the meeting.

**CONTRA COSTA LAFCO SPECIAL MEETING AGENDA
WEDNESDAY, OCTOBER 31, 2012**

1. Call to Order and Pledge of Allegiance
2. Roll Call
3. Adoption of Agenda
4. Public Comment Period (please observe a three-minute time limit):

Members of the public are invited to address the Commission regarding any item that is not scheduled for discussion as part of this Agenda. No action will be taken by the Commission at this meeting as a result of items presented at this time.

5. Approval of Minutes for the October 10, 2012 regular LAFCO meeting.

SPHERE OF INFLUENCE/BOUNDARY CHANGES.

6. ***LAFCO 11-07 – Alhambra Valley Reorganization: Annexation to City of Martinez and Detachment from County Service Area P-6.*** On September 12, the Commission approved the reorganization of 316.4± acres (104 parcels) located southwest of the current City of Martinez boundary. On October 17, a protest hearing was held and an insufficient number of valid protests was received to either require an election or terminate the proceedings. The Commission will be asked to order the reorganization.
7. ***LAFCO 12-03 – San Damiano Annexation to East Bay Municipal Utility District (EBMUD):*** On September 12, the Commission approved the annexation of 27.5± acres (three parcels) located in western Danville to EBMUD, subject to protest proceedings. On October 17, a protest hearing was held and no protests were received. The Commission will be asked to order the annexation.
8. ***LAFCO 12-04 – Dougherty Valley Annexation #15 to the City of San Ramon*** - the Commission will consider a proposal to annex 41.54+ acres located adjacent to Quail Ridge Elementary School. **Public Hearing, continued from October 10, 2012**

OUT OF AGENCY SERVICE

9. ***LAFCO 11-09 – Town of Discovery Bay Community Services District*** – this is a request by the District to extend municipal sewer services outside its jurisdictional boundary to a 15± acre parcel located at 14021 Highway 4 in unincorporated Byron (APN 011-200-038).

BUSINESS ITEMS

10. ***Island Annexations and LAFCO Policies & Procedures*** - the Commission will receive a report on island annexations and be asked to consider revisions to the Commission's island annexation policies.
11. ***2013 LAFCO Meeting Schedule*** – the Commission will be asked to approve the 2013 LAFCO meeting schedule.

CORRESPONDENCE AND INFORMATIONAL ITEMS

12. Correspondence from Contra Costa County Employees' Retirement Association (CCCERA)
13. Commissioner Comments and Announcements
14. Staff Announcements

ADJOURNMENT

Next regular LAFCO meeting – November 14, 2012 at 1:30 p.m.

LAFCO STAFF REPORTS AVAILABLE AT http://www.contracostalafco.org/meeting_archive.htm

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MINUTES OF MEETING

October 10, 2012

Board of Supervisors Chambers
Martinez, CA

October 31, 2012
Special Meeting
Agenda Item 5

1. Chair Don Tatzin called the meeting to order at 1:30 p.m.
2. The Pledge of Allegiance was recited.
3. Roll was called. A quorum was present of the following Commissioners:
City Members Rob Schroder and Don Tatzin.
County Members Mary Piepho and Alternate Candace Andersen.
Special District Members Michael McGill, Dwight Meadows, and Alternate George Schmidt.
Public Members Don Blubaugh and Alternate Sharon Burke.
Present were Executive Officer Lou Ann Teixeira, Legal Counsel Sharon Anderson, and Clerk Kate Sibley.
4. Approval of the Agenda
Upon motion of Piepho, second by Andersen, Commissioners unanimously adopted the agenda.
5. Public Comments
There were no public comments.
6. Approval of September 12, 2012 Meeting Minutes
Upon motion of Andersen, second by Blubaugh, the minutes for the regular meeting on September 12, 2012 were approved; Commissioner Meadows abstained.
7. LAFCO 12-04 – Dougherty Valley Annexation #15 to the City of San Ramon
The Chair explained that this item must be continued.
Upon motion of McGill, second by Piepho, Commissioners unanimously set a special meeting on October 31, 2012, and continued the hearing on this annexation to that date.
8. Public Review Draft – Library Services Municipal Service Review (MSR) and Sphere of Influence (SOI) Updates
The Chair reported that this item needs to be postponed. Upon motion of Blubaugh, second by Piepho, Commissioners unanimously postponed the presentation of the Public Review Draft Library MSR to a future meeting.
9. Northeast Antioch Annexation Update
Victor Carniglia, representing the City of Antioch, stated that the Northeast Antioch Annexation subcommittee met on October 1, and asked if the Commissioners in attendance wished to comment before he reported. Commissioner McGill asked if in the future comments from those Commissioners who attend the subcommittee meetings can be formally scheduled to precede reports from the City and the County; he also stated that he would follow up Mr. Carniglia's and Mr. Seithel's reports with his own questions. Commissioner Meadows commented that he now believes that outside forces, not the City and the County, are the main impediments to progress on this issue.

DRAFT

Mr. Carniglia reported that GenOn ran preliminary costs for bringing sewer and water to Area 1, and it is dramatically higher than the City and County had previously calculated, in the area of \$15-16 million (rather than around \$6 million). They are now discussing just bringing water (and not sewer) to the area, which would be much less costly. The environmental review has been revised, and he believes it is an excellent document at this point.

Commissioner McGill offered to meet with the consultant who has estimated the water and sewer infrastructure costs to see if there are other options. He is also interested in, and would like to better understand, the proposal that the City could enter into a Joint Powers Agreement (JPA) with the County to provide all services except water and sewer.

In response to questions from the Commission, LAFCO Legal Counsel Sharon Anderson discussed legal issues potentially arising from California Attorney General Opinion No. 10-902, issued on June 1, 2012, regarding island annexations under Government Code section 56375.3. That statute states that LAFCOs must approve an island annexation without a protest proceeding if the annexation meets certain criteria. In the opinion of the Attorney General, the annexation of an unincorporated island that is part of another unincorporated island does not meet the requirements of the statute. Legal Counsel reviewed issues of legislative intent and history behind Section 56375.3, as well as possible responses to the Opinion, and advised the Commission that the decision of how to proceed is a policy decision to be made by the Commission.

Further discussion ensued regarding the timing and feasibility of a JPA, and whether a JPA is essentially the same as out of agency service; the eventuality and timing of the City's annexation of Area 2B, and the consequences of a failed septic system in that area. Rich Seithel, representing the County, pointed out that the annexation area is assessed for approximately \$10 million, and the current figure for providing water and sewer there is now estimated to be up to \$16 million. Legal Counsel suggested that the tax sharing agreement is the critical next step, as it would need to be included even if the City and County negotiate a JPA.

Upon motion of McGill, second by Piepho, Commissioners unanimously directed staff to revise LAFCO's island policy in light of the Attorney General Opinion No. 10-902 and return October 31 with some options for Commissioners' consideration.

10. First Quarter Budget Report for FY 2012-13

The Executive Officer gave a brief overview of the first quarter budget report for Fiscal Year 2012-13, noting that all local agencies have paid their annual contributions.

Upon motion of McGill, second by Blubaugh, Commissioners unanimously accepted the report.

11. Correspondence

Commissioner McGill noted that Contra Costa County Employees Retirement Association provided an educational presentation at their October 10 meeting, regarding the California Public Employees' Pension Reform Act of 2013 (PEPRA). He will look forward to seeing a report on that presentation.

12. Commissioner Comments and Announcements

Commissioner McGill announced that he was elected to the Coastal Region's special districts seat on the CALAFCO Board at the recent CALAFCO Annual Conference. He noted that Assemblymember Roger Dickinson chastised Contra Costa LAFCO for not dissolving Mt. Diablo Health Care District (MDHCD). Commissioner McGill was interested in the California Forward presentation at the Conference. He also noted that it Supervisors now fill three of the four officer positions on the CALAFCO Board.

DRAFT

Commissioner McGill will be absent from the November 14, 2012 meeting.

Commissioner Piepho praised the Annual Conference and asked if in the future a printed program could be provided for the awards banquet. She suggested that this LAFCO should send a letter to Assemblymember Dickinson following up on his comments; he has considerable credibility, but it would be better if he could speak on the issue of MDHCD with more knowledge about the challenges of dissolving the District rather than taking the steps that LAFCO took.

Commissioner Schroder reported that at the Annual Conference he attended sessions on agriculture and the importance of these lands to all of us. He agrees that a letter should be sent to Assemblymember Dickinson.

Commissioner Burke praised the mobile workshop that included a visit to a 150-year-old landfill that is still fully operational. She also attended a shared services session that was outstanding.

Commissioner Schmidt reported that he was impressed by the agricultural mobile workshop.

Commissioner Tatzin thanked Lou Ann Texeira for her hard work as the CALAFCO Executive Officer; it is important for both CALAFCO and for Contra Costa LAFCO. He attended a good session on SOI conditions, and was impressed with the work that San Luis Obispo LAFCo has done with this. Other valuable sessions included those on sustainable communities, strategic plans and implementing them, and Phase 2 MSRs. Commissioner Piepho concurred, stating that it is clear that the Legislature wants LAFCOs to do more with MSRs.

Commissioner Burke directed Commissioners' attention to a news article in their materials that announced that the Concord City Council would be making appointments to the Mt. Diablo Health Care Foundation Board (three seats appointed by Concord, two by Pleasant Hill, and five seats assigned to John Muir Health representatives), noting that the article was somewhat misleading.

13. Staff Announcements and Pending Projects

The Executive Officer thanked Commissioners for her participation in the CALAFCO Annual Conference and directed Commissioners to her report in their materials distributed at the meeting.

Ms. Texeira also stated that she is hoping to add a number of items to the October 31 special meeting agenda and cancel the November 14 meeting.

The meeting was adjourned at 2:45 p.m.

Final Minutes Approved by the Commission on October 31, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

By _____
Executive Officer

DRAFT



Lou Ann Teixeira
 Executive Officer

MEMBERS

Donald A. Blubaugh
Public Member
Federal Glover
County Member
Michael R. McGill
Special District Member

Dwight Meadows
Special District Member
Mary N. Piepho
County Member
Rob Schroder
City Member

Don Tatzin
City Member

ALTERNATE MEMBERS

Candace Andersen
County Member
Sharon Burke
Public Member
Tom Butt
City Member
George H. Schmidt
Special District Member

October 31, 2012 (Agenda)

October 31, 2012
 Special Meeting
 Agenda Item 6

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

**Results of Protest Hearing
 Alhambra Valley Annexation to City of Martinez**

Dear Commissioners:

At a public hearing on September 12, 2012, the Commission approved the Alhambra Valley Annexation to the City of Martinez. The Commission amended the City’s annexation proposal to include detachment of the same territory from County Service Area P-6, thus changing the annexation to a “reorganization.”

This is a proposal to annex 316.4± acres (104 parcels) to the City of Martinez. The subject area is located southwest of the current City of Martinez boundary. The purpose of the annexation is to allow for the extension of municipal services, and to bring into the City those properties currently receiving City services, including water.

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 reorganization, which is inhabited (i.e., contains 12 or more registered voters), the Commission shall take one of the following actions:

1. **Termination** – The proposed reorganization will be terminated if valid written protests are filed with LAFCO by 50% or more of the registered voters residing with the subject area.
2. **Election** – The reorganization will be subject to confirmation by the registered voters residing in the subject area (i.e., by an election) if valid written protests are filed by *either* of the following:
 - At least 25% but less than 50% of the registered voters residing within the reorganization area, *or*
 - At least 25% of the number of owners of land who own at least 25% of the assessed value of land within the reorganization area.

3. **Approval** – The reorganization will be completed if valid written protests filed with LAFCO are *either*:
- Less than 25% of the registered voters residing within the subject area, *or*
 - Less than 25% of the number of owners of land owning less than 25% of the assessed value of land within the subject area.

The protest hearing was properly noticed and held on Wednesday, October 17, 2012, at 3:00 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. City staff and several members of the public attended the protest hearing.

Following the hearing, the written protests were submitted to County Elections and the County Assessor's Office for verification. The total number of valid written protests received was insufficient to either require an election or terminate the proceedings; consequently, the reorganization is ordered.

RECOMMENDATION

It is recommended that the Commission adopt a resolution finding that an insufficient number of protests was received to either require an election or terminate the proceedings, and order the reorganization subject to the terms and conditions 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 ORDER AN ELECTION OR TERMINATE THE PROCEEDINGS RELATING TO THE ALHAMBRA VALLEY REORGANIZATION (LAFCO 11-07)

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 Alhambra Valley Annexation (Reorganization) were initiated by the City of Martinez and filed with the Executive Officer of the Contra Costa LAFCO on June 1, 2011, proposing annexation of territory to the City of Martinez. The purpose of the reorganization is to extend municipal services to the area.
3. On September 12, 2012, the Commission adopted Resolution No. 11-07, making determinations, amending the annexation proposal to include detachment of the subject territory from County Service Area P-6, and reducing the subject territory to 316.4± acres (104 parcels). 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 reorganization and, following conclusion of the hearing, found that fewer than 25 percent of the registered voters and fewer than 25 percent of the land owners (owning less than 25 percent of the assessed value of land) within the reorganization area filed valid written protests against the proposal.
5. Finding there are insufficient protests to order an election or terminate the proceedings, the Contra Costa LAFCO hereby orders the Alhambra Valley Reorganization 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. 11-07

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND APPROVING ALHAMBRA VALLEY REORGANIZATION: ANNEXATION TO THE CITY OF MARTINEZ AND CORRESPONDING DETACHMENTS FROM COUNTY SERVICE AREAS P-6 AND L-100

WHEREAS, a proposal to annex territory within the Alhambra Valley was filed with Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code section 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 Executive Officer has reviewed available information and prepared a report including her recommendations therein, and the report and related information have been presented to and considered by the Commission; 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, consistency with the sphere of influence, contiguity with the City boundary, and related factors and information including those contained in Government Code section 56668; and

WHEREAS, at a public hearing on July 11, 2012, the Commission opened the public hearing, received public comment, and continued the hearing to September 12, 2012; and

WHEREAS, at a public hearing on September 12, 2012, the Commission amended the City's proposal to include the concurrent detachment of the subject property from County Service Areas P-6 and L-100 (TRA 76001); and

WHEREAS, the annexing agency has consented to waiving the conducting authority proceedings; and

WHEREAS, the irregular configuration of the annexation boundary as proposed by the City of Martinez is justified by the unique circumstances of this annexation in that the purpose of the annexation is to include properties currently receiving city services as well as properties that are subject to Deferred Annexation Agreements relating to water services, while excluding properties that are outside the countywide voter approved urban limit line; and

WHEREAS, the annexation boundary includes one split parcel, but otherwise avoids splitting parcels; and

WHEREAS, the annexation is consistent with orderly growth and development pursuant to Government Code section 56001 because it annexes areas that currently are receiving out of area service; and

WHEREAS, the Local Agency Formation Commission finds the proposal to be in the best interest 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. The Commission certifies it reviewed and considered the information contained in the Alhambra Valley Annexation Project Initial Study/Negative Declaration as prepared and adopted by the City of Martinez,

