

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

January 8, 2014
Agenda Item 8

January 8, 2014 (Agenda)

LAFCO 13-03: Rodeo Marina Annexation to Rodeo Sanitary District (RSD)

PROPONENT: RSD by Resolution No. 2011-01 adopted April 12, 2011

ACREAGE & LOCATION The applicant proposes to annex 16.7± acres (two parcels and a trail area) located along the northwestern edge of Rodeo that meets the San Pablo Bay (see Attachment 1).

SYNOPSIS

RSD filed an application with LAFCO to annex the properties to the District. The purpose of the annexation is to facilitate the extension of wastewater service to the area. The properties include the marina area which houses one residential property and several businesses consisting of a marine engine repair shop, boat storage and a restaurant/bar; a public recreational/ trail area (Lone Tree Park) owned by the East Bay Regional Park District (EBRPD); and a narrow strip of land south of the railroad tracks which serves as a parking and staging area for the park. The marina property petitioned the District for sewer service and has several existing sewer connections. The EBRPD has also expressed interest in future sewer service.

DISCUSSION

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

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

The area proposed for annexation is within RSD's SOI as approved by the Commission in July 2013, and is within the County Urban Limit Line; all parcels are located in the unincorporated community of Rodeo.

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

The County General Plan designations for the area are Commercial Recreational, Parks & Recreation, and Downtown/Waterfront Rodeo. The County's zoning designation is Rodeo Redevelopment Planned-Unit. No changes are proposed to the General Plan or zoning designations as part of this proposal.

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

The properties proposed for annexation contain no prime farmland or land covered under Williamson Act Land Conservation agreements. The annexation area includes property owned by East Bay regional Park District (Lone Tree Park) which is used for public recreational use.

4. **Topography, Natural Features and Drainage Basins:**

The annexation is characterized by rocky shoreline adjacent to mud tidal flats, bisected by railroad tracks. Lone Tree Park is predominately nature trails along rolling, grassy hills. To the north and west is the San Pablo Bay, and to the south and east is a railroad right-of-way; beyond that there are residential and light commercial uses.

5. **Population:**

There is one single family residential home located within the annexation area; however, the dwelling currently has no certificate of occupancy. No new dwelling units are proposed for this annexation area given the designated land uses.

6. **Fair Share of Regional Housing:**

Pursuant to §56668 of the CKH Act, LAFCO must consider the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments. The proposed annexation will have no effect on regional housing needs.

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

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

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

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

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

RSD currently serves a population of over 8,000 residents in a 1.4 square-mile service area. RSD's wastewater collection system consists of 25 miles of sewer gravity pipeline, two force mains and two pump stations. RSD serves approximately 2,500 connections. The majority of RSD's system operates with gravity flow and some pumping stations and 1.2 miles of force main. The District's treatment plant capacity is 1.14 million gallons per day (mgd), with a maximum of 3.4 mgd. RSD's wastewater treatment plant provides secondary level treatment for an average daily flow of 550,000 gallons per day.

The area proposed for annexation includes potential service to other commercial and recreational uses, including an RV campground, harbor master building, public trail and other commercial facilities. Current and future development is primarily located on the marina property. Based on existing and potential development on this property, the maximum demand for service is approximately 10,100 gallons of wastewater per day. Demand for sewer service on the other two parcels would be minimal, less than 700 gallons per day. The District has sufficient capacity to serve full build out of the annexation area.

RSD indicates that one of the properties proposed for annexation (the marina) is already served by existing RSD facilities; others can extend sewer lines to receive sewer services. It is not the current practice of RSD to compel property owners to connect their properties to the public sewer system; connection is voluntarily.

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

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

8. Timely Availability of Water and Related Issues:

The area proposed for annexation is within EBMUD's service boundary. EBMUD provides wholesale water, retail water, wastewater collection and wastewater treatment services for an area of 331± square miles in Contra Costa and Alameda counties, serving nearly 2 million people. Water service includes production, distribution, retail, treatment, recycling and conservation services. Historically, over 90% of EBMUD's water comes from the Mokelumne River watershed; other water sources include local watershed runoff and Central Valley Project (CVP) (Sacramento River).

