



NOTICE AND AGENDA FOR REGULAR MEETING

DATE/TIME: Wednesday, February 10, 2016, 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 a change of organization consisting of an annexation or detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area, it is the intent of the Commission to waive subsequent protest and election proceedings provided that appropriate mailed notice has been given to landowners and registered voters within the affected territory pursuant to Gov. Code sections 56157 and 56663, and no written opposition from affected landowner or voters to the proposal is received before the conclusion of the commission proceedings on the proposal.

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.

FEBRUARY 10, 2016 CONTRA COSTA LAFCO AGENDA

1. Call to Order and Pledge of Allegiance
2. Roll Call
3. Adoption of Agenda
4. **Selection of Chair and Vice Chair**
5. 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.
6. Approval of Minutes for the January 13, 2016 regular LAFCO meeting

BUSINESS ITEMS

7. ***Request to Transfer Jurisdiction from San Joaquin LAFCO to Contra Costa LAFCO*** – consider assuming jurisdiction and authorize staff to send a request to San Joaquin LAFCO to transfer jurisdiction in order to consider a proposal to detach territory from the Byron Bethany Irrigation District
8. ***Request to Transfer Jurisdiction from Alameda LAFCO to Contra Costa LAFCO*** – consider assuming jurisdiction and authorize staff to send a request to Alameda LAFCO to transfer jurisdiction in order to consider a proposal to annex territory to the East Bay Municipal Utility District
9. ***Fiscal Year 2016-17 Budget Schedule/Work Plan Preview*** - receive FY 2016-17 proposed budget schedule and work plan preview and provide input

CORRESPONDENCE

10. Correspondence from Contra Costa County Employees' Retirement Association (CCCERA)

INFORMATIONAL ITEMS

11. Commissioner Comments and Announcements
12. Staff Announcements
 - CALAFCO Updates
 - Pending Projects
 - Newspaper Articles

ADJOURNMENT

Next regular LAFCO meeting – March 9, 2016 at 1:30 p.m.

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



Lou Ann Teixeira
Executive Officer

MEMBERS

Donald A. Blubaugh <i>Public Member</i>	Mary N. Piepho <i>County Member</i>
Federal Glover <i>County Member</i>	Rob Schroder <i>City Member</i>
Michael R. McGill <i>Special District Member</i>	Igor Skaredoff <i>Special District Member</i>
Don Tatzin <i>City Member</i>	

ALTERNATE MEMBERS

Candace Andersen
County Member
 Sharon Burke
Public Member
 Tom Butt
City Member
 Stanley Caldwell
Special District Member

February 10, 2016 (Agenda)

February 10, 2016
 Agenda Item 4

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

Selection of Commission Officers for 2016

Dear Members of the Commission:

This item was deferred from the January 13, 2016 LAFCO meeting.

The selection of officers for the Contra Costa LAFCO is described in Section 1.4 of the Commission Handbook, which provides for the following:

- The members of the Commission shall elect a Chair and Vice Chair at the first meeting of the Commission held in January of each year or as soon thereafter as practicable.
- The Chair and Vice Chair shall serve for one-year terms, or until their successors are elected, whichever occurs later.
- Officers shall be selected from the categories of members in the following order:

- County Member 1
- Public Member
- Special District Member 1
- City Member 1
- County Member 2
- Special District Member 2
- City Member 2

In 2015, City Member Rob Schroder served as Chair, and County Member Piepho served as Vice Chair.

RECOMMENDATION – Per the Commission’s policy, it is recommended that the Commission select a County member as Chair and a Public member as Vice Chair to serve until January 2017.

Sincerely,

LOU ANN TEXEIRA
 EXECUTIVE OFFICER

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MINUTES OF MEETING

January 13, 2016

February 10, 2016
Agenda Item 6

Board of Supervisors Chambers
Martinez, CA

1. Chair Rob Schroder 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 Federal Glover and Alternate Candace Andersen.

Special District Members Mike McGill and Igor Skaredoff and Alternate Stanley Caldwell.

Public Member Don Blubaugh.

Present were Executive Officer Lou Ann Texeira, Legal Counsel Sharon Anderson, and Clerk Kate Sibley.

4. Approval of the Agenda

Upon motion of Blubaugh, second by Andersen, Commissioners, by a vote of 6-0, adopted the agenda.