Contra Costa LAFCO
Resolution No. 11-07

2. Said reorganization is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

ALHAMBRA VALLEY REORGANIZATION: ANNEXATION TO CITY OF MARTINEZ AND CORRESPONDING DETACHMENT FROM COUNTY SERVICE AREAS P-6 AND L-100
4. Said territory is found to be inhabited.
5. The proposal has less than 100% landowner/registered voter 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.
6. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Attachment 1, attached hereto and made a part hereof.
7. The subject territory shall be liable for any existing bonded indebtedness of the annexing agencies, if applicable.
8. The subject territory shall be liable for any authorized or existing taxes, charges, and assessments comparable to properties within the annexing agencies.
9. That the City delivered an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions challenging the reorganization.
10. All subsequent proceedings in connection with this reorganization 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: Blubaugh, McGill, Piepho, Schmidt, Schroder, Tatzin
NOES: Glover
ABSTENTIONS:
ABSENT: Meadows



DON TATZIN, CHAIR, CONTRA COSTA LAFCO

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

Dated: September 12, 2012



Lou Ann Texeira, Executive Officer



Lou Ann Texeira
Executive Officer

MEMBERS

Donald A. Blubaugh
Public Member
Federal Glover
County Member
Michael R. McGill
Special District Member

Dwight Meadows
Special District Member
Mary N. Piepho
County Member
Rob Schroder
City Member

Don Tatzin
City Member

ALTERNATE MEMBERS

Candace Andersen
County Member
Sharon Burke
Public Member
Tom Butt
City Member
George H. Schmidt
Special District Member

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 Categorically 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:

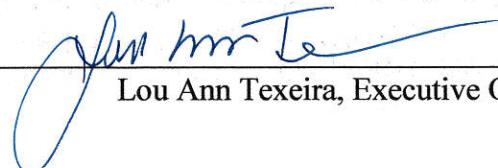
ABSENT: Glover, Meadows



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 Teixeira, Executive Officer

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

October 31, 2012 (Agenda)

October 31, 2012
Special Meeting
Agenda Item 8

<u>LAFCO 12-04</u>	Dougherty Valley Annexation #15 to the City of San Ramon
<u>PROPONENT</u>	City Council of City of San Ramon, by resolution adopted June 26, 2012
<u>ACREAGE & LOCATION</u>	Annexation #15 includes 41.54± acres (numerous parcels) and is located adjacent to Quail Run Elementary School. The annexation area includes 520 housing units (201 single-family housing units, 186 for-rent apartments, and 133 for-sale condominiums) and 4.86± acres designated for parks and recreation.
<u>PURPOSE</u>	Provide municipal services for the approved residential subdivision. The Commission will also consider the corresponding detachment of the subject territory from County Service Area (CSA) P-6.
<u>SYNOPSIS</u>	

This is the 15th in a series of planned annexations for the area known as “Dougherty Valley (DV)”. The DV project is being developed in phases through Contra Costa County.

Annexation of the project area to the City of San Ramon is required pursuant to the Dougherty Valley Settlement Agreement (DVSA), which in 1994 was endorsed by the County, cities of Danville and San Ramon, Windemere Ranch Partners and Shapell Industries. The annexations are to occur following recordation of final subdivision maps.

DISCUSSION

The Cortese Knox Hertzberg Act (CKH Act) sets forth factors that the Commission must consider in evaluating any proposed change of organization or reorganization as discussed below (Gov. Code §56668). In the Commission's review of these factors, no single factor is determinative. In reaching a decision, each factor is to be evaluated within the context of the overall proposal.

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

LAFCO is charged with both regulatory and planning functions. Annexations are basically a regulatory act, while establishing spheres of influence (SOIs) is a planning function. The SOI is an important benchmark as it defines the primary area within which urban development is to be encouraged. In order for the Commission to approve an annexation, it must be consistent with the jurisdiction's adopted SOI. The annexation area is within the City of San Ramon's SOI and within the City's Urban Growth Boundary and the countywide Urban Limit Line.

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

The City of San Ramon's General Plan designates the area for Single Family Medium Density Residential and Parks. The City has rezoned the area for Planned Development and Parks and Recreation. Per the Contra Costa County General Plan and Dougherty Valley

Specific Plan (DVSP), the current and future land uses for the area include Multiple Family Low Density Residential and Parks and Recreation.

Surrounding land uses include residential and public/semi-public land to the east, west and north, and vacant land (under construction) to the south.

The current and proposed uses are consistent with the City's plan and rezoning designations. No changes in land uses are proposed.

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

The DV project, as previously approved by the County, converts approximately 6,000 acres of farmland to urban uses and open space. Of the 6,000 acres that comprise the DVSP area, 2,000 acres have been mapped as "farmland of local importance" and the remaining 4,000 acres are mapped as grazing land. Through the 1992 DVSP and General Plan amendment, these lands were changed from "Agricultural Preserve" to "Agricultural Lands" and designated as P-1 (Planned Unit Development) to allow a mix of housing, school and community facilities, parks and open space areas.

Contra Costa County found that there were overriding considerations in support of adoption of the Specific Plan, despite the unavoidable impact to agricultural resources. With adoption of the DVSP in 1992, none of the project site was zoned for agricultural use, and there are no current Williamson Act Land Conservation Agreements within the project site.

The project would not convert farmland to non-agricultural uses as farmland does not currently exist in the DV area. Approval of the urban land uses designations for the area occurred in 1992, 1996 and 2002. According to the City, the project can be viewed as implementation of the already established specific plan and land use designations.

4. Topography, Natural Features and Drainage Basins:

The site consists of a complex series of major and minor ridges, rolling hills and a relatively flat valley, which drains to the south. There are no other significant natural boundaries affecting the proposal.

5. Population:

Currently, some of the 186 dwelling units (Valencia Apartments) are occupied; the remaining 201 single-family housing units and 133 for-sale condominium units are under construction, and some are occupied. Entitlements have been approved for the entire Phase 3 of Gale Ranch, a portion of the annexation area. The construction of the 520 housing units will result in an estimated population increase of approximately 1,498 persons (California State Dept. of Finance, January 1, 2012).

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. Regional housing needs are determined by the State Department of Housing and Community Development; the councils of government throughout the State allocate to each jurisdiction a "fair share" of the regional housing needs (Government Code §65584).

In Contra Costa County, the Association of Bay Area Governments (ABAG) determines each city's fair share of regional housing needs. Each jurisdiction is required in turn to incorporate its fair share of the regional housing needs into the housing element of its General Plan. In June 2008, ABAG released the Proposed Final Regional Housing Needs Allocation (RHNA) Plan for the period 2007-14. The City reports that its total RHNA for 2007-2014 is calculated at 3,463 units. Of that, 834 are market rate, and 2,629 are affordable (i.e., 740 moderate, 715 low and 1,174 very low).

It is a requirement of the Dougherty Valley Affordable Housing Program that 25% (2,748) of the 11,000 units in DV are affordable. DV Annexation #15 includes a total of 520 residential units, of which 186 for-rent apartments units (Valencia Apartments) are affordable. However, to date, the DV annexations have resulted in 2,416 affordable units. The Windemere phase, which is now complete, produced 1,290 units, and the Gale Ranch phase, which is not yet complete, has produced 1,126 affordable units. The housing units in Gale Ranch Phase 3 will be considered in the 2009-2014 San Ramon Housing Element.

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

In accordance with Government Code §56653, whenever a local agency submits an annexation application, the local agency must also submit a plan for providing services to the annexation area. The plan shall include all of the following information and any additional information required by LAFCO:

- (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 City's "Plan for Providing Services Within the Affected Territory," as required by Government Code §56653, is on file in the LAFCO office. The level and range of services will be comparable to those currently provided within the City. The DVSA provides "Performance Standards" for services in the DV.

The area proposed for annexation will be developed with 520 residential housing units, and approximately five acres designated for park and recreation. The City will provide a range of municipal services, including police, library, recreation, flood control, public facilities maintenance, etc. Fire services will continue to be provided by the San Ramon Valley Fire Protection District (SRVFPD), water services will be provided by the Dublin San Ramon Services District (DSRSD), and sewer services will be provided by the Central Contra Costa Sanitary District (CCCSA).

Fire Protection – Fire and emergency medical services are, and will continue to be, provided by SRVFPD following annexation. The City's General Plan policies include service standards relating to response time (i.e. 4-5 minutes for emergency calls 90% of the time) and location of fire stations in proximity to developed areas (i.e., 1.5 miles to residential and non-residential development). Fire Station No. 30 is located approximately 1.05 miles from the annexation area, has primary responsibility for fire and emergency medical services. Fire Stations 34, 35 and 39 would respond as secondary and tertiary stations, and all are located

within 3.05 and 3.41 miles from the annexation area. The main roads (routes) to the annexation area are Bollinger Canyon Road, Dougherty Road, Stoneleaf Road, South Monarch Road, and Main Branch Road.

Police Services – Law enforcement services are currently provided to the annexation area by the Contra Costa County Sheriff's Department. Upon annexation, police services will be provided by the City of San Ramon. The City's police department maintains a ratio of approximately 0.8 officers per 1,000 population in accordance with the City's adopted service standards for police services. The DVSA establishes the performance standards for police service in DV consistent with the City's General Plan, which include 3-5 minute response times (travel time) for emergency calls, and a 20 minute response time for all other calls which can be maintained 95 percent of the time. The City reports that completed development in the surrounding areas of DV is already within the service area for San Ramon police services; therefore, police service for the annexation area can meet the performance standard. No additional police officers are anticipated for the proposed annexation area.

Streets and Roadways – The annexation area is served by a network of arterial roads (Bollinger Canyon Road, Dougherty Road, etc.), collector and local streets. In addition, public transit (bus) service is provided in the DV and annexation area, along with a bicycle and pedestrian network. The DVSA requires the developers to provide a transportation system (streets, roadways, bicycle, pedestrian, and transit services, etc.) as established by the DVSP.

Parks and Recreation – The DVSA requires 6.5 acres of parkland per 1,000 residents, which is consistent with the City's General Plan. Upon build-out of DV, this performance standard will be met. The DVSP and DVSA establish a variety of park types throughout DV. To date, the developers of DV have provided 214+ acres of parkland, excluding the 4.86+ acres of parkland included with Annexation #15.

Wastewater Services – Wastewater services to the annexation area will be provided by CCCSD, which is responsible for wastewater collection, maintenance of the sewer lines, wastewater treatment and disposal services.

CCCSD currently serves an estimated population of 322,000 residents in a 144-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.

CCCSD's wastewater treatment plant provides secondary level treatment for an average dry weather flow of approximately 34.3 million gallons per day (mgd) of wastewater. The wastewater treatment plant has a permitted discharge limit of 53.8 mgd and a treatment capacity of 240 mgd of wet weather flow.

CCCSD provides sewage collection, treatment, and disposal service to the Dougherty Valley, including the annexation area.

Within the annexation area, wastewater facilities include several existing 8-inch sanitary sewer mains which ultimately connect to a 16-inch diameter trunk sewer at Stoneleaf Road. The trunk sewer leads to the Dougherty Tunnel, the San Ramon Pumping Station, and eventually to gravity sewers that carry flows north to CCCSD's wastewater treatment plant.

Some of CCCSD downstream facilities do not have adequate flow-carrying capacity under CCCSD's current design criteria for ultimate conditions.

Planned development of DV Annexation #15 requires a private developer-constructed, gravity-flow system of 8-inch diameter mains and 4-inch diameter service laterals within area streets and driveways. Once constructed as private-installer projects, the new public mains will be dedicated to CCCSD for ownership and maintenance responsibilities. Some of the sanitary mains within the multiple-family developments may be kept private with homeowners associations being responsible for ownership and maintenance.

Based on average wastewater generation rates [i.e., 195 gallons per day (gpd) per single-family dwelling unit, 150 gpd per multiple-family dwelling unit, and 40 gpd per 1,000 sq. ft. of park], the proposed 520 dwelling units and parkland will generate approximately 95,500 gallons of wastewater per day (0.1 mgd).

The sewer lines in the vicinity of the project site have, or will have, adequate capacity to serve the proposed project, and the CCCSD wastewater treatment plant has adequate capacity to treat wastewater generated by the proposed project. The plant currently operates below permitted treatment capacity and the project-related increases in wastewater flows to the plant could be accommodated within the plant's existing capacity. Improvements to correct the downstream deficiencies that would result from cumulative impacts within the service area are, or will be, included in CCCSD's Capital Improvement Plan. Improvements to CCCSD's existing facilities that are required as a result of new development will be funded from applicable CCCSD fees and charges. The developer will be required to pay these fees and charges at the time project residences connect to the sewer system.

Other Services – Capital improvements for this project are being funded through the developers as a condition of development. The ongoing maintenance and operations costs associated with police services, road maintenance, parks and landscape maintenance, open space and trail maintenance, flood control, and community facilities maintenance will be financed through CSA M-29. CSA M-29 was established in 1997 and includes a combination of revenue sources as follows:

- General Ad-Valorem Property Taxes
- Real Property Transfer Tax
- Special Assessments
- Sales Tax
- Fines and Forfeitures
- License, Permits, Franchise Fees

Pursuant to the DVSA, the City requests the DV Annexation #15 territory remain within CSA M-29 in order to continue the assessment of the special taxes/fees to fund services as described above.

Typically when an area is annexed to a city, it is detached from a CSA, as the County no longer provides service, and the city assumes the provision of municipal services. The City's request that the annexation area remain in CSA M-29 is supported by the DVSA. However, it is recommended that if the annexation is approved, the subject territory be detached from CSA P-6 (police services). The effect of the detachment will result in the CSA's allocation of

ad valorem property tax (1%) being transferred from the County to the City following annexation. (Note: Under previous law, once property was annexed to a city it was automatically detached from a CSA; however, a recent change to the law now requires LAFCO to specify whether or not the annexation area is to be detached from a CSA).

The City and County have entered into a tax sharing agreement which provides for an exchange of property tax and takes into account the provision of municipal services.

8. Timely Availability of Water and Related Issues:

Pursuant to the CKH Act, LAFCO must consider the timely and available supply of water in conjunction with a boundary change proposal. In accordance with Contra Costa LAFCO policies, any proposal for a change of organization that includes the provision of water service shall provide information relating to water supply, storage, treatment, distribution, and waste recovery; as well as adequacy of services, facilities, and improvements to be provided and financed by the agency responsible for the provision of such services, facilities and improvements.

A number of studies were completed to address the timely and adequate provision of water service to the DV. This information is presented in the various environmental documents, which were previously provided to the Commission and are available in the LAFCO office.

Dublin San Ramon Services District (DSRSD) will provide water service to the annexation area and provides water service to the entire DV with the exception of Gale Ranch Phase 1. Gale Ranch Phase 1 water service is provided by East Bay Municipal Utility District.

The water demand for the annexation area will be 182,000 gallons per day. DSRSD has the capacity to provide services consistent with its adopted water service plans.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 66405. The assessed value is \$88,835,076 (2012-13 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies, if applicable; and shall remain within CSA M-29 following annexation.