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

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate areas 62056 and 62058. The assessed value for the areas proposed for annexation is \$949,089 (2012-13 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

The parcels proposed for annexation are included in Contra Costa County's Environmental Impact Report (EIR) for the Rodeo Downtown Waterfront General Plan Amendment and Specific Plan (certified August 1997, SCH#95033055). The County conducted a subsequent assessment of environmental effects of the proposed annexation in the form of an Environmental Checklist, which concluded that "...no new effects could occur or no new mitigation measures would be required that were not examined in the Rodeo Downtown/Waterfront Specific Plan EIR, adopted August 12, 1997, per Section 15168(c)(2) of the CEQA Guidelines. The proposed project is within the scope of the project covered by the program EIR and no new environmental document is required (adopted December 6, 2010).

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are fewer than 12 registered voters in the area proposed for annexation. Thus, the area proposed for annexation is considered uninhabited. RSD indicates that less than 100% of the affected landowners have provided written consent to the annexation. Thus, the Commission's action is subject to notice, hearing, as well as conducting authority (protest) proceedings. If the Commission approves the annexation, a subsequent notice and protest hearing will follow. Authority to conduct the protest hearing has been delegated to the LAFCO Executive Officer. All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the January 8th hearing.

12. Boundaries and Lines of Assessment:

The District serves three non-contiguous service areas: an area of medium density single family residential, north of Willow Avenue; a small area designated for public use west of San Pablo Avenue; and an area primarily designated for heavy industrial use west of Crockett. The annexation area is within RSD's SOI. The EBRPD property is contiguous to the District's boundary; the marina area is adjacent to the District's boundary, separated by the railroad right-of-way. The 2008 *West County Water/Wastewater Municipal Services Review* (MSR) noted that RSD is providing service to several parcels outside the District's service boundary, including one parcel (marina) within the annexation area. The MSR suggested annexing parcels receiving out of agency service. The proposed annexation would bring into RSD's boundary additional parcels currently receiving out of agency service.

13. Environmental Justice:

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

14. Disadvantaged Communities

In accordance with recent legislation (SB 244), local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/changes, and annexations must take into consideration DUCs, and specifically the adequacy of public services, including sewer, water, and fire protection needs or deficiencies, to these communities. According to the County Planning Department, the

Rodeo area meets the criteria of a DUC. Thus, annexation of this area to RSD would bring a needed public service to a DUC.

ALTERNATIVES FOR COMMISSION ACTION

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

Option 1 Approve the annexation as submitted.

- A. The Commission certifies it reviewed and considered the information contained in the Rodeo Downtown/Waterfront Specific Plan Environmental Impact Report and related environmental documentation as prepared and certified by the County of Contra Costa (Lead Agency), including the associated Mitigation Monitoring and Reporting Program, and adopt the County's Findings of Fact.
- B. Adopt this report, approve the attached resolution (Attachment 2), and approve the proposal, to be known as the Rodeo Marina Annexation to RSD, subject to the following terms and conditions:
 - 1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
 - 2. That RSD has delivered an executed indemnification agreement providing for RSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is uninhabited and that LAFCO's approval is subject to a conducting authority (protest) proceeding.

Option 2 Adopt this report and DENY the proposal.