AYES: Andersen (A), Blubaugh, McGill, Schroder, Skaredoff, Tatzin

NOES: none

ABSENT: Glover (M), Piepho (M)

ABSTAIN: none

5. Selection of Officers

Upon motion of Andersen, second by Blubaugh, selection of a new chair and new vice chair was deferred to the February meeting, due to the absence of current Vice Chair Piepho.

AYES: Andersen (A), Blubaugh, McGill, Schroder, Skaredoff, Tatzin

NOES: none

ABSENT: Glover (M), Piepho (M)

ABSTAIN: none

6. Public Comments

County Agricultural Commissioner Chad Godoy presented the newly released "Economic Contributions of Contra Costa County Agriculture" report. This new report quantifies agriculture's total economic contribution through food production, local food processing, employment, and economic "multiplier effects," providing substantial support for decisions to protect agricultural lands. Commissioner McGill praised the report, noting that EC² also focuses on the economic value of agriculture.

7. Approval of December 9, 2015 Meeting Minutes

Upon motion of McGill, second by Skaredoff, the minutes were approved by a vote of 6-0.

AYES: Andersen (A), Blubaugh, McGill, Schroder, Skaredoff, Tatzin

NOES: none

ABSENT: Glover (M), Piepho (M)

ABSTAIN: none

DRAFT

8. Informational Presentation – Contra Costa County Environmental Health Department

Chair Schroder introduced Marilyn Underwood, Ph.D., REHS, Director of the County Environmental Health Department. Prior to joining the County in March 2011, Dr. Underwood worked for 19 years for the California Department of Public Health. Dr. Underwood received her BS in Chemistry at Marietta College and a Ph.D. in Comparative Pharmacology and Toxicology at the University of California at San Francisco. Dr. Underwood then introduced her staff in attendance – Jocelyn Habal and Kristian Lucas.

Contra Costa Environmental Health provides a variety of health and safety services ranging from regulating body artists and inspecting restaurants to regulating septic tanks and monitoring small water systems. The presentation focused on the department’s work to protect the County’s natural resources and keep its community safe, both in terms of consumer protection (small water systems) and environmental protection (well and soil boring/ construction/ destruction and on-site wastewater treatment system construction).

Dr. Underwood stressed that they want people to connect to sewer where possible. For locations where sewer connection is not possible, the design of the septic system (on-site wastewater treatment system, or OWTS) needs to ensure the effluent is clean before it moves into groundwater or surface water, and there must be separation from water wells. Environmental Health oversees all aspects of OWTS installation and operation.

Environmental Health also oversees water wells, ensuring that they are properly constructed, altered, maintained, and—if inactive—destroyed. Water well applications have decreased after a peak in 2014 (perhaps related to the drought).

Environmental Health also serves as the local oversight agency for the State for federally defined small water systems (15-199 connections) and state small water systems in the county (5-14 connections), as well as county-defined small water systems of 2-4 connections). Dr. Underwood provided an overview of the public water systems in the County, with 9 large systems serving approximately 99.54% of the population, and 72 small water systems serving about 0.46%.

During the drought, Environmental Health has provided technical assistance to small water systems and private well owners, surveyed water quantity issues on the part of the state, participated in discussions about state identified priority water basins, and could, if needed, require hydrology studies before approving a well or subdivision. Dr. Underwood highlighted three areas with water supply concerns, including an area near Tassajara Valley, an area near Antioch and Brentwood, and an area east of Martinez.

In response to a question from Commissioner Skaredoff, Dr. Underwood said that she will research whether recharging sources have been identified for the groundwater basins in this county, the effect of groundwater regulations, and whether saltwater intrusion is an issue, particularly in the East Bay Municipal Utility District basin.

In response to a question, Dr. Underwood stated that she does not expect any state-ordered water system consolidations in Contra Costa County as a result of SB 88. There are only two small systems that are “on watch.”

Commissioners thanked Dr. Underwood for an informative presentation.

9. LAFCO 15-02 – West County Wastewater District Annexation No. 314 (Park Avenue)

The Executive Officer introduced this proposal to annex 10 properties in unincorporated Richmond to West County Wastewater District (WCWD). The area is within the District’s SOI, within the City of Richmond’s SOI, and outside the ULL, in one of a number of islands created by the ULL (62 acres). The area is also located in a septic tank moratorium area, as designated by

the County, due to poor soil conditions, proximity to a creek and other environmental conditions as described in the staff report. Contra Costa Environmental Health (EH) encourages connection to municipal sewer when available. EH supports annexation of these properties to WCWD. The District indicates it is able and willing to serve the properties.