10. Environmental Impact of the Proposal:

Contra Costa County was the lead agency and prepared and certified the following environmental documents in conjunction with this project: Addendum to the Dougherty Valley Draft Environmental Impact Report (DEIR) entitled "Gale Ranch Phase 3 Final Development Plan & Vesting Tentative Subdivision Maps Dougherty Valley Specific Plan" – October 2003; Final Subsequent EIR – 1996; and the Final EIR for the Dougherty Valley General Plan Amendment and Specific Plan - 1992.

In addition, the County adopted a Mitigation Monitoring and Reporting Program in 1992, and Findings, Recommendations and a Statement of Overriding Conditions in 1996. Copies of these documents were previously provided to the members of Commission and are available for review in the LAFCO office.

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 is considered inhabited.

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 protest proceedings. All landowners and registered voters within the proposal area and within 300 feet of the exterior boundaries of the area have received notice of the October 31 hearing.

As of this writing, LAFCO has received no objection from any affected landowner or registered voter. If no objection is received from an affected party prior to the conclusion of the hearing on October 31, 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:

Annexation area #15 is contiguous to existing City boundaries. A map and legal description to implement the proposed boundary change have been received and are being reviewed by the County Surveyor.

13. One of the factors LAFCO must consider in its review of an application is the extent to which the proposal 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 reorganization including the amendment to detach the annexation area from CSAs P-6.

- A. Certify LAFCO has reviewed and considered the information contained in the EIR as certified by the County together with the related Mitigation Monitoring and Reporting Program; and adopt the County's CEQA Findings and Statement of Overriding Conditions as prepared and adopted by the County.
- B. Adopt this report and approve the proposal, to be known as **Dougherty Valley Reorganization #15: Annexation to the City of San Ramon and Corresponding Detachment from CSA P-6** 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. Allow the overlap of the City and CSA M-29.
 - 3. The City has delivered an executed indemnification agreement providing for the City 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

- A. Certify it has reviewed and considered the information contained in the EIR and related environmental documents as prepared and certified by the County.
- B. 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.

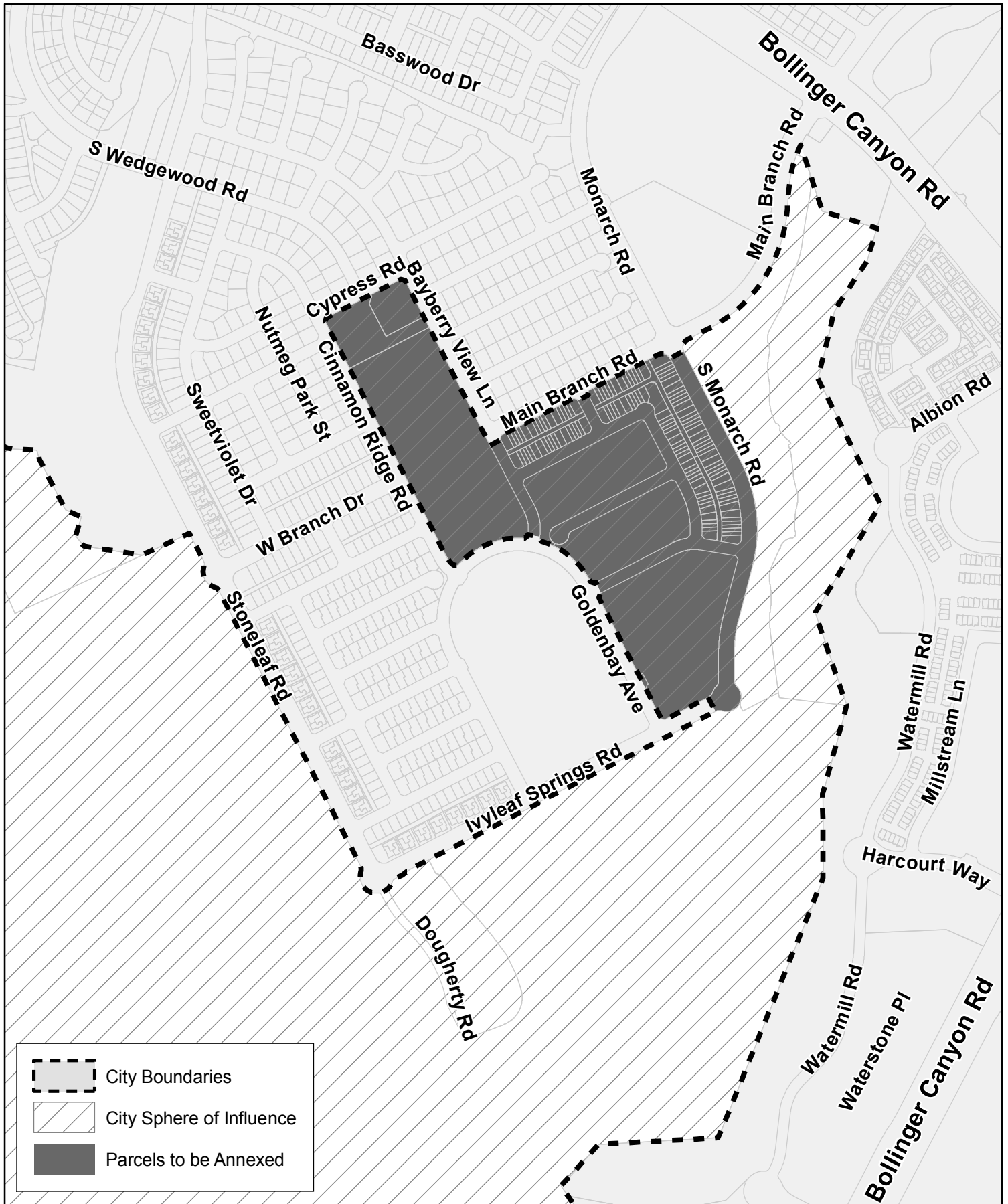
LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

c: Distribution

Attachments

1. Map of Annexation Area
2. Draft LAFCO Resolution

LAFCO No. 12-04: Dougherty Valley Annexation #15 to the City of San Ramon



Map created 8/21/2012
 by Contra Costa County Department of
 Conservation and Development, GIS Group
 30 Muir Road, Martinez, CA 94553
 37.59:41.791N 122:07:03.756W

This map or dataset was created by the Contra Costa County Conservation and Development Department with data from the Contra Costa County GIS Program. Some base data, primarily City Limits, is derived from the CA State Board of Equalization's tax rate areas. While obligated to use this data the County assumes no responsibility for its accuracy. This map contains copyrighted information and may not be altered. It may be reproduced in its current state if the source is cited. Users of this map agree to read and accept the County of Contra Costa disclaimer of liability for geographic information.

0 250 500 1,000 Feet

RESOLUTION NO. 12-04

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING DOUGHERTY VALLEY
REORGANIZATION #15: ANNEXATION TO CITY OF SAN RAMON AND
CORRESPONDING DETACHMENT FROM COUNTY SERVICE AREA P-6**

WHEREAS, a proposal to annex territory within the Dougherty Valley to the City of San Ramon was filed with Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code section 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 Executive Officer has reviewed available information and prepared a report including her recommendations therein, and the report and related information have been presented to and considered by the Commission; 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, consistency with the sphere of influence, contiguity with the City boundary, and related factors and information including those contained in Government Code section 56668; and

WHEREAS, at a public hearing on October 31, 2012, the Commission amended the City's proposal to include the concurrent detachment of the subject property from County Service Area (CSA) P-6; and

WHEREAS, the annexing agency has consented to waiving the conducting authority proceedings; and

WHEREAS, the Local Agency Formation Commission finds the proposal to be in the best interest 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. The Commission certifies it reviewed and considered the information contained in the Environmental Impact Reports and related environmental documentation as prepared and certified by the County of Contra Costa (lead agency) as identified in the LAFCO staff report, and adopts the County's Findings of Fact and Statement of Overriding Considerations.
2. Said reorganization is hereby approved.

Contra Costa LAFCO
Resolution No. 12-04

3. The subject proposal is assigned the distinctive short-form designation:

DOUGHERTY VALLEY REORGANIZATION #15: ANNEXATION TO THE CITY OF
SAN RAMON AND CORRESPONDING DETACHMENT FROM CSA P-6
4. Said territory is found to be inhabited.
5. The proposal has less than 100% landowner/registered voter consent; however, no affected landowners/registered voters opposed the annexation, and the annexing agency has given written consent to the waiver of conducting authority proceedings. Said conducting authority proceedings are hereby waived.
6. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Attachment 1, attached hereto and made a part hereof.
7. The subject territory shall be liable for any existing bonded indebtedness of the annexing agencies, if applicable.
8. The subject territory shall be liable for any authorized or existing taxes, charges, and assessments comparable to properties within the annexing agencies.
9. That the City delivered an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions challenging the reorganization.
10. All subsequent proceedings in connection with this reorganization 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 31st day of OCTOBER 2012, by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

DON TATZIN, CHAIR, CONTRA COSTA LAFCO

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

Dated: October 31, 2012

Lou Ann Texeira, Executive Officer

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

October 31, 2012 (Agenda)

October 31, 2012
Special Meeting
Agenda Item 9

LAFCO 11-09

Town of Discovery Bay Community Services District (DBCSD) - Out of Agency Service Request (Farnholz Property)

SYNOPSIS

This is a request by DBCSD to provide sewer service outside its jurisdictional boundaries and outside the District's sphere of influence (SOI); the property is also outside the countywide voter approved Urban Limit Line (ULL). The property is 15.38± acres (APN 011-200-038) located at 14021 Highway 4 in unincorporated Byron (Attachment 1). The property houses a single family residential unit.

In accordance with the County General Plan, the property is designated as Agricultural Core and is zoned A-40 (Exclusive Agricultural – 40 acre minimum). The parcel is adjacent to the DBCSD boundary. Parcels to the north are within the District service boundary and are developed (single and multi family housing units). Parcels to the east, west and south are zoned for agricultural uses.

The District's request to provide out of agency water service is in response to an impending threat to the public health and safety as discussed below.

DISCUSSION

Statutory Framework – Out of Agency Service

The Government Code and local LAFCO policy regulate the extension of out of agency service. State law requires LAFCO review and approval of boundary changes and extensions of service without boundary changes. Government Code §56133 states that “A city or district may provide new or extended services by contract or agreement outside of its jurisdictional boundaries only if it first requests and receives written approval from the Commission.” Further, the law provides that LAFCO may authorize a city or district to provide new or extended services under specific circumstances: a) outside the agency's jurisdictional boundaries but within its SOI in anticipation of a future annexation; or b) outside its jurisdictional boundaries and outside its SOI in response to an existing or impending threat to the public health or safety.

The Commission's current policies regarding out of agency service are consistent with State law in that annexations to cities and special districts are usually preferred for providing municipal services. However, there may be situations where health and safety, emergency service, or other concerns warrant out of agency service. Historically, out of agency service is considered a temporary measure, typically in response to an existing or impending public health and safety threat (e.g., failing septic system, contaminated well); or in anticipation of a future annexation.

Out of Agency Service Request by DBCSD

The District's request to provide out of agency sewer service is supported by correspondence from the County Environmental Health Department (EHD) - Attachment 2 - indicating that the property has a

failing septic system, is located within the 100 year flood plain, and in an area with shallow ground water. The EHD recommends that the property owner pursue municipal sewer through the District and abandon the existing septic system.

The law permits LAFCO to authorize DBCSD to extend services outside its jurisdictional boundary either in response to an existing or impending threat to the public health or safety, or in anticipation of an annexation. The request by DBCSD to provide sewer service to the property is in response to existing public health emergency.

In 2004, the Commission approved out of agency water and sewer service to a neighboring property located at 14051 Highway 4 (APN 011-200-020).

Sewer Service to the Farnholz Property

In July 2010, the County inspected the Farnholz property, revealed an improperly functioning sewage disposal system, noted violations and required the property owner to immediately abate the condition. In a more recent communication, the County EHD noted that the situation is an impending threat to the public health and safety, and recommended connection to the DBCSD sanitary sewer system.

DBCSD proposes to provide sewer service only to the existing single family residential unit. The infrastructure will include a new small package pump station adjacent to the Farnholz property, along with a new 2-inch discharge pipe that will connect to an existing discharge on the neighbor's property which feeds into the District's system. The property owner is responsible for all costs associated with the project.

Environmental Review

The District, as Lead Agency, found that the proposed extension of sewer service to the Farnholz property is exempt from the California Environmental Quality Act (CEQA) pursuant to §15061(b)(3), since it can be seen with certainty that there is no possibility that the action in question may have a significant effect on the environment. The LAFCO Environmental Coordinator has reviewed the environmental document and finds it is adequate for LAFCO purposes.

Agreement Consenting to Annex

Whenever property may ultimately be annexed to an agency providing services through an out of agency service agreement, a standard condition is to require the landowner to record an agreement consenting to annex the territory. The affected property owner has petitioned the District for out of agency service and has signed and recorded a deferred annexation covenant with the District consenting to the future annexation of their property. The agreement runs with the land.

ALTERNATIVES FOR COMMISSION ACTION

LAFCOs were formed for the primary purpose of promoting orderly development through the logical formation and determination of local agency boundaries, and facilitating the efficient provision of

public services. The CKH provides that LAFCO can approve or disapprove, with or without amendment, wholly, partially, or conditionally, a proposal. The statute also provides LAFCO with broad discretion in terms of imposing terms and conditions. The following options and recommended terms and conditions are presented for the Commission's consideration.

Option 1 **Approve** the out of agency service request with the following terms and conditions.

- A. Finds that the project is exempt pursuant to the California Environmental Quality Act (CEQA) pursuant to §15061(b)(3).
- B. Authorizes DBCSD to extend sewer service outside its jurisdictional boundaries and outside its SOI only to the existing single family residential unit located at 14021 Highway 4 in unincorporated Byron (APN 011-200-038) subject to the following terms and conditions:
 - 1. Infrastructure is limited to a 2-inch discharge pipe and infrastructure as noted in the District's application.
 - 2. DBCSD has delivered to LAFCO an executed indemnification agreement providing for DBCSD to indemnify LAFCO against any expenses arising from any legal actions to challenging the out of agency service.

Option 2 **Deny** the request, thereby prohibiting DBCSD from providing sewer service to the Farnholz property.

Option 3 **Continue** this matter to a future meeting in order to obtain more information.