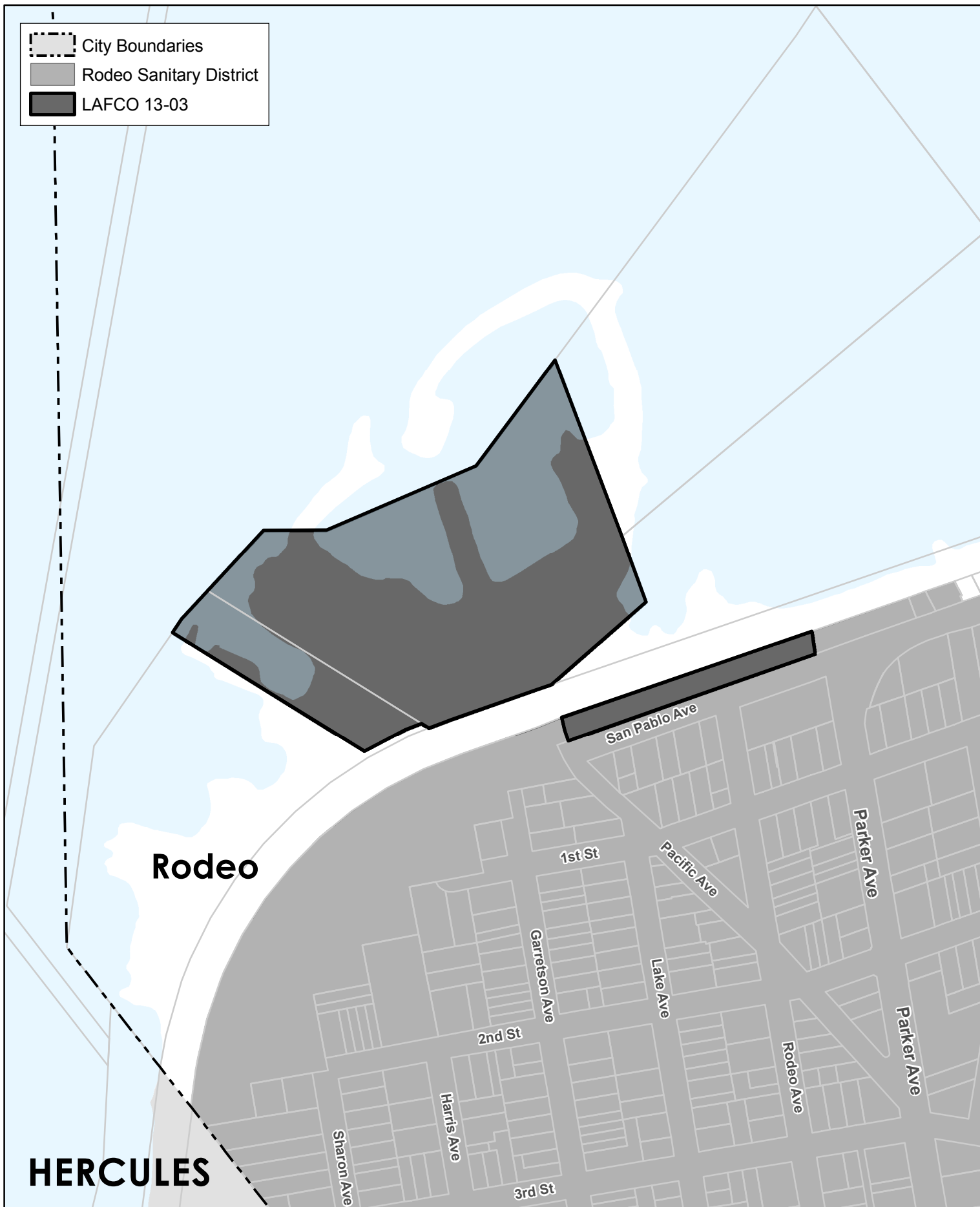
Option 3 If the Commission needs more information, CONTINUE this matter to a future meeting.

RECOMMENDED ACTION: Approve Option 1.

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

Attachments:

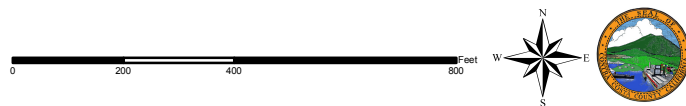
- 1 – Annexation Map
- 2 – Draft LAFCO Resolution



HERCULES

Map created 07/12/2013
 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 Department of Conservation and Development 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.



RESOLUTION NO. 13-03

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
RODEO MARINA ANNEXATION TO RODEO SANITARY DISTRICT**

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

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

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

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

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

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

1. The Commission certifies it reviewed and considered the information contained in the Rodeo Downtown/Waterfront Specific Plan Environmental Impact Report and related environmental documentation as prepared and certified by the County of Contra Costa (Lead Agency), including the associated Mitigation Monitoring and Reporting Program, and adopted the County's Findings of Fact.
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

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

Contra Costa LAFCO
Resolution No. 13-03

6. That Rodeo Sanitary District (RSD) delivered an executed indemnification agreement between the RSD and Contra Costa LAFCO providing for RSD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
7. The territory proposed for annexation is uninhabited.
8. The proposal has less than 100% landowner consent and is subject to conducting authority (protest) proceedings.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

PASSED AND ADOPTED THIS 8th day of January 2014, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

>>>, 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: January 8, 2014

Lou Ann Texeira, Executive Officer