Challenges to this annexation include: provision of urban services to areas outside the ULL are discouraged, especially if they are growth inducing; and one parcel in the area is being excluded due to lack of response from the landowner.

Commissioner Glover noted that, when they established the ULL, they knew that there would be situations like this, and he felt it was only logical to provide services. Following further Commissioner discussion, Chair Schroder opened the public hearing.

Laura Craft, one of the landowners, thanked the staff and pointed out the environmental benefits of connecting these homes to municipal sewer, as the properties are on the edge of Wildcat Creek. She also explained the process all of the petitioning landowners had gone through to bring this proposal to WCWD, including development of a financing structure with the District.

John Bry, landowner, presented his account of trying to upgrade his septic system and discovering there was no other area on his property that would work for replacing his failing system. He is concerned for his health, and believes this annexation is the best option.

John Jordan, landowner, concurred with Ms. Craft and Mr. Bry.

Ken Deibert, representing WCWD, stated that the District fully supports this annexation.

Commissioners provided further input, commending the neighbors on pulling together to develop a solution. Upon motion of Andersen, second by Blubaugh, Commissioners unanimously, by a 7-0 vote, determined that the project is exempt pursuant to CEQA Guidelines, Section 15061(b)(3); approved the proposal to be known as West County Wastewater District Annexation No. 314, with specified conditions; determined that the territory being annexed is liable for the continuation of taxes, assessments and charges; found that the subject territory is inhabited, has 100% landowner consent; waived the protest proceeding, and directed staff to complete the proceeding..

AYES: Andersen (A), Blubaugh, Glover, McGill, Schroder, Skaredoff, Tatzin
NOES: none
ABSENT: Piepho (M)
ABSTAIN: none

10. Agriculture & Open Space Preservation Policy

Commissioner Tatzin introduced the changes in application questionnaires proposed by the Policies and Procedures Committee, as directed by the Commission in November. Two applications, one for Sphere of Influence Amendments, and one for Annexations, Detachments, and Reorganizations, have been modified to include an agricultural/open space impact assessment.

Commissioner Tatzin indicated that if the Commissioners are comfortable with the proposed changes, the Policies and Procedures Committee will use them as a basis for developing a policy to complement the revised applications, and noted that LAFCO has broad discretion to approve, approve with conditions, or deny applications.

The LAFCO Executive Officer expressed her support of the changes and their adherence to LAFCO law. Commissioners expressed kudos for the good work done by the committee; appreciation that LAFCO is not adding another layer to what is already required of applicants;

and that there is a clear process with appropriate balance between applicants' needs and LAFCO's requirements.

Commissioner McGill noted that agencies' general plans are always subject to local conditions (e.g., existing city limits, ULLs) and that LAFCO will need to look at applications individually in order to assess the needs and the impact as presented in the documents.

Chair Schroder opened the floor for public comment.

Linus Eukel, representing John Muir Land Trust (JMLT), stated that his organization supports and appreciates the application enhancements and revisions, and would ultimately like to see mitigation measures reiterated in reference to loss of open space and agricultural land. JMLT thinks a natural next step would be for LAFCO to adopt a policy uniquely suited to Contra Costa County and would look forward to contributing to that process over time.

Joel Devalcourt, with Greenbelt Alliance, stated his support for these changes as a good first step in the right direction, and looks forward to continued discussion.

Juan Pablo Galvan, representing Save Mount Diablo (SMD), also indicated his organization's support for this first step, which relates to work SMD is doing on transportation funding and other similar projects, and commended the committee and staff.

Lisa Vorderbrueggen, representing the Building Industry Association (BIA), stated that most of their members were okay with the questionnaires as presented, particularly as they refer to agricultural lands; they have some concern with inclusion of "open space," and want to make sure that any lands referenced under GC §65560 are clearly defined. She urged coupling the questionnaires to a policy statement that appropriately places agriculture as one of the many competing interests that LAFCO must assess. She presented a new chart demonstrating that housing is falling substantially further behind job growth, and stressed that the BIA supports building housing where people want to live.

Discussion ensued regarding the definition of open space, the history of the ULL, and the history of development *within* the ULL (facing public resistance), with a key consideration being balance among the various demands placed on land use.

Commissioner Glover reminded everyone that the ULL was established with a five-year review, and 2016 is the year for that review. Commissioner Andersen added that this review will go well into the fall before a report will be issued.