RECOMMENDATION

Option 1

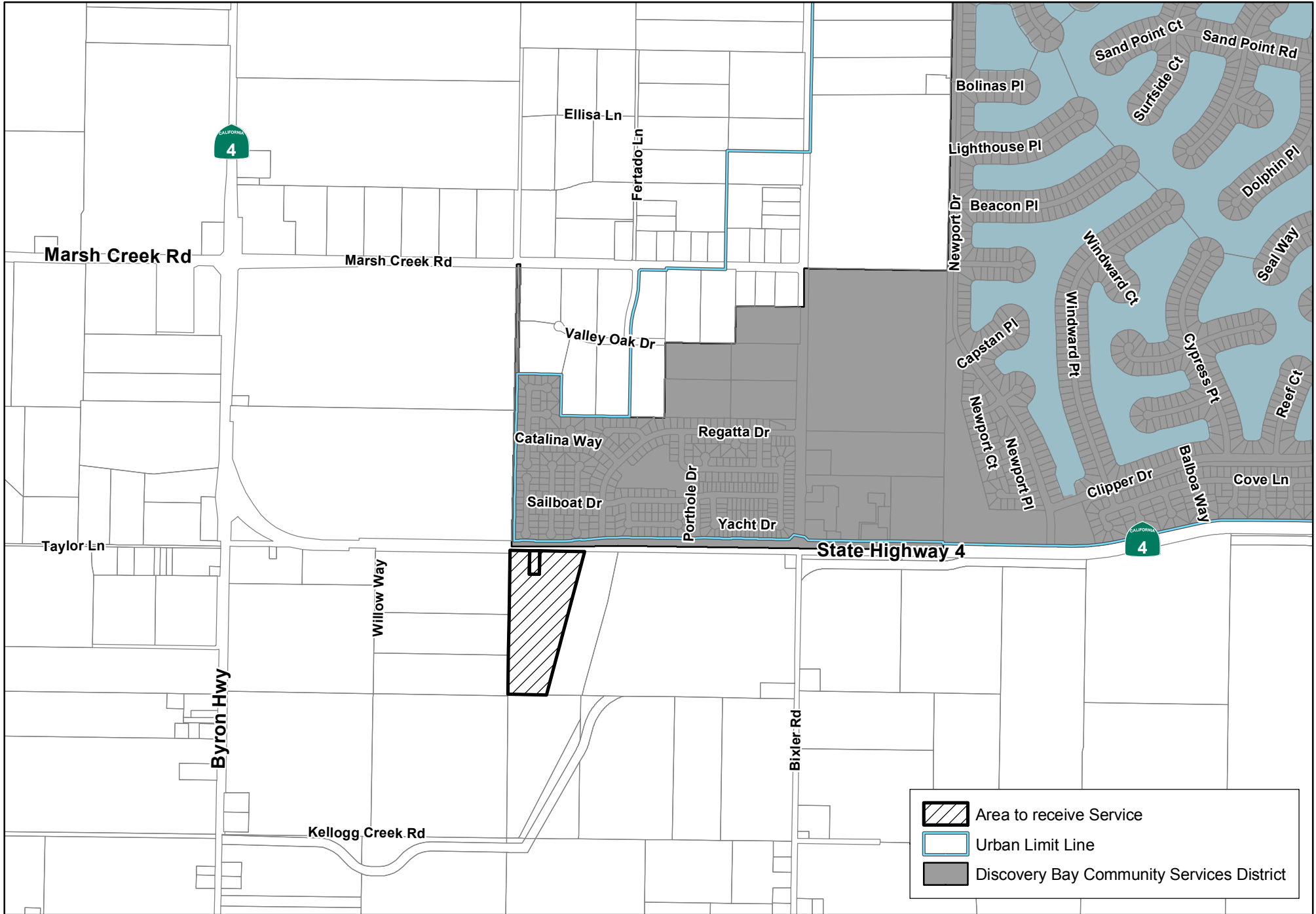
LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LAFCO

Attachments

- 1. Out of Agency Service Map (Farnholz Property)
- 2. Communications from Contra Costa County Environmental Health Department
- 3. Draft LAFCO Resolution

c: Virgil Koehne, DBCSD
Salavador Ruiz, County EHD
Wayne & Anita Farnholz, Property Owners

LAFCO No. 11-09: Town of Discovery Bay Community Services District Out of Agency Service (Farnholz)



WILLIAM B. WALKER, M.D.
HEALTH SERVICES DIRECTOR
SHERMAN L. QUINLAN, REHS, MPH
ENVIRONMENTAL HEALTH DIRECTOR



CONTRA COSTA
ENVIRONMENTAL HEALTH

2120 Diamond Blvd., Suite 200
Concord, California 94520
Ph (925) 692-2500
Fax (925) 692-2502
www.cocoeh.org

CERTIFIED MAIL

July 23, 2010

Wayne C. and Anita Farnholtz
954 Country Ln
Walnut Creek, CA 94596-6143

RE: Improperly functioning sewage disposal system at 14021 State Highway 4, Byron
Assessor's Parcel Number: 011-200-038

Dear Mr. & Mrs. Farnholtz:

Inspection of the above-referenced property on July 22, 2010, revealed an improperly functioning sewage disposal system, (standing wastewater in excavation next to septic tank). This is a violation of Contra Costa County Ordinance Code, Section 420-6.303, the California Health and Safety Code Section 5411 and the Uniform Plumbing Code Sections 301 and 319. In accordance with the provisions of Contra Costa County Ordinance Code, Section 420-6.311 you, as owner of the property, are required to abate the condition immediately.

Due to the immediate health hazard and public nuisance created by this condition, you must attend to this matter in an expeditious manner. Contra Costa County Ordinance Code, Section 420-6.1002 requires that any person or firm engaged in the cleaning of septic tanks shall have a valid Public Health License to Operate issued by the Health Officer. In the event that septic system repairs or replacement is necessary to abate the above-described violation, obtain a septic system repair permit from Contra Costa Environmental Health prior to the commencement of any work.

Your prompt attention to the matter is required to avoid further enforcement action.

If you have any question, please contact me at 925- 692-2562, weekdays between 7:30 a.m. and 9:00 a.m.

Sincerely,

Salvador M. Ruiz, REHS
Environmental Health Specialist II

cc: Byron Sanitary District, 7995 Bruns Rd, Byron, CA 94514
Contra Costa County Building Department
Paul Chahin, Stephens Property Management, 1330 N. Broadway, Suite C, Walnut Creek, CA 94595

SR:ac






Salvador.Ruiz@hsd.cccounty.us
03/03/2011 04:13 PM

To Lou Ann Texeira <LTexe@lafco.cccounty.us>
cc John.Wiggins@hsd.cccounty.us
bcc

Subject Re: APN 011-200-038

History:  This message has been replied to and forwarded.

Hi Lou Ann,

Back on July 2010, during a site visit to the subject site, I observed wastewater or standing ground water in a trench that had been dug to make repairs to the existing septic system. According to the tenants, the septic system was backing up, the tank had been pumped and they wanted to have the system repaired. Based on my observations, the septic system is either failing or is discharging wastewater into the ground water. Either of these situations is an impending threat to the public health and safety, the water wells in the area could be impacted.

Although there is plenty of open space in the parcel to replace the septic system, the parcel is within the FEMA 100 year flood plain and the ground water is shallow. Based on current requirements, a septic system shall not be approved within the 100 year flood plain. In order to protect the ground water, an alternative system could be the only option.

Based on the existing conditions, Contra Costa Environmental Health recommends to pursue connection to the DBCSD sanitary sewer system and have the existing septic tank properly abandoned under permit by Contra Costa Environmental Health.

Salvador M. Ruiz, REHS
Environmental Health Specialist II
Contra Costa Environmental Health
(925) 692-2562

RESOLUTION NO. 11-09

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
AUTHORIZING TOWN OF DISCOVERY BAY COMMUNITY SERVICES DISTRICT TO
PROVIDE OUT-OF-AGENCY SERVICES TO PROPERTY LOCATED AT
14021 HIGHWAY 4 IN UNINCORPORATED BYRON (APN 011-200-038)

WHEREAS, the above-referenced request 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 (Gov. Code §56000 et seq.); and

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

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to this request including, but not limited to, the Executive Officer's report and recommendation; and

WHEREAS, out of agency service approval is needed in order to provide sewer services to the property in response to an impending threat to the public health and safety; and

WHEREAS, the property owners have signed a pre-annexation agreement consenting to a future annexation of the property to Discovery Bay Community Services District (DBCSD); and

WHEREAS, there is no potential for significant adverse environmental impacts.

NOW, THEREFORE, BE IT RESOLVED DETERMINED AND ORDERED by the Contra Costa Local Agency Formation Commission as follows:

- (1) The proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3).
- (2) Discovery Bay Community Services District is hereby authorized to extend sewer services outside of the District's boundary and sphere of influence to property located at 14021 Highway 4 (APN 011-200-038) subject to all of the following conditions:
 - a. Sewer infrastructure is limited to the existing single family residential unit located at 14021 Highway 4; and
 - b. Infrastructure is limited to a 2-inch discharge pipe and infrastructure as noted in the District's application; and
 - c. DBCSD has delivered to LAFCO an executed indemnification agreement providing for DBCSD to indemnify LAFCO against any expenses arising from any legal actions to challenging the out of agency service.

- (3) Approval to extend District services beyond those specifically noted herein is withheld and is subject to future LAFCO review.

PASSED AND ADOPTED THIS 31st day of October 2012, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

DON TATZN, 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 above

Dated: October 31, 2012

Lou Ann Texeira, Executive Officer



Lou Ann Texeira
 Executive Officer

MEMBERS

Donald A. Blubaugh
Public Member
Federal Glover
County Member
Michael R. McGill
Special District Member

Dwight Meadows
Special District Member
Mary N. Piepho
County Member
Rob Schroder
City Member

Don Tatzin
City Member

ALTERNATE MEMBERS

Candace Andersen
County Member
Sharon Burke
Public Member
Tom Butt
City Member
George H. Schmidt
Special District Member

October 31, 2012 (Agenda)

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

October 31, 2012
 Special Meeting
 Agenda Item 10

Island Annexations and LAFCO Policies

Dear Members of the Commission:

In August 2011, Commissioners participated in a strategic planning workshop, at which time the Commission discussed several priority issues, including the annexation of small islands.

At the February 8, 2012 LAFCO meeting, the Commission held a workshop on island annexations. At that time, the Commission received a report which discussed the history of island annexation law, annexations and property tax exchange provisions, islands in Contra Costa County, and ideas for addressing island. The complete staff report is available online at www.contracostalafco.org.

BACKGROUND

Islands and LAFCO Law - Included among LAFCOs' charges are discouraging urban sprawl and encouraging logical and orderly local agency boundaries to promote the efficient extension of municipal services.

Since the enactment of the Knox-Nesbitt Act in 1963, unincorporated islands have been a concern for LAFCOs in that islands result in illogical boundaries and difficulty and confusion in the delivery of municipal service. Annexation of islands to cities is usually preferred, as it often results in a higher level of local service for the island residents. LAFCO law contains various provisions that encourage the annexation of islands (i.e., 56375, 56375.3, 56668), and provisions that discourage the creation of islands (i.e., 56744, 56757).

Since 1977, LAFCO law has contained provisions to encourage the annexation of small islands to cities, and provides an expedited process (without protest proceedings) for doing so. Current law (Gov. Code §56375.3) provides that the Commission shall approve annexation of an island if the island meets certain conditions, including size (150 acres or less) and characteristics (i.e., surrounded or substantially surrounded by a city or by a city and adjacent cities and/or the Pacific Ocean). The terms "surrounded or substantially surrounded" are not defined by statute, and interpretations are left to the discretion of each LAFCO. The existing streamlined provisions pertaining to small island annexations (i.e., waiver of protest proceedings) will sunset on January 1, 2014 unless there is legislation to eliminate or extend the sunset date.

There has been other recent legislation that supports the annexation of islands and the promotion of service efficiencies, including SB 375 (2008) relating to greenhouse gas emissions and sustainable communities, and SB 244 (2011) which encourages annexation and extension of services to disadvantaged unincorporated communities including islands.

Unincorporated islands continue to be a problem throughout the State. LAFCOs were recently polled regarding the number of small islands within each county and the timing of future annexations in light of the upcoming sunset on the island provisions; 28 LAFCOs responded to the survey.

Based on the survey responses, there are hundreds of small islands that could be annexed to cities via the expedited process currently contained in Government Code section 56375.3. The CALAFCO Legislative Committee is currently discussing possible legislation in 2013 relating to the extension of the island annexations provisions.

DISCUSSION

Islands in Contra Costa County – Contra Costa County has a number of unincorporated islands and pockets that result in service confusion and inefficiencies. LAFCO staff, with the help of County planning/GIS staff, compiled an inventory of islands. The list includes 16 islands that are less than 150 acres, plus five islands that are greater than 150 acres but less than 300 acres as shown on the attached map. Of the 21 islands identified, nearly all are urbanized and over half are built out or nearly built out. See February 8, 2012 staff report for a brief description of each island.

Of the 16 small islands (i.e., less than 150 acres), nine (A,B,C,E,I,J,L,Q,R) are completely surrounded by a city or cities, and seven are substantially surrounded (i.e., 61-98)%. Of the seven that are substantially surrounded, four (F,H,S,T) are connected to other unincorporated areas which are also substantially surrounded by a city or cities.

On October 10, 2012, during the discussion of the status of the Northeast Antioch proposed annexations, the Commission directed that the Policies & Procedures Committee review the existing LAFCO policies on island annexations and report back to the Commission with any proposed revisions.

On October 17, the Policies & Procedures Committee met to review the Commission's existing policies, along with the island annexation policies of a number of other LAFCOs. The Committee determined that a policy change clarifying LAFCO's authority under Government Code section 56375.3 was appropriate and should be recommended to the Commission. The proposed policy change is described below. LAFCO Legal Counsel has provided the following analysis of the proposed policy change.

LEGAL ANALYSIS

On June 1, 2012, the California Attorney General (AG) issued Opinion No. 10-902 regarding island annexations under Government Code section 56375.3. [95 Ops. Cal. Atty. Gen. 16 (2012).] The AG's Opinion concluded that an unincorporated island that exceeds 150 acres cannot be split into smaller segments of 150 acres or less in order to avoid a protest proceeding because that would disregard the statutory mandate that the "entire island" be annexed. The AG also opined that a small

island of unincorporated territory that is part of a large unincorporated island is not an “entire island” and may not be annexed to a city under Section 56375.3(a) without a protest proceeding.

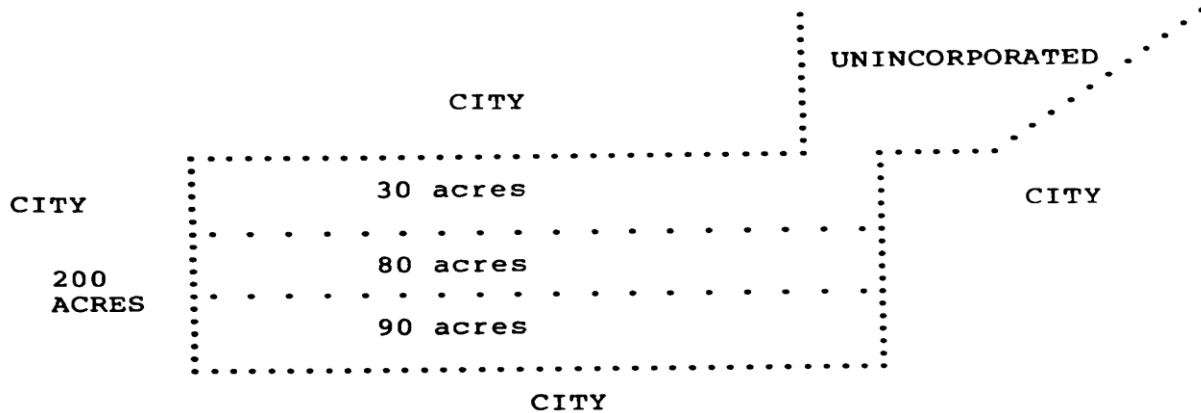
In 1980, the AG issued a similar opinion, concluding that the “entire island” requirement of the predecessor statute to Section 56375.3 demonstrated a legislative intent to preclude “the annexation of part of an island under this statutory provision.” (Emphasis added.) [63 Ops. Cal. Atty. Gen. 343, 345 (1980); 95 Ops. Cal. Atty. Gen. 16, 19.] This most recent AG’s Opinion is a variation on the same theme:

“An ‘island’ may not be a *part* of another island that is surrounded or substantially surrounded in the same manner.” (Emphasis added.) [95 Ops. Cal. Atty. Gen. 16.]