Chad Godoy, County Agricultural Commissioner, stressed that often the agricultural community hears "parks" and "no ag" when they hear "open space." Definitions of open space and agricultural land are crucial. Contra Costa County only has 30,000 acres of productive agricultural land left, and it will be difficult to maintain that balance between preservation and development in the future.

Kathryn Lyddan, Brentwood Agricultural Land Trust (BALT), thanked the Commissioners for considering the economic as well as physical integrity of the County's agricultural land in the questionnaire. Both require a critical mass for success, and without that important infrastructure is lost and the land shrinks beyond farm-able. Federal and state laws protect habitat lands, requiring mitigation for any loss, but agriculture has to rely on local laws and regulations for protection. She looks forward to further work on this.

Casey McCann, City of Brentwood, confirmed that the City does support this effort to take a hard look at agricultural and open space preservation policies. The City recently adopted its general plan and is trying to weigh multiple factors; it started as an agricultural town and is evolving into a suburban bedroom community. How can they incorporate ongoing urban

development in accordance with the general plan, and still preserve agricultural land? They are working on a master plan that will identify growth areas and along with policies, specific objectives, and standards. Their intent is to control the growth and achieve a balance between residences and jobs—and agriculture—in Brentwood so that it remains financially stable into the future.

Commissioners expressed appreciation for the City of Brentwood's thoughtful approach; Commissioner Andersen noted the importance of receiving City feedback; Commissioner McGill noted that EC² has identified agriculture as one of the job creators in East Contra Costa County, and it will need to remain viable in order to continue contributing to the economic health of the County. Commissioner Tatzin acknowledged that most of the County's development occurred on prime ag land in the past, but going forward there is relatively little prime ag land within the ULL or even with SOIs that is undeveloped.

Commissioner Tatzin has found these comments very helpful, and suggested that the Commissioners ask the committee to use the revised questionnaires, with whatever amendments they want, to write a policy focusing on the impact assessment questions—one that describes open space and ag land and the criteria addressing housing and job concerns. He added that, while LAFCO is interested in, and considers, the ULL, it is not bound by it. The best forum for the ULL discussion to occur is with the County Board of Supervisors and CCTA.

John Viano, fourth-generation farmer in the County, applauds the guidelines and echoes the comments of others, but he also wants to see protection for landowners to be able to convert their land from farming to other uses in the future. He would welcome inclusion of farmers, through the Farm Bureau, in the discussion going forward.

Chair Schroder closed the public comment period.

Commissioner Tatzin suggested that the Commission ask the Policies and Procedures Committee to draft a policy based on the revised questionnaire and take it to the stakeholder groups that it had spoken with previously (i.e., Public Managers Association, CCTA, Planning Directors, Contra Costa Special Districts Association). No vote was taken but, by consensus, it was agreed that the proposed changes to the LAFCO applications and procedures are acceptable as well as the next steps as outlined by Commissioner Tatzin.

11. Broadband and LAFCO

Commissioner Tatzin reported that the Policies and Procedures Committee has, in thinking about how LAFCO could participate in generating information and helping to create interest in broadband service, drafted a resolution, and suggested a couple of components in the MSR procedures that would ask cities and community service districts to discuss broadband as part of that process.

Chair Schroder opened the meeting to public comment.

Linda Best, representing East Bay Broadband Consortium, commended the committee and staff for their recommendations, which she believes are excellent; she encourages the Commissioners' support.

Commissioner McGill noted that when this issue was brought to the Planning Directors group, they didn't rally much.

Questions from the Commissioners included: What is needed to move this forward? Do the elected officials need to tell staff this is important? Is public education necessary? What role can the County play?

Ms. Best agrees that constant education is necessary, as well as assessing what cities need in order to provide accessible broadband service for all. A coordinated effort, with strong leadership, is essential.

John Kopchik, Director, County Department of Conservation and Development, agreed that Linda Best makes a compelling case for the importance of accessible broadband service. He also agrees that it must be done countywide.

Further discussion ensued regarding how LAFCO can assist the County in this effort. It is a prime discussion item in the transportation discussions; it can't be done by the County alone, but the County can be a leader in helping to make this happen. It was suggested that the discussion be taken to the Mayors Conference, and that it might be placed on the agenda for the Board of Supervisors' upcoming retreat.

Upon motion of Tatzin, second by Blubaugh, Commissioners unanimously, by a 7-0 vote, adopted Resolution 2016-01 declaring support for broadband deployment and adoption and a call for action, and proposed changes to LAFCO's MSR policies.