In essence, both AG’s Opinions reach the same conclusion: a small area of unincorporated territory cannot be annexed under Section 56375.3, without a protest proceeding, if it is “part” of a larger area of unincorporated territory. This is true even if both the small and the large territories are unincorporated islands. That is because the statute only allows the annexation of “entire” small islands. According to the AG’s interpretation, a small island that is “part of a larger island” is not an entire island.

The AG noted that neither the word “island” nor the phrase “entire island” are defined in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH); so, the AG consulted the dictionary. “Where the statutory scheme does not provide a definition, the general rule in scrutinizing the words of a statute is to ‘give them their usual ordinary meaning, which in turn may be obtained by referring to a dictionary.’” [95 Ops. Cal. Atty. Gen. 16, 19 (fn25) citing Smith v. Selma Community Hosp. (2010) 188 Cal. App. 4th 1, 30.] According to the dictionary, “island” means “something resembling an island by its isolated, surrounded, or sequestered position.” [95 Ops. Cal. Atty. Gen. 16, 19.] The word “entire” is defined to mean “with no element or part excepted,” “whole,” “complete,” or “total.” The AG concluded that, since section 56375.3 only authorizes the annexation of “entire” small islands, “[a]nnexing part of a given island would run afoul of the command of section 56375.3(b)(1) and (b)(2).” [95 Ops. Cal. Atty. Gen. 16, 24.]

Citing to three court cases, the AG acknowledged that it is not necessary that a territory be completely surrounded in order to qualify as an entire unincorporated island. [See 95 Ops. Cal. Atty. Gen. 16 at 21, 22 and 25 (fn 56) citing Fig Garden Park No. 2 Assn. v. Local Agency Formation Commn., (1984) 162 Cal. App. 3d, 336; Schaeffer v. County of Santa Clara (1984) 155 Cal. App. 3d 901; and Scuri v. Bd. of Supervisors of Ventura Co., (1982) 134 Cal.App.3d 400.] The AG used the diagram below to illustrate the point that a substantially surrounded area of unincorporated land can still be an entire island in its own right, even if that island is connected to a larger unincorporated territory. [95 Ops. Cal. Atty. Gen. 16, 20-21.]



The AG's Opinion does not discuss whether a small island of unincorporated territory can be "connected" to a large unincorporated island without being a "part" of that larger island. Having introduced the word "part" into the lexicon of undefined terms, the AG neglected to provide a specific definition for that term; so, we refer to the dictionary. The Merriam-Webster Dictionary [<http://www.merriam-webster.com/dictionary>] defines the word "part" as follows: "(1) One of the often indefinite or unequal subdivisions into which something is or is regarded as divided and which together constitutes the whole (2) an essential portion or integral element." The most apt definition of the word "part" in the context of island annexations is "essential portion or integral element." The word "connected," defined to mean "joined or linked together," implies a less significant relationship. Relying on the dictionary's definition of "part" the AG's conclusion might be restated as follows:

A small island of unincorporated territory that is an integral or essential part of a larger unincorporated island is not an entire island and may not be annexed to a city without a protest proceeding under Government Code section 56375.3(a).

Government Code section 56375(f) empowers a LAFCO to determine the boundaries of any proposals before it. Therefore, it is up to each LAFCO to use its own discretion in making decisions related to annexations, including whether an unincorporated area is "substantially surrounded," an "island," an "entire island," or now, "part of a larger island." [See 95 Ops. Cal. Atty. Gen. 16, 20, 22, discussing LAFCO's discretion in determining whether an area is "substantially surrounded" or an "island."] A LAFCO's discretion is quasi-legislative and is reviewed by courts only for determination of whether there was "fraud" or a "prejudicial abuse of discretion." [Gov. Code sec, 56107; 95 Ops. Cal. Atty. Gen. 16, 20 and 22.]

If this Commission decides that it is important to continue to use section 56375.3 to facilitate the annexation into cities of small islands of unincorporated territory that are connected to larger unincorporated areas, a modification of the Island Annexation Policies is recommended. The proposed addition to the policy suggests certain factors that the Commission may consider in determining whether unincorporated territory is an integral or essential part of a large unincorporated

island: (a) topography, (b) geography, (c) land uses, (d) infrastructure and (e) patterns of service delivery. The purpose of the proposed policy is to allow the Commission to interpret section 56375.3, in light of the AG's Opinion, so that it can continue to reasonably and rationally implement the statute in this County.

It should be noted that, although opinions of the AG are entitled to great weight, they are not binding on the courts. [*Homes on Wheels v. City of Santa Barbara* (2004) 119 Cal. App.4th 1173, 1178.] Under Government Code section 56107, neither an order for annexation nor the Commission's underlying decisions as to whether an unincorporated area constitutes a small island, a large island, or a part of a large island, should be set aside by the court unless the complaining party can establish that his rights were adversely and substantially affected, and that the Commission's determinations were the result of fraud or were not supported by substantial evidence in light of the whole record. [95 Ops. Cal. Atty. Gen. 16, 20.] The outcome of any litigation depends as much on the facts as it does on the law. However, to the extent that the Commission's decisions are guided by the statutes, case law, its own policies, and supported by the facts, these determinations should be difficult to overturn.

Northeast Antioch Annexations – On October 10th, the Commission discussed the recent AG Opinion and the Contra Costa LAFCO island annexation policies as related to the City of Antioch's Northeast Antioch annexation efforts.

In August 2007, the City of Antioch submitted an application to LAFCO to annex a portion of Northeast Antioch (Area 1). The Area 1 annexation application remains incomplete and is missing a number of required components including a map and legal description, final approved environmental documents, Plan for Providing Municipal Services, City Council resolution approving rezoning of the annexation area, and City and County resolutions approving property tax exchange. Until LAFCO receives these items, the application will remain incomplete.

LAFCO has been involved in ongoing discussions with the City and County regarding the annexation of Northeast Antioch to the City. In May 2012, LAFCO sent a letter to the City reiterating its desire that the City annex all of Northeast Antioch, including areas 2A and 2B, and encouraging the City to submit annexation applications for Areas 2A and 2B prior to January 1, 2014, which is when the streamlined annexation provisions are scheduled to sunset. Area 2B was previously identified by LAFCO staff as an island that meets the criteria for the streamlined annexation provisions pursuant to Government Code section 56375.3, as Area 2B is under 150 acres and is substantially surrounded (i.e., 93%) by the City of Antioch. Area 1 is not considered an island, and Area 2A is not currently an island, but would become an island if the City annexes Area 1.

The City has not yet submitted applications to annex Areas 2A and 2B, and is currently revising its environmental document and infrastructure plans. We expect that once these documents are complete, the City will submit annexation applications for Areas 2A and 2B.

The City and County have provided the Commission regular updates regarding the Northeast Antioch annexation efforts. During the update on October 10th, City staff has expressed concern with the recent AB Opinion and the ability of LAFCO to process this annexation using the streamlined provisions provided in section 56375.3.

Contra Costa LAFCO's Policies on Island Annexations - The Policies & Procedures Committee recommends the following additions (as shown in **red**) to the Commission's island annexation policies:

2.1. POLICIES AND STANDARDS

E. Island Annexation Policies

(1) *General Policies*

Recognizing that cities are the most logical providers of municipal services, and that unincorporated islands can be more effectively and efficiently served by surrounding cities, LAFCO is committed to the annexation of urban island areas.

LAFCO will collaborate with the County and cities in facilitating annexation of unincorporated urban islands.

LAFCO encourages the County and cities to coordinate development standards in urban island areas to facilitate the annexation of urban islands.

The Government Code contains special provisions for annexing small islands, which facilitate the annexation of islands of less than 150 acres (§56375.3).

In the interest of orderly growth and development, cities should annex urban unincorporated islands within their current SOIs before seeking to add new lands to their boundaries.

(2) *Annexation of Small Islands*

The Legislature has delegated to local LAFCOs the authority to determine the boundary of any proposal. The purpose of this section is to recognize and harmonize existing legislation with a June 1, 2012, Opinion of the California Attorney General [95 Ops. Cal. Atty. Gen. 16 (2012)] regarding island annexations under Government Code section 56375.3. This policy will apply only until January 1, 2014, unless Government Code section 56375.3(a)(1)(A), or a successor statute, is amended to apply to changes of organization initiated on or after January 1, 2014.

(a) Whether unincorporated territory is an "island," an "entire island or entire unincorporated island," "part of a larger island," "surrounded," or "substantially surrounded," are determinations to be made by the Commission, on a case by case basis, based on the evidence and before it at the time those determinations are made.

(b) A small island of unincorporated territory that is connected to and an integral or essential part of a large unincorporated island is not an entire island and may not be annexed to a city without a protest proceeding under Government Code section 56375.3(a).

(c) A small island of unincorporated territory that is connected to, but not an integral or essential part of a large island, may be determined by the Commission to be an entire island or an entire unincorporated island under Government Code section 56375.3(b).

(d) The following factors may be considered by the Commission in determining whether unincorporated territory is an integral or essential part of a large unincorporated island: (a) topography, (b) geography, (c) land uses, (d) infrastructure and (e) patterns of service delivery.

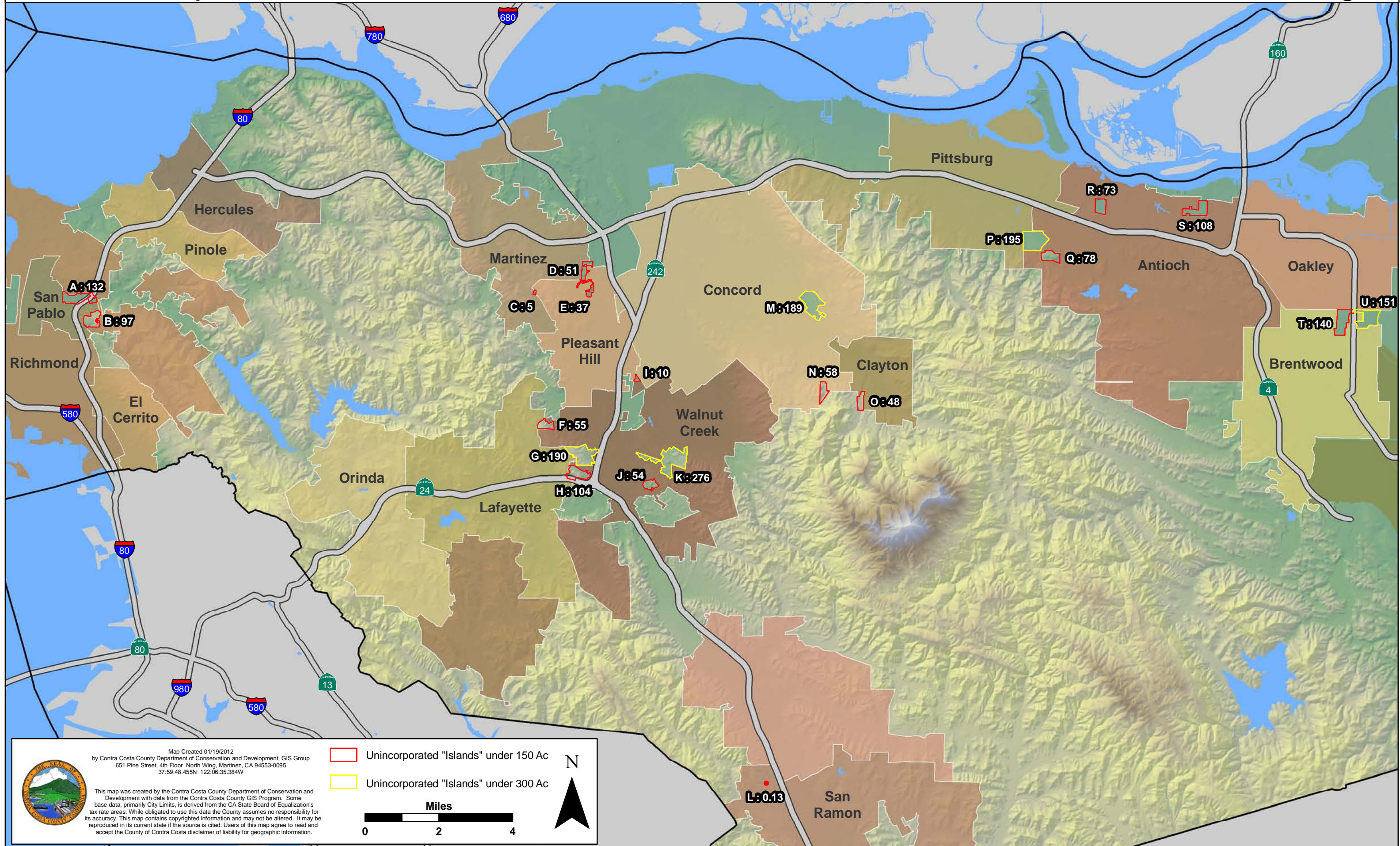
RECOMMENDATION - It is recommended that the Commission approve the revisions to the island annexation policies as submitted by the Policies & Procedures Committee, and provide other direction as desired.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachment - Map of Unincorporated Islands Under 300 Feet in Contra Costa County
c: Distribution

Unincorporated "Islands" under 300 Acres in Contra Costa County





Lou Ann Texeira
Executive Officer

MEMBERS

Donald A. Blubaugh
Public Member
Federal Glover
County Member
Michael R. McGill
Special District Member

Dwight Meadows
Special District Member
Mary N. Piepho
County Member
Rob Schroder
City Member

Don Tatzin
City Member

ALTERNATE MEMBERS

Candace Andersen
County Member
Sharon Burke
Public Member
Tom Butt
City Member
George H. Schmidt
Special District Member

October 31, 2012 (Agenda)

October 31, 2012
 Special Meeting
 Agenda Item 11

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

2013 LAFCO Meeting Schedule

Dear Commissioners:

This is a proposed schedule of Commission meeting dates for 2013. The Commissioner Handbook states that regular meetings of the Commission are held on the second Wednesday of each month commencing at 1:30 p.m. in the Board of Supervisors Chambers, 651 Pine Street in Martinez.