AYES: Andersen (A), Blubaugh, Glover, McGill, Schroder, Skaredoff, Tatzin
NOES: none
ABSENT: Piepho (M)
ABSTAIN: none

12. Second Quarter FY 2015-16 Budget Report

The Executive Officer reported that expenditures to date for the first half of this fiscal year are approximately 33% of total appropriations. Total revenues received to date include 100% of local agency contributions; all agencies have paid their prorated contributions to the LAFCO budget. Application revenue is currently at 46% of the budgeted amount, with activity slightly better than last year; one new application has been received, compared to zero applications last year at this time.

Upon motion of Blubaugh, second by Tatzin, Commissioners unanimously, by a 7-0 vote, received the FY 2015-16 second quarter fiscal report.

AYES: Andersen (A), Blubaugh, Glover, McGill, Schroder, Skaredoff, Tatzin
NOES: none
ABSENT: Piepho (M)
ABSTAIN: none

13. Executive Officer Performance Review and Compensation

Chair Schroder reported that following the December 9, 2015 closed session regarding compensation for the LAFCO Executive Officer, he had provided the EO with the positive feedback from their annual review, and recommended a 1.5% increase to the EO's base salary.

Upon motion of Blubaugh, second by McGill, Commissioners unanimously, by a 7-0 vote, approved the 1.5% increase to the Executive Officer's base salary, effective January 1, 2015.

AYES: Andersen (A), Blubaugh, Glover, McGill, Schroder, Skaredoff, Tatzin
NOES: none
ABSENT: Piepho (M)
ABSTAIN: none

14. Correspondence from CCCERA

There were no comments on this item.

15. Commissioner Comments and Announcements

Commissioner McGill reported that he will attend the CALAFCO Legislative Committee on January 22nd in San Diego, and the CALAFCO Board meeting in Irvine on February 5th.

Commissioner Skaredoff reported that he will attend the Governor's "California Water 101" update on managing water in California.

Chair Schroder congratulated Commissioner Skaredoff on recently receiving a Watershed Leadership Award at the 2015 Fifth Quadrennial Contra Costa County Creek and Watershed Symposium.

16. Staff Announcements

The Executive Officer reported that planning is under way for the 2016 CALAFCO Staff Workshop, which will be held in Universal City at the end of March, and that Kate Sibley is representing Contra Costa LAFCO on the programming committee.

Also, the first face-to-face CALAFCO Legislative Committee of the new legislative year was held on December 11th in Sacramento; they reviewed the CALAFCO legislative policy and proposed minor adjustments to be presented to the CALAFCO Board on Feb 5th. Once they're adopted there those changes will be brought to this LAFCO for updating its own policy. The Executive Officer provided a brief overview of seven legislative priorities that were included for this year's legislative platform.

The meeting adjourned at 3:44 p.m.

Final Minutes Approved by the Commission February 10, 2016.

AYES:

NOES:

ABSTAIN:

ABSENT:

By _____
Executive Officer



Lou Ann Texeira
Executive Officer

MEMBERS

Donald A. Blubaugh <i>Public Member</i>	Mary N. Piepho <i>County Member</i>
Federal Glover <i>County Member</i>	Rob Schroder <i>City Member</i>
Michael R. McGill <i>Special District Member</i>	Igor Skaredoff <i>Special District Member</i>
Don Tatzin <i>City Member</i>	

ALTERNATE MEMBERS

Candace Andersen
County Member
 Sharon Burke
Public Member
 Tom Butt
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 Stanley Caldwell
Special District Member

February 10, 2016 (Agenda)

February 10, 2016
 Agenda Item 7

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

Request to Transfer Principal County Responsibility from San Joaquin LAFCO to Contra Costa LAFCO – Proposed Detachment from the Byron Bethany Irrigation District (BBID)

Dear Members of the Commission:

When a change of organization (e.g., annexation) to a multi-county special district is proposed, the Cortese-Knox-Hertzberg Act (CKH Act) vests exclusive jurisdiction with the commission of the principal county, that is, the commission in the county having the largest portion of assessed value within the subject district.

The CKH Act (Gov. Code §56387) also provides a mechanism to transfer jurisdiction over such proposals to a commission other than the commission of the principal county.

In order to transfer exclusive jurisdiction over a change of organization, the commission of the principal county must agree to relinquish jurisdiction and designate a specific commission to assume jurisdiction. The commission so designated must agree to assume exclusive jurisdiction.

On January 12, 2016, the Contra Costa County Board of Supervisors (BOS) authorized the County Administrator’s Office to submit proposals to both the Contra Costa and San Joaquin LAFCOs to detach territory from the BBID as it overlaps with the Town of Discovery Bay Community Services District’s (DBCSD) boundary. The BOS also requested that jurisdiction be transferred to Contra Costa LAFCO (see attached Board report).

The subject territory is 480± acres and receives municipal services, including water (groundwater) service, from DBCSD. BBID provides agricultural water (surface water) to portions of Alameda, Contra Costa and San Joaquin counties. BBID is not currently providing water service to the subject territory, and it is unlikely that BBID will provide water service to this area in the future.

The overlap issue was analyzed in Contra Costa LAFCO’s 2014 Countywide Water/Wastewater Municipal Service Review (MSR). The MSR report noted that DBCSD and BBID water systems have different infrastructure, requirements and operations, and that it is unlikely that Discovery Bay residents will use BBID water. The MSR recommended that detachment be pursued.

Contra Costa LAFCO recently received an application from Contra Costa County to detach the subject territory from DBCSD. In December 2015, the DBCSD Board of Directors adopted a resolution supporting the detachment of the subject territory from BBID. Given that the subject territory is located in Contra Costa County, transferring jurisdiction to Contra Costa LAFCO would greatly simplify the process.

RECOMMENDATION – It is recommended that Contra Costa LAFCO agree to assume exclusive jurisdiction for this proposal, and authorize LAFCO staff to send a letter (attached) to San Joaquin LAFCO requesting a transfer of jurisdiction.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachments:

1. Report to the Contra Costa County Board of Supervisors – January 12, 2016
2. Draft Letter to San Joaquin LAFCO Requesting Transfer of Jurisdiction

c: Jim Glaser, Executive Officer, San Joaquin LAFCO
Rick Gilmore, BBID
Rick Howard, DBCSD
David Twa, Contra Costa County



Contra
Costa
County

To: Board of Supervisors
From: David Twa, County Administrator
Date: January 12, 2016

Subject: RESOLUTION TO INITIATE LAFCO PROCEEDINGS FOR THE DETACHMENT OF THE BYRON-BETHANY IRRIGATION DISTRICT FROM THE DISCOVERY BAY COMMUNITY SVCS DISTRICT

RECOMMENDATION(S):

1. CONSIDER authorizing the submittal of proposals to the San Joaquin Local Agency Formation Commission and the Contra Costa Local Agency Formation Commission to detach the Byron-Bethany Irrigation District from the Discovery Bay Community Services District and/or amend the Byron-Bethany Irrigation District Sphere of Influence accordingly.
2. DETERMINE that the Detachment and Sphere of Influence Amendment project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, based on the finding that the project has no potential to cause any adverse effect on the environment; DIRECT the Director of Conservation and Development, or designee, to promptly file a Notice of Exemption with the County Clerk; and DIRECT the County Administrator, or designee, to arrange for payment of the \$25 handling fee to the County Clerk for filing the Notice of Exemption and the \$25 handling fee to the Department of Conservation and Development for processing costs.
3. ADOPT Resolution No. 2016/3 authorizing the submittal of the detachment proposal and/or the sphere amendment proposal.
4. AUTHORIZE the County Administrator to request the Contra Costa Local Agency Formation Commission to seek a change in jurisdiction for the County's request from the San Joaquin Local Agency Formation Commission to the Contra Costa Local Agency Formation Commission.

<input checked="" type="checkbox"/> APPROVE	<input type="checkbox"/> OTHER
<input checked="" type="checkbox"/> RECOMMENDATION OF CNTY ADMINISTRATOR	<input type="checkbox"/> RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **01/12/2016** APPROVED AS RECOMMENDED OTHER

Clerks Notes: See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
 Candace Andersen, District II Supervisor
 Mary N. Piepho, District III Supervisor
 Karen Mitchoff, District IV Supervisor
 Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: January 12, 2016
, County Administrator and Clerk of the Board of Supervisors

Contact: Julie DiMaggio Enea (925) 335-1077

By: June McHuen, Deputy

RECOMMENDATION(S): (CONT'D)

>

FISCAL IMPACT:

100% County General Fund, associated with costs to prepare the application and actual LAFCo and State Board of Equalization processing fees. The final cost will depend on whether the Board pursues only the detachment or both the detachment and sphere of influence (SOI) amendment. A sphere amendment request would likely necessitate, at additional cost, a Municipal Services Review of the BBID prior to consideration by the San Joaquin LAFCo.