The 2013 meeting schedule proposes one modification, which is to hold the April 2013 meeting on the third instead of the second Wednesday of the month in order to accommodate the 2013 Annual CALAFCO Staff Workshop (April 10-12).

The proposed meeting schedule is as follows. Following approval, the meeting schedule will be posted on the LAFCO website.

January 9	April 17	July 10	October 9
February 13	May 8	August 14	November 13
March 13	June 12	September 11	December 11

RECOMMENDATION

It is recommended the Commission approve the 2013 LAFCO meeting schedule as proposed.

Please contact the LAFCO office if you have any questions.

Sincerely,

Lou Ann Texeira
 Executive Officer



October 31, 2012
Special Meeting
Agenda Item 12

RETIREMENT BOARD MEETING
SPECIAL BOARD MEETING

9:00 a.m.

October 18, 2012

Retirement Board Conference Room
The Willows Office Park
1355 Willow Way
Suite 221
Concord, California

THE RETIREMENT BOARD MAY DISCUSS AND TAKE ACTION ON THE FOLLOWING:

1. Pledge of Allegiance.
2. Accept comments from the public.
3. Discussion with consultant regarding managers scheduled to present.
4. Manager presentations:

9:15 am – 9:45 am Goldman Sachs

9:50 am – 10:20 am Lord Abbett

10:25 am – 10:40 am BREAK

10:40 am – 11:10 am Lazard

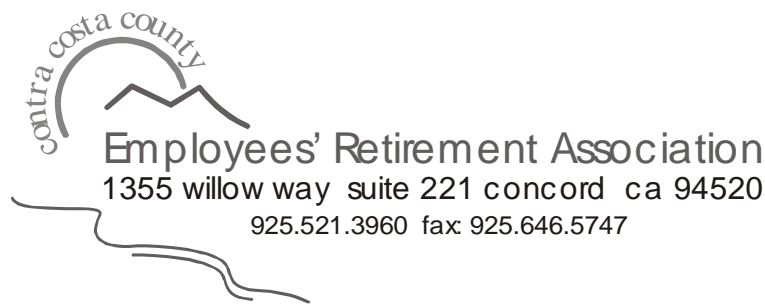
11:15 am – 11:45 am Allianz

11:50 am – 12:00 pm BREAK

12:00 pm – 12:45 pm PIMCO

5. Miscellaneous
 - a. Staff Report
 - b. Outside Professionals' Report
 - c. Trustees' comments

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.



RETIREMENT BOARD MEETING
 Second Monthly Meeting
 9:00 a.m.

October 24, 2012

Retirement Board Conference Room
 The Willows Office Park
 1355 Willow Way
 Suite 221
 Concord, California

THE RETIREMENT BOARD MAY DISCUSS AND TAKE ACTION ON THE FOLLOWING:

1. Pledge of Allegiance.
2. Accept comments from the public.
3. Approve minutes from the October 10, 2012 meeting.
4. Consider and take possible action on SACRS legislative platform.

CLOSED SESSION

5. The Board will go into closed session under Govt. Code Section 54957 to consider recommendations from the Medical Advisor and/or staff regarding the following disability retirement applications:

<u>Member</u>	<u>Type Sought</u>	<u>Recommendation</u>
a. Deborah Nix	Non Service Connected	Non Service Connected

6. The Board will continue in closed session pursuant to Govt. Code Section 54956.9(a) to confer with legal counsel regarding existing litigation:
Simon Vasquez, Jr. v. CCCERA, Contra Costa County Superior Court, Case No. C12-02133
7. The Board will continue in closed session pursuant to Govt. Code Section 54956.9(a) to confer with legal counsel regarding existing litigation:
In Re: Tribune Company Fraudulent Conveyance Litigation, United States District Court For the Southern District of New York, Case No. 11 MD 2296 (WHP)
8. The Board will continue in closed session pursuant to Govt. Code Section 54956.9(b).

OPEN SESSION

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

- 9 Consider and take possible action regarding scheduling of October 30, 2012 and November 9, 2012 board meetings.
10. Consider authorizing the attendance of Board and/or staff:
 - a. Board Leadership Institute, CALAPRS, January 29 – 31, 2013, Los Angeles, CA.
11. Miscellaneous
 - a. Staff Report
 - b. Outside Professionals' Report
 - c. Trustees' comments

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

[Metropolitan News-Enterprise](#)

Tuesday, October 9, 2012

October 31, 2012
Special Meeting
Agenda Item 14

Page 1

Annexed Homeowners Must Pay Municipal Taxes, C.A. Rules*Justices Reject Claim That Initiative Bars Extending Levies to Voters Who Had No Say in Joining City*

By KENNETH OFGANG, Staff Writer

A provision of the state Constitution requiring voter approval for local taxes does not bar a city from extending previously enacted taxes to residents of areas that it annexes, even if the annexation did not require voter approval, the Fourth District Court of Appeal ruled Friday.

Div. Three rejected arguments by the litigating arm of the Howard Jarvis Taxpayers Association, sponsor of Proposition 218, that the initiative bars the City of Huntington Beach from extending its utility tax and “retirement property tax”—used to pay pension costs incurred prior to the passage of Proposition 13—to residents of Sunset Beach.

Huntington Beach annexed the 133-acre neighboring community of about 1,200 residents last September. The Orange County Local Agency Formation Commission approved the annexation under a provision of the Government Code that allows a city to annex a neighboring “island” of unincorporated territory without a public vote.

OC LAFCO, Justice William Bedsworth explained in Friday’s opinion, had encouraged the annexation as part of the county’s effort to rid itself of responsibility for providing municipal-type services, such as police and fire protection, to unincorporated areas. Annexation to Huntington Beach was ultimately determined to be more viable than the alternatives, such as annexation to Seal Beach or incorporation of Sunset Beach as a city unto itself.

‘Special’ Taxes

Before the annexation took effect, the Citizens Association of Sunset Beach sued to block it. Represented by attorneys from the Howard Jarvis Taxpayer’s Foundation, the association argued that the annexation should be blocked, or that Sunset Beach should be allowed to vote on the “special” taxes under Proposition 218.

The initiative, known as the Right to Vote on Taxes Act, was approved by statewide vote in 1996. It requires a majority vote of a locality in order to pass a “general” tax, or a two-thirds vote to impose a “special” tax, such as Huntington Beach’s utility and pension levies.

Orange Superior Court Judge Frederick P. Horn ruled that Proposition 218 did not supersede the right of a city to annex an unincorporated area of less than 150 acres

without a vote. And because the Huntington Beach taxes were already in effect, and state law extends local taxes to unincorporated territory, Proposition 218 does not give Sunset Beach voters the right to vote on those levies.

Bedsworth, writing for the Court of Appeal, said Horn was correct.

“We conclude Proposition 218 was never intended to require votes incident to annexations of territory by local governments,” the justice wrote. “It was intended to prevent politicians from trying to circumvent Proposition 13 by inventing so-called assessment districts which supposedly could impose taxes without any vote of the electorate. Nor does the text of Proposition 218, even liberally construed, require an election on tax differentials in connection with an annexation.”

Longstanding Law

The justice noted that state law has allowed involuntary annexation of small communities by cities surrounding, or substantially surrounding, those communities since at least 1939, although Sunset Beach could not have been annexed in that manner prior to 2004, when the limit on the size of such a territory was increased from 75 to 150 acres.

He also noted that the statute expressly extending city taxes to annexed areas has been on the books since 1993, preceding the enactment of Proposition 218.

When a public vote is required for annexation, Bedsworth added, a simple majority vote is sufficient for approval, even when this results in extension to the annexed area of special taxes that required a two-thirds vote for the annexing city to adopt. The reason this seeming contradiction isn't addressed by Proposition 218, the justice said, is that “[i]ts proponents simply never intended it to apply to annexations.”

The case is *Citizens Association of Sunset Beach v. Orange County Local Agency Formation Commission*, 12 S.O.S. 5025.

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Jobs

October 2012

Growing Pains: Opposition Remains after Martinez's Annexation Plans Approved by LAFCO

The annexation of the Alhambra Valley has been a hot topic in the city of Martinez, as the turf war has led to a strong backlash from residents who have been vocally opposed to the annexation effort and have made their opinions clear at meetings of the Planning Commission, City Council and LAFCO. Back in August the city decided to reduce the number of acres in its annexation application in order to avoid a referendum or potential litigation. Initially the city sought 393 acres but changed the amount to 316.4 acres in order to increase the likelihood of success. LAFCO ultimately approved the city's amended request.

From the city's perspective, it is already providing urban services to much of the developed area of Alhambra Valley, even areas outside the City's municipal boundary. A document from LAFCO states, "The Martinez General Plan includes a policy stating that all developed but presently unincorporated areas within the City's SOI should be annexed to the City to ensure an equitable tax distribution and cohesive neighborhood units for public service purposes."

The [Martinez Patch](#) notes that the land is lucrative to the city because the Alhambra Valley "is a prestigious community with a lot of wealth and power. Its rural, even pastoral landscape is something the city would be proud to claim for its own." Notably, the city first began the process of trying to annex the land in 1995.

A protest hearing will be held on [October 17th](#), so opponents of LAFCO's decision will have a chance to voice their criticism.

The annexation has even become fodder for the five candidates who are vying for two City Council seats this November. The candidates were asked whether it was appropriate for the city to edit the annexation boundaries in order to minimize the possibility that residents can force a vote on the plan and if all residents in the valley should vote on the annexation of the entire territory.

Mercury News reports that this is how the candidates responded:

- **Avila Farias**: I understand why the city took the approach that they did, as it was an expedient path to enforcing annexation agreements. There is long-standing opposition by many residents in the valley to the prospect of incorporation; and the likelihood of the city prevailing in a valley-wide annexation effort is probably negligible at best. Nevertheless, creating patchwork communities with arbitrary boundaries does not seem reasonable either, and I support the right of people to vote on these critical matters of community identity.
- **Arsenio Escudero**: This is completely undemocratic and I would fight the annexation from day one. It is obvious that our current leaders have been bought off by real estate special interests because several independent studies have already stated that the annexation will create a fiscal burden on the city. Vote or no vote, the annexation is wrong for our city.
- **Dylan Radke**: I do not support the annexation of the Alhambra Valley because annexation of the proposed area will result in a negative impact on the city's budget, and a substantial number of people in the area to be annexed will not be able to vote on the annexation. To the extent that the city is interested in annexing the Alhambra Valley, it should include all the residential areas in the valley and allow all residents in the area to vote.
- **(incumbent) Mark Ross**: I strongly believe the whole valley should vote on annexation. As someone with the great luck to have been raised in the valley, I view the area as part of Martinez; but it is the opinion of all those folks today that matters. The current plan, if successful, still leaves an odd governance in play for police and other public services due to the gerrymandered boundaries."

Santa Rosa nudged to eliminate unincorporated 'islands'

By [KEVIN McCALLUM](#)
THE PRESS DEMOCRAT

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It will be more difficult for Santa Rosa to avoid annexing small islands of unincorporated county land inside its borders under a policy adopted Wednesday by the agency responsible for setting the local government boundaries.

The city no longer will be allowed to annex only a portion of small islands, defined as those with fewer than 12 registered voters, according to rules adopted Wednesday by the Sonoma County Local Agency Formation Commission.

Instead, new annexation requests will be approved by the commission only if the entire island is brought under city jurisdiction.

The new policy will likely apply to only about a quarter of the 52 such islands in the county, 51 of which are in Santa Rosa. It will not affect the future annexation of the largest island, the 3,500 acres of Roseland that remain outside city's southwest boundary.

"I think it'll provide more clarity and certainty that we can eliminate some of the smaller islands and provide better police and fire service to those areas," said Richard Bottarini, executive director of the commission.

The 11 members of the commission are representatives of the public, the county, and its nine cities and 54 special districts. Their role is to regulate the formation and expansion of government agencies to promote efficient government.

The commission views county islands as an unfortunate consequence of rapid city growth that need to be eliminated to limit confusion and inefficient delivery of services, such as sewer, water and public safety.

The policy shift is a compromise between the status quo, which encourages annexations of entire islands whenever possible but doesn't require it, and a tougher stance some favored to require annexations of entire islands up to 150 acres.

Supervisor Efren Carrillo said he favored the tougher option because he saw it as the commission's role to "push as hard as we could" for a policy that eliminates all the islands.

"The intent is for us to encourage the cities to annex all island of unincorporated territory," Carrillo said.

Chuck Regalia, Santa Rosa's director of community development, pushed back against the "entire island annexations" proposal. He contended that policy would have the opposite of its intended effect because it would impose so many additional costs on property owners that they wouldn't seek annexation.

"When a single applicant is responsible for doing a significant or sophisticated environmental review, it's very expensive," Regalia said.

The city can initiate annexations on its own, but that is a costly, time-consuming proposition that city leaders historically have avoided, he said.

"Numerous councils have not wanted to force annexation on people that weren't committed to it," Regalia said.

Carrillo expressed frustration with that position, suggesting the city should do more than just "sit on its laurels and wait for folks to request annexation."

The 5th District supervisor, who represents parts of the city's west side, said the city needs to do more than just have a policy supporting annexations -- it needs to have a plan.

"I don't think the city has done an honest job in at least identifying what their long-term trajectory is," Carrillo said.

Supervisor David Rabbitt, who encouraged commission staff to craft a compromise, called it a "middle ground" that would provide an incentive to cities to "nip around the edges" of more annexations while also keeping costs down.

The costs of the smaller annexations are lower because they don't require environmental review, and because they don't trigger elections, Bottarini said.

For islands with fewer than 12 registered voters, only property owners get a say in the annexation, not residents. Such small annexations are harder to block because opponents have to represent more than 50 percent of the assessed value of the land proposed for annexation.

Carrillo expressed disappointment that discussion has stalled between the county and the city about how to transition Roseland from county to city control.

"It feels like its Groundhog Day," he said.

Regalia said the only realistic way such a large annexation is going to happen is if the two agencies work closely together and share planning and environmental costs he estimated at \$500,000.

"At this stage of life in California, we don't have that kind of money floating around," Regalia said.

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Measure Q a battle between Contra Costa fire services, pension reforms

By Lisa Vorderbrueggen *Contra Costa Times* *Contra Costa Times*

Posted:

Sunday, October 14, 2012
ContraCostaTimes.com

When a neighboring shop's soiled rags caught fire in early October, Walker's Auto Body owner Gigi Walker was terrified it would spread into her family's North Concord business.

Contra Costa Fire District firefighters quickly stamped out the blaze. But the close call left Walker worried.

She's counting on the passage of Measure Q on Nov. 6, which would bail out the financially ailing fire district through a temporary \$75-a-year tax on single family homeowners and a tiered fee system for shops.

Without the roughly \$17 million a year the tax would generate toward its \$100 million budget, fire officials say they must shutter up to 10 of the district's 28 stations and lay off a third of its firefighters.

"I know people are concerned about the cost of public employee pensions but you can't fix everything with one measure," Walker said. "I don't want my business to burn down because the closest fire station closed and firefighters had to drive here from further away.