Preparation by Public Works of Maps and Metes & Bounds	\$ 15,000
Description:	
San Joaquin LAFCo Fees:	
-Detachment @ 480 acres:	\$ 7,333
-Sphere of Influence Amendment:	\$ 1,500
-Legal services deposit: \$10,000 (actual cost is charged to applicant)	\$ 10,000
-Protest hearing deposit: (refunded if no protest hearing is required)	\$ 1,600
-CEQA review:	\$ 150
-State Board of Equalization	\$ 2,000
-Map and legal description	\$ 1467
Potential Contra Costa LAFCo Fees:	
CCC LAFCo Detachment Proceeding = \$3,915 if no protest; \$6,530 if a protest proceeding is required.	\$ 6,530
-CCC LAFCo Sphere of Influence Revision	\$ 2,060
-State Board of Equalization	\$ 2,000

Costs incurred will be charged to Dept 0001 - Unfunded Mandates sub-organization.

BACKGROUND:

The Byron-Bethany Irrigation District (BBID) is a 90-year old tri-county district providing agricultural water service to portions of Alameda, Contra Costa and San Joaquin counties. In addition, BBID provides raw untreated water to the Mountain House community and the City of Tracy. BBID’s service area is approximately 30,000 acres. The current population within BBID service area and sphere of influence (SOI) is approximately 13,000. Little or no anticipated growth is projected at this time. San Joaquin is the principal county for BBID and related Local Agency Formation Commission (LAFCO) proceedings.

The Town of Discovery Bay Community Services District (TODB) service area encompasses the developed and developing unincorporated community of Discovery Bay, comprising approximately 5,760 acres. Discovery Bay was originally established in the 1970s as a weekend and summer resort community. Today, Discovery Bay has evolved into a year-round home for over 13,500 residents. The TODB provides a variety of services including water and wastewater for the community of nine square miles.

There are several areas comprising approximately 480 acres where the TODB and BBID boundaries overlap. Both BBID and TODB are paid to provide water service to the properties in the overlap areas, either through a property tax allocation or fees. In 1993 and again in 2014, the BBID was advised by the Contra Costa County Local Agency Formation Commission (CCC LAFCO) that it would be necessary to detach portions of the TODB from BBID due to the fact that BBID has not provided, is not providing, and will likely never provide water to the TODB.

BBID General Manager Rick Gilmore, during the 1993 annexation of the "Albers' Property" to the Sanitation District 19/Discovery Bay, asked for more time before a detachment was pursued, to complete a groundwater

management plan to monitor well water quality for the area. If the plan was ever completed, a detachment was never initiated. Consequently, subsequent annexations in the TODB inadvertently continued this BBID boundary overlap. Both Paul Causey, formerly of Sanitation District 19, and the TODB leadership have confirmed they were unaware of the overlap area and that it is unnecessary.

The 2014 CCC LAFCO Second Round Water/Wastewater Municipal Service Review (MSR) noted that, because the two water systems have different infrastructure requirements and operate in different ways, it seems unlikely that Discovery Bay residents will use BBID water. The MSR recommended that consideration be given to detaching the overlap areas from BBID's SOI/ boundary. The MSR also noted that further study is needed to fully analyze the service and fiscal implications of such a detachment to both the residents and BBID.

On November 12, 2015, County officials, CCC LAFCO staff, BBID General Manager Rick Gilmore, TODB staff Kevin Graves and General Manager Rick Howard, Discovery Bay community residents and other stakeholders met to discuss the situation. In this meeting, both BBID and TODB officials agreed that it was improbable that BBID's water supply could ever be used by the TODB, even in a severe drought, because the water would first require treatment and a distribution system, the infrastructure for which does not currently exist. Mr. Gilmore estimated that an investment of more than \$500+ million would be required to construct a new water treatment facility before any of BBID's raw, untreated water could be made available to Discovery Bay residents for potable uses. The TODB General Manager, Rick Howard, concurred with this assessment. According to Mr. Gilmore, no plans have been developed to provide the necessary infrastructure that would enable the BBID to provide water to the TODB. As none of the *ad valorem* taxes received by the BBID from Discovery Bay residents since 1993 were ever reserved to provide that infrastructure, the tax revenue, in effect, served to subsidize BBID ratepayers while providing no opportunity for benefit to Discovery Bay residents.

On November 17, 2015, the Contra Costa County Board of Supervisors voted unanimously to pursue a detachment of overlapping boundaries (see attached Board Order). The action:

- acknowledged that only the TODB provides water services to this area even though both BBID and the Town receive payment for water service delivery;
- recognized that the 2014 Contra Costa LAFCO MSR indicates that it is unlikely that the Town will ever use BBID water and that, if detached, the nearly \$685,000 of BBID tax revenue could be reallocated to other affected taxing agency(ies) that are actually providing services; and
- directed the County Administrator prepare a resolution of application for detachment in order to initiate the detachment process; provide notice to Contra Costa LAFCO, San Joaquin LAFCO and other interested agencies; and explore allocation of the BBID property tax revenues from the overlap areas to the East Contra Costa Fire Protection District.

On December 2, 2015, the TODB Board of Directors unanimously adopted the attached Resolution No. 2015-20, supporting detachment of BBID from the TODB. Moreover, a preliminary assessment of the BBID as an alternative or secondary water supply source to the TODB, prepared by Luhdorff and Scalmanini Consulting Engineers, concluded that BBID's irrigation water supply source is not needed for meeting the TODB water demand through the full TODB build-out horizon (through 2023). TODB General Manager Rick Howard has stated that if a secondary water supply source is ever needed, other agencies such as Central California Irrigation District or East Bay Municipal Utilities District could be sources for emergency supplies, illustrating that BBID is by no means an exclusive option.

Impact of Proposal to TODB

Contra Costa County's proposal will have no negative impact to the TODB or its residents. The TODB is not a taxing jurisdiction within the specified overlap areas. TODB residents would continue to pay the same tax assessments, except that the detachment from BBID could allow a portion of that tax assessment to be reallocated to one or more of the other affected taxing agencies, which provide services to TODB residents, including: Contra Costa County; the County Library; County Service Areas P-6 and L-100; the County Flood Control District; the East Contra Costa Fire Protection District; the Contra Costa Resource Conservation District; the Contra Costa Mosquito and Vector Control District; the Byron, Brentwood, Knightsen Union Cemetery District; the Bay Area

Rapid Transit District; and the Bay Area Air Quality Management District.

Impact of Proposal to BBID

There are six overlapping tax rate areas between the BBID and TODB (see attached vicinity map). If the six tax rate areas were to be detached from the BBID, the BBID's tax receipts would decrease by an estimated \$684,250 per year, based on FY 14/15 allocations.

<u>TRA</u>	<u>FUND</u>	<u>DESCRIPTION</u>	<u>INCREMENT</u>	<u>BASE TAX \$ (FY 14/15)</u>
60043	418100	BBID	13.03049%	\$ 128,838.24
60047	418100	BBID	13.02890%	\$ 39,568.79
60048	418100	BBID	13.03049%	\$ 3,036.49
60050	418100	BBID	14.97784%	\$ 597.81
60055	418100	BBID	14.97784%	\$ 253,863.14
60056	418100	BBID	14.97784%	<u>\$ 258,341.43</u>
				\$ 684,245.90

The BBID's 2014 Financial Statement reflects that operating income, excluding property tax revenue, exceeded expenses (see attached) by \$541,849. After non-operating income like property taxes were included, BBID had an operating surplus of nearly \$4.8 million dollars and reserves of \$10 million, of which nearly \$2 million was undesignated.

Options for LAFCO Application

Several options are available for application to the San Joaquin LAFCo according to San Joaquin LAFCo Executive Director James Glaser:

1. Submit Only the Application for Detachment: An application for the detachment of BBID from the Town of Discovery Bay (or vice versa) can be submitted to the San Joaquin LAFCo for its consideration or along with an additional request to change jurisdiction for the proposal to the Contra Costa LAFCo. The San Joaquin LAFCo charges no fee for a change in jurisdiction.
2. Submit Applications for Both Detachment and Sphere of Influence Amendment Simultaneously: San Joaquin LAFCo Executive Director James Glaser advises that any request to amend BBID's sphere of influence would necessitate the preparation of a Municipal Services Review (MSR), which has never been conducted by the San Joaquin LAFCo for BBID. Preparation of the MSR would likely take months and result in additional cost to the County, as the applicant. Mr. Glaser also advised that it was unlikely that the San Joaquin