"And this is the Bay Area. We have earthquakes. It's crazy to talk about cutting emergency services," she added.

Measure Q's most outspoken opponent doesn't want anyone's business or home to go up in flames.

But Contra Costa Taxpayers Association Director Kris Hunt says a temporary tax infusion will delay critical pension and service model reforms and jeopardize fire service over the long haul. Retirement costs, for example, consume a quarter of the agency's budget this fiscal year and the percentage is expected to grow, she said.

"Our concern about Measure Q from the outset is that it doesn't solve the problem," Hunt said during a televised debate. "It isn't about firefighting services. Everyone agrees this is a critical service and should be provided. However, it has to be at a cost that is affordable (to) the residents and sustainable."

The women perfectly illustrate voters' Measure Q conundrum: How does the county reverse unsustainable costs in a key public service without suffering catastrophic losses of life and property?

With 265 sworn personnel for 600,000 residents, the district is already staffed at half the industry standard recommended by the International City/County Management Association. In Contra Costa, only East Contra Costa and the Rodeo-Hercules fire agencies have lower staffing levels.

The 304-square-mile district includes Antioch, Bay Point, Clayton, Concord, El Sobrante, Lafayette, Martinez, Pacheco, Pittsburg, Pleasant Hill, San Pablo, Walnut Creek and additional unincorporated areas.

Closing more fire stations and laying off firefighters will push the district to the bottom and it will have negative consequences, Contra Costa fire Chief Daryl Louder has repeatedly warned.

Fewer stations and firefighters will mean longer response times and lead to greater fire damage, more severe injuries and higher numbers of deaths, the chief has said.

Among his examples: A structure fire doubles in size every two minutes and an oxygen-deprived brain suffers damage in 4 to 6 minutes.

Hunt doesn't dispute the chief's analysis but strenuously objects to what she calls an "invented crisis."

"They have known this day was coming for years but they did almost nothing and now they want the taxpayers to rescue them," Hunt said. "It's not good government and it's not good for the community."

The board of supervisors, which manages the fire district, may have made mistakes but local leaders, firefighters and residents didn't cause the recession, countered Vince Wells, president of United Professional Firefighters of Contra Costa County Local 1230.

Despite 10 percent pay cuts, a lower pay scale for new hires and deferred equipment repair and purchases, the district started burning through its reserves in 2008. It points to four crippling financial punches:

- Property tax receipts -- the source of most of its money -- plummeted along with housing values in the economic downturn. The district estimates it lost \$32 million between 2008 and 2012.
- The recession devastated pension investment portfolios and the agency had to put in more cash each year to pay for more generous retirement benefits awarded in 2002.
- Health care costs skyrocketed nationwide.
- The retirement system altered the way it allocated costs after other member agencies argued they were unfairly subsidizing the benefit-rich fire districts. The shift increased the fire district's contribution rate.

While critics focus on pensions, Measure Q has no impact on retirement benefits, Wells has said.

So far, the courts have consistently said employers cannot take away current employees' vested benefits, although there are several pending cases stemming from June ballot measures in San Jose and San Diego.

Local 1230 had been negotiating a less expensive retirement package for new firefighters, but pension legislation signed by Gov. Jerry Brown made those discussions moot.

The law reduces retirement benefits for public safety employees hired after Jan. 1, 2013, and requires all workers to pay half of their pension costs.

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MEASURE q

What it would do: Levy an annual \$75 fire safety parcel tax on single-family homes, \$37.50 for condominiums, and establish a tiered fee for commercial, industrial and other properties in the Contra Costa Fire District. The Contra Costa board of supervisors placed the measure on the ballot in order to avert closure of up to 10 of the district's 28 fire stations

Votes to pass: Two-thirds

Supporters: United Professional Firefighters of Contra Costa County Local 1230, Contra Costa fire Chief Daryl Louder, American Medical Response, Contra Costa County Fire Advisory Commission, Contra Costa Sheriff David Livingston and Public Employees Union Local One.

Opponents: Contra Costa County Taxpayers Association

Money: The Committee to Protect Contra Costa Fire and Emergency Services had raised \$83,719 for Measure Q as of Sept. 30. Most of the money came from firefighters; opponents have not raised or spent any money

ELECTION PREVIEW 2012

Watch the hourlong round-table debate on the Contra Costa Fire District's fire safety parcel tax:
Public access television -- Channel 27: 8 p.m. on Oct. 14, 21, 28, 30 and Nov. 4. Channel 28 in Walnut Creek: 2 p.m. on Oct. 14, 21, 28 and Nov. 4. Channel 28 in Concord: 3:30 p.m. on Sept. 29, Oct. 20, 26, 27, 28, Nov. 2, 3, 4 and 5
Online anytime -- contracostatimes.com/elections or <http://bcove.me/5wtncxi01>

Pleasant Hill recreation district may borrow to buy furniture for new teen, senior and community centers

By Lisa P. White Contra Costa Times San Jose Mercury News

Posted:

Monday, October 15, 2012
ContraCostaTimes.com

PLEASANT HILL -- With fundraising falling far short of the \$1.3 million goal, Pleasant Hill Recreation and Park District leaders may take out a loan to furnish the new senior, teen and community centers.

Board members are considering borrowing \$300,000 through the California Special Districts Association. The recreation district would repay the loan over seven years at 4.25 percent interest with annual payments of \$50,500.

The board is scheduled to discuss the loan proposal at the Oct. 24 meeting.

"I've thought all along that we were going to need a bridge loan until we get all the money in," said Dennis Donaghu, board chairman. "When we set out to do the fundraising, we allowed people to spread their contributions over five years. So when it comes to buying the furniture, we're obviously going to have a cash-flow problem."

If the board agrees to borrow the money, the district would use the funds to buy the furniture now and continue to fundraise to repay the loan, he added.

"We have three new buildings coming and they need to look correct and not do it as-you-go," Donaghu said.

The grand opening for the teen center is Oct. 20 and the senior center is scheduled to open in December. The community center is under construction and slated to open in fall 2013.

In 2009, voters approved a \$28 million bond to build the three centers, upgrade the fields at Pleasant Oaks Park and remodel restrooms at several parks. Since the bond funds can be used only for buildings, the board must raise \$1.3 million to buy furniture and equipment. Thus far, the district has collected \$398,467 of the \$539,388 secured through foundation grants, donations and naming opportunities for rooms in the new buildings.

Rather than borrow \$500,000 at 4.75 percent interest, the board agreed last month to take a total of \$200,000 from the district's capital projects, building and reserve funds. The sale of a three-bedroom house on Gregory Lane that had been part of the old senior center is expected to generate an additional \$250,000. However, if board members approve the loan, they'll still need to raise more than \$250,000 to meet the \$1.3 million target. Upcoming fundraisers include "celebrity" bingo on Oct. 23 and a wine tasting soiree on Nov. 11.

Initially, the district's fundraising consultants focused on foundations, with the goal of bringing in about \$500,000 in grants, according to Bob Berggren, general manager of the recreation district. But other than a \$64,270 matching grant from the Danville-based Hedco Foundation for the teen center, that strategy didn't pan out, he said. In many cases, Pleasant Hill's middle-class population and the district's focus on recreation didn't match foundations' interests.

"We were counting on a couple of others and they did not come through and those were some of the big-ticket items," Berggren said.

In late July, the district canceled the contract with the consultants, who were paid about \$85,000. Berggren said his staff realized that it was more important to solicit people living in and around Pleasant Hill who are

familiar with the recreation district and the services it provides. Berggren said cultivating those donors is time consuming -- he described multiple meetings spent coaxing people to open their checkbooks -- but he hopes to sign a few soon.

Lisa P. White covers Martinez and Pleasant Hill. Contact her at 925-943-8011. Follow her at [Twitter.com/lisa_p_white](https://twitter.com/lisa_p_white).

Abbott & Kindermann Land Use Law Blog

LAND USE, ENVIRONMENTAL, AND REAL ESTATE LAW IN CALIFORNIA



Abbott & Kindermann Land Use Law Blog

Posted at 7:55 AM on **October 16, 2012** by Abbott & Kindermann

Two Recent Decisions Highlight the Special Powers Held By LAFCo

By William W. Abbott

While perhaps not surprising news to LAFCo wonks like Peter Detwiler, two recent decisions illustrate the special role that local agency formation commissions play in influencing local government and special district activities. The first decision, [Citizens Association of Sunset Beach v. Orange County Local Agency Formation Commission](#) (October 5, 2012, G045878) ___ Cal.App.4th ___, wrestles with the intersection of Proposition 218 voting requirements with LAFCo's ability to order island annexations. ([Government Code section 56375.3](#)) Originally developed in 1904, Sunset Beach is a small, unincorporated enclave located adjacent to Huntington Beach. Confined to less than 134 acres, [Sunset Beach](#) is home to roughly 1200 permanent residents. As authorized by the Government Code, Orange County LAFCo ("OC LAFCo"), upon review of the location, size and status of Sunset Beach, concluded that the area met the qualification for an island annexation, and ordered it annexed to the agent city of Huntington Beach. At the time, existing property owners within the city limits of Huntington Beach paid two taxes that their adjacent neighbors in Sunset Beach did not pay: a five percent utility tax and a pre-Proposition 13 retirement property tax. LAFCos approval of the island annexation thus triggered the following question: did Proposition 218 give the Sunset Beach voters the right to vote on the taxes as a condition to the annexation going forward. Voters within Sunset Beach filed suit. The trial court decided that 218 voting requirements did not extend to LAFCo compelled island annexations completed under the authority of Government Code section 56375.3. The appellate court reached the same conclusion. In so deciding, the appellate court reviewed the history to voter enacted tax reform starting with Proposition 13 (1978). The appellate court reasoned that had the voters intended to apply the vote requirement to the then existing statutory scheme which authorized island annexations, the voters would have drafted the measure to expressly do so. Failing the ability to find that legislative objective in Proposition 218, the appellate court declined to read the proposition in a manner to reach a result not reasonably read into the adopted text.

The second case, although primarily a CEQA decision, also illustrates LAFCo's potential range. In [Voices for Rural Living v. El Dorado Irrigation District](#), (October 4, 2012, C064280) ___ Cal.App.4th ___, affected parties filed suit, challenging El Dorado Irrigation District's ("EID") approval of a Memorandum of Understanding (MOU) with a tribe, the effect of which was to increase the amount of water delivered by EID to the tribe for a casino operation. In 1989, the County LAFCo had approved an annexation request by EID to serve the tribal property. LAFCo imposed a condition which limited the water service for residential purposes and accessory uses, serving not more than 40 residential lots. Neither the tribe nor LAFCo ever challenged the validity of the limitation. A little more than ten years later, a casino was proposed for the property. This casino in turn necessitated the increase in water deliveries as well as construction of an on off ramp on Highway 50. The affected agencies prepared the required NEPA and CEQA documents. The water limitation proved problematic, and eventually EID become convinced that the LAFCo restriction was an improper limitation on EID serving a sovereign nation. EID then entered into the MOU with the tribe providing for water deliveries substantially in excess of those authorized under the LAFCo condition. Adjacent owners filed suit, alleging CEQA grounds along with the violation of the LAFCo restriction. [We address the CEQA issues in a separate blog: see [Class 3 CEQA Exemption: Unusual Circumstances Exception Becoming Less Unusual?](#)] The appellate court concluded that EID lacked the authority to unilaterally void the LAFCo limitation even in circumstances in which it thought the limitation was unconstitutional. This authority rests with the LAFCo or courts, not the agency charged with implementing the restrictions previously

imposed. The appropriate course of action for EID was to go back to LAFCo (as it expressly had retained jurisdiction) and file a request for an amendment. In circumstances in which the LAFCo declined the amendment request, EID could then seek judicial review.

LAFCOs are not exactly the new sheriff in town; they have been broadly empowered for years. As these agencies become more confident in their independence and legal authority, expect them to take a seat at the table where important decisions are made regarding community growth and municipal organization.

[William W. Abbott](#) is a partner at Abbott & Kindermann, LLP. For questions relating to this article or any other California land use, real estate, environmental and/or planning issues contact Abbott & Kindermann, LLP at (916) 456-9595.

The information presented in this article should not be construed to be formal legal advice by Abbott & Kindermann, LLP, nor the formation of a lawyer/client relationship. Because of the changing nature of this area of the law and the importance of individual facts, readers are encouraged to seek independent counsel for advice regarding their individual legal issues.

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Discovery Bay gives town seal and logo a fresh look

By Paul Bugarino Contra Costa Times Contra Costa Times

Posted:

Tuesday, October 16, 2012
ContraCostaTimes.com

DISCOVERY BAY -- The town's logo has a new, more vibrant look.

The town's Community Services District is changing its rope-trim insignia with a navy blue steamboat in the middle to a brighter-colored seal and logo with a gold and orange sunset scene, steamboat on sky-blue water and a silhouette of Mount Diablo.

Other organizations such as the Chamber of Commerce and real estate agencies use the old logo, board Vice President Kevin Graves said.

"(The original logo) has been adopted by everybody, so we wanted something that stands independently," he said.

"I think it gives us a bit more of our own identity, and more of a town logo," added director Jim Mattison. "It's not drastically different, but it's more colorful. We wanted to pizazz it up a little bit."

The logo includes the phrase "est. 1998," which marks when Discovery Bay's community services district was established.

Graves said the steamboat on the logo likely comes from the Hofmann Development office being located on a vessel when it first started building homes in the Delta community.

"We kept it because we didn't want to lose that tradition," he said. "At the same time, we're trying to move the image of the town forward."

Though the new logo already adorns town letterhead, the town's website and its meeting agenda, it will be formally adopted at Wednesday's board meeting. The board will also consider a near \$4,500 contract for street pole banners with the new insignia, with the money coming out of its lighting and landscaping zone account.

Contact Paul Bugarino at 925-779-7164. Follow him at [Twitter.com/paulbugarino](https://twitter.com/paulbugarino).

Kensington police chief, officer cleared of wrongdoing by District Attorney's Office

By Rick Radin For the Contra Costa Times Contra Costa Times
Posted:

Wednesday, October 17, 2012
ContraCostaTimes.com

KENSINGTON -- The police chief and a police officer in this West Contra Costa town have been cleared of criminal wrongdoing by the county District Attorney's Office over allegations made by a member of the police department's governing board.

The investigation into the allegations of improper credit card charges made by police Chief Greg Harman was prompted by a request from Kensington Police Protection and Community Services District board member Cathie Kosel.

Kosel also asked for the District Attorney's Office to investigate an incident in which she claimed Kensington police Sgt. Ricky Hull tried to intimidate her by driving his patrol car at her at a high speed while she was walking on the street.

In a pair of Oct. 8 letters to Kosel, District Attorney Mark Peterson said there was "insufficient evidence" to support the allegations about improper credit card charges or Kosel's claims in the alleged incident involving Hull.

In the letter regarding the allegations against Hull, Peterson noted that five witnesses were interviewed during the inquiry, including Kosel and Hull, and that some "either tend to undercut or specifically contradict the allegations." Police dispatch recordings and logs were also reviewed as part of the inquiry, according to the letter.

Kosel said the only witnesses interviewed other than her were police officers.

Harman said the charges were part of a long string of unfounded complaints made against him by Kosel and fellow board member Mari Metcalf.

Earlier this year, Kosel and Metcalf disputed about \$28,000 in charges made on the district's credit cards for expenses and travel at training sessions and conferences, Harman said.

They said Harman, who also serves as general manager of the CSD, took his wife to a conference and charged the travel and entertainment expenses for her to the card.

Harman said he has charged about \$7,000 to district credit cards for various expenses over his four years as chief. He said he reimbursed the district for about \$400 he charged for a plane ticket for his wife.

"The problem is that the board has nothing in the way of policies detailing what Mr. Harman can or cannot spend," Kosel said.

The letter from Peterson noted that his office's inquiry was "solely for evidence of criminal wrongdoing. Our office is not qualified to opine, and therefore offers no opinion, as to best accounting practices or propriety of any internal controls."

Kosel said she thinks Harman's \$236,000 annual compensation is out of line with what many older, retired Kensington residents can afford.

Measure G, a parcel tax passed in 2010, imposed a \$200-per-parcel annual levy for police services.

Kosel and Metcalf represent a two-vote minority on the board that consistently opposes board President Chuck Toombs, Vice President Tony Lloyd and member Linda Lipscomb.

Kosel is running for re-election this fall against Toombs and challengers Pat Gillette, Jim Hausken and Kim Zvik, with two board seats at stake.

Pittsburg City Council delays decision on Ambrose Park pool renovation

By Eve Mitchell Contra Costa Times Contra Costa Times

Posted:

Wednesday, October 17, 2012

ContraCostaTimes.com

PITTSBURG -- Plans to build a children's activity pool to replace an aging lap pool at Ambrose Park have been delayed as result of an appeal of the Planning Commission's approval of the project's design.

Ambrose Park, located near Highway 4 and Bailey Road, is within Pittsburg city limits, but the park is owned and maintained by Bay Point's Ambrose Recreation and Park District, which previously held public meetings that resulted in the adoption of a master plan for the pool project and other improvements to the park; Pittsburg is acting as the project manager, while the park district has final approvals for the new pool.

The existing eight-lane lap pool was closed in 2008 for safety reasons.

Some Bay Point residents have pushed for rebuilding the existing pool or having the new pool be a lap pool instead of the 18-inch deep, irregularly shaped children's pool called for in the master plan. Children's pools bring in more revenue and are less expensive to operate than lap pools, say district officials.

As a result of the appeal filed by Bay Point resident Michael Kerr, City Council members on Monday continued until Nov. 19 a decision to award a construction contract for the new pool that would have cleared the way for the project to move forward.

The two public workshops the district had in 2009 amounted to "brainstorming sessions," and people did not have a chance weigh in on a master plan that was developed later, Kerr said.

"They are trying to get rid of the pool in Ambrose Park and replace it with a water playground," he said.

"We were never given the opportunity to discuss the master plan that was developed in the workshops."

Steve Hoagland, chairman of the district's board of directors, said the public hearing process was adequate.

"Every citizen has a right to file an appeal if they are not happy. The problem is the reason they are giving -- that is wasn't vetted through our agency -- is factually wrong," he said.

The original timeline called for the new pool to open as early as July 2013.

Filing the appeal will lead to several months of project delays, he said. If the city had taken action on Monday, the district would have taken action at its Thursday meeting that would allow it to open bids very soon so that construction could start. It is possible a four-lane lap pool could be included in the project, which also includes restrooms, an office, a snack bar and pool equipment building, if the bid amount for the children's pool comes in lower than expected.

The Ambrose pool replacement project is estimated to cost \$2.3 million. Project funding comes from \$1.13 million from the East Bay Regional Park District's Measure WW, a voter-approved bond measure; \$600,000 in park fees paid by city developers; \$98,000 from the district; and \$473,000 in county developer fees. The county fees were turned over to the district from a lawsuit settlement to help the district pay for the new pool.

In other action, council members approved a sales tax-sharing proposal to help offset remodeling costs to bring a new Ford dealership to the Century Auto Mall at the site where Mazzei's former Pontiac, Cadillac and GMC dealerships were located before closing three years ago.

The vacant dealership was later vandalized and is in need of repairs.

The proposal calls for Thomas Nokes, owner of Antioch Auto Center, to move the Diablo Ford dealership he purchased on Railroad Avenue in Pittsburg over to the auto mall. The new dealership would be called All-Star Ford.

Under the proposal, Pittsburg will share with All-Star Ford one-fourth of sales tax revenues the city receives from the dealership's car sales for up to a 10-year period, with the total amount not to exceed \$1.85 million over 10 years.

Contact Eve Mitchell at 925-779-7189. Follow her on [Twitter.com/EastCounty_Girl](https://twitter.com/EastCounty_Girl).

Discovery Bay enters into escrow on possible community center site

By Paul Bugarino Contra Costa Times San Jose Mercury News

Posted:

Thursday, October 18, 2012
ContraCostaTimes.com

DISCOVERY BAY -- A long-awaited community center may be one step closer to reality.

The town's Community Services District, along with Delta Community Presbyterian Church entered into an agreement recently with Pilati Farms to purchase a 10.24 acre site on the northeast corner of Discovery Bay Boulevard and Willow Lake Road.

The transaction is now going through the escrow process, which should take about 90 days, district general manager Rick Howard said at Wednesday night's board meeting.

The district's portion of the property is about 7.4 acres and includes the Discovery Bay Athletic Club building.

The combined, all-cash price for the transaction is \$1.2 million.

The district will have an appraiser look at the property, along with an environmental consultant to check for contaminants in the soil, Howard said. The district plans to file a notice of exemption with the county Thursday, saying the transaction won't have any environmental impact, he said.

Discovery Bay has talked about building a community center for the past three decades, with progress stopping each time because of questions about location, negotiations with developers, bureaucracy or lack of funding.

The site was recommended last December by a committee formed to examine where the center should be located and funded, along with residents that filled out a survey distributed by the committee.

For updates, check back to ContraCostaTimes.com.

Contact Paul Bugarino at 925-779-7164. Follow him at [Twitter.com/paulbugarino](https://twitter.com/paulbugarino).

Discovery Bay will look at other sites for board meetings

By Paul Bugarino Contra Costa Times San Jose Mercury News

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Thursday, October 18, 2012
ContraCostaTimes.com

DISCOVERY BAY -- In hopes of freeing up office space so its employees can be in a single location, the town's Community Services District will explore leasing property elsewhere in town.

The district's Board of Directors directed General Manager Rick Howard Wednesday night to look into leasing office space on 1520 Discovery Bay Boulevard.

The former bank building could be used for board meetings and conferences, leaving extra space in the existing office currently used for meetings, board vice president Kevin Graves said.

"I think that would alleviate a lot of the problem, or the questions of 'what happens if,'" Graves said.

Fellow board members agreed with the idea, noting it would give it a fall back in case the property owner finds another potential tenant willing to pay more.

Resident Rich Kier spoke in favor of Graves' idea, saying parking at the meetings sometimes "spills over into the (Delta Community Presbyterian Church)" parking lot.

Since being formed as an independent special district in 1998, Discovery Bay Community Services District staff has grown from two to 12 -- including seven since the district moved into its modular office on 1800 Willow Lake Road in 2003.

Town staff now works at three sites and it would be beneficial to have them consolidated under one roof, Howard said.

The estimated lease rate for the 5,475 square foot site would be about \$1.40 per square foot, though Howard said that is a "very preliminary" figure. All God's Christian School has also expressed interest in leasing the site's 2,595 square feet in office space, which would lower some of the cost, he said.

For updates, check back to ContraCostaTimes.com.

Contact Paul Bugarino at 925-779-7164. Follow him at [Twitter.com/paulbugarino](https://twitter.com/paulbugarino).

Contra Costa sets out fire station shutdown plan

[By Lisa Vorderbrueggen](#)

[Contra Costa Times](#)

Posted: 10/23/2012 05:08:20 PM PDT

Updated: **10/24/2012** 06:48:00 AM PDT

MARTINEZ -- Contra Costa's largest fire agency will shutter four fire stations in January, close up to six more by 2015, and stop responding to low-priority incidents if voters reject a \$75 annual parcel tax on the general election ballot.

"We are planning for the worst and hoping for the best, hoping we will not have to implement this service-reduction plan," Contra Costa Fire Chief Daryl Louder told the county Board of Supervisors on Tuesday. The board governs the 600,000-resident central Contra Costa County fire district.

Measure Q, the fire district's seven-year parcel tax proposal, needs a steep two-thirds approval at a time when recession-weary voters face a plethora of new tax proposals from cash-starved state, school and local agencies.

Ballot measure opponents have repeatedly said the fire district is holding taxpayers hostage, threatening service losses while refusing for years to reform firefighter pensions or seriously evaluate alternative ways to fight fires and respond to medical emergencies.

But no matter which argument the voters ultimately endorse, the math is indisputable: Without Measure Q's roughly \$17 million a year in additional property tax proceeds, the fire district will burn through its reserves in a matter of months and must cut expenses.

The reductions have consequences, Louder said.

Losing 10 of its 28 stations will lead to longer response times, more fire damage, greater chance of injury or death for emergency patients, and reduced participation in the regional and state mutual aid system, he predicted.

The agency hasn't yet identified the stations within its nine cities and unincorporated communities targeted for closure.

Operational staff is working on a closure priority list and will consider factors such as proximity to other fire stations, refineries or other high-risk facilities, busy freeways and call volumes.

But in neighborhoods where stations remain open, the firefighters must absorb the extra calls and extend their staff and equipment further, the chief said.

"The call volume isn't going to go down, it will just be redistributed to the open stations," Louder said. "No part of the district will escape the impacts."

However, no firefighters will lose their jobs in the initial shutdown in January, Louder said.

Instead, the district will eliminate the overtime that has allowed those stations to remain open even with reduced staffing levels.

It takes a minimum of two firefighters and one firefighter-paramedic to operate each engine or ladder truck. While many firefighters want and rely on overtime to augment their salary, the district is increasingly mandating overtime in order to meet the staffing requirements, Louder said. Eliminating overtime means no staff is available to operate those engines and trucks.

Fire service cutbacks will also impact the county's ambulance service, Emergency Medical Services Director Patricia Frost told county supervisors Tuesday.

While the county's contract with American Medical Response, or AMR, mandates maximum transport times, ambulance personnel rely heavily on firefighters trained and equipped to extricate people from wrecked cars, burning buildings or even from behind locked doors.

Fire station closures may lead to more incidents in which ambulance staff is first on the scene and unable to get access to the most critical patients, such as those in trauma situations or in cardiac arrest, Frost said.

"Fire is a critical link," she said. " ... What we're talking about are fundamental changes in our service capabilities that are unprecedented."

If Measure Q fails, the Board of Supervisors will likely make station closure decisions at a public hearing in early December.

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NOVEMBER BALLOT

Police issues key in Kensington election

Board candidates sharply divided on top cop's contract and expenses

By Rick Radin

Correspondent

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KENSINGTON — The division on the board that oversees this West Contra Costa town's Police Protection and Community Services District is shaping the race for two seats at stake Nov. 6.

Two incumbents, Chuck Toombs and Cathie Kosel, who have been on different sides of a rift among board members regarding the performance of the district's top administrator, are running for re-election. Two other candidates, Pat Gillette and Jim Hausken, are allied with Toombs and Kosel, respectively. A fifth candidate, Kim Zvik, says she is a "moderate" who doesn't belong to either faction.

Toombs has served as president of the board the past three years. He and his two allies on the board, Linda Lipscomb and Greg Lloyd, have consistently supported the police chief and Community Services District general manager, Greg Harman, amid questions and criticisms from Kosel and a fifth board member, Mari Metcalf.

Lipscomb, Lloyd and Metcalf are in the middle of four-year terms and not up for re-election.

The consistent 3-2 split in voting, especially on issues concerning Harman and his contract, have made for heated board meetings this year.

Kosel says she is only acting on her concerns about Harman's pay and the costs of the police department as a whole. The chief signed a two-year contract extension in July that pays him \$148,000 in salary, along with \$88,000 annually in pension and health benefits. She said she's also concerned about credit-card charges Harman has made for lodging and meals at conferences and training sessions. Toombs said two external audits of the spending uncovered no improper charges on Harman's part.

Kosel also asked the Contra Costa District Attorney's Office to look into the spending, but the DA found no criminal wrongdoing.

"When our employees have gone out of town and spent a couple hundred dollars a night at a hotel, \$220 for dinner for wine and beautiful meals, there is nothing in our rules that says they can't," Kosel said.

"I don't understand the attitude of my colleagues on the board, just don't get it," she added. "How are you spending our money? That's a question that's in the public domain." Toombs disputes the amount of spending Kosel claims and points to the series of investigations that he says backs his view. "Ms. Kosel has consistently raised private issues about the chief's (personnel) file," Toombs said, in defending his use of the gavel to control discussion at board meetings. "If you harm the

chief's reputation, you may make the district liable for civil damages. The chief could potentially sue.”

Gillette said she is running to try to restore decorum to the board, which she argues has been ruined by Kosel's and Metcalf's constant criticism of Harman and the police force. She said the controversy is not what the majority of Kensington residents want.

“I have lived in Kensington for 34 years, and I have never seen such divisiveness,” she said. “Cathie has done everything she can to undermine the police chief, asking that investigations be conducted, not letting go of issues.”

Gillette said she thinks concerns about the cost of the police department are overblown and cites Measure G, a 2010 parcel tax measure that authorized a \$200-a-year levy on homeowners for police services. The tax passed with about a 70 percent majority.

“(Kosel) voted for the police officers' contract (in January), and now she sees the opportunity to make an issue out of it to get reelected,” Gillette said.

Hausken, another critic of the board majority, said he is particularly concerned about the cost of police pensions. The board was unable to get officers to agree to contribute to their pensions during contract negotiations earlier this year.

“We're the only agency where the police don't pay into their pensions,” Hausken said. “Other agencies are going belly-up over this.”

Toombs said Gov. Jerry Brown has substantially settled the issue as far as he is concerned by negotiating pension reform at the state level.

“I think Chuck is being a bit optimistic about this,” Hausken said. “I hope he's right.”

Hausken said too much crucial debate is held in closed session during board meetings.

“The board majority is very cliquish,” he said. “They have warm personal feelings toward the chief as a warm, cuddly and avuncular teddy bear. They always say they are afraid of lawsuits if we criticize him.”

Zvik characterizes herself as a “moderate person” who pledges to try to take an objective view of issues if elected.

“The slates that have run together and now sit on the board have created a division on the board,” she said.

Zvik said she understands concerns over Harman's salary and benefits at a time when others may be taking pay cuts. On the other hand, she said she is in favor “of moving on with the existing personnel on the police force.”

Harman has said he is concerned about his job security if Kosel commands a majority on the board.

“If (Kosel) is making requests (for information), those should be respectfully followed and done,” Zvik said. “I don't think it's a bad thing to meet some of the requests and move on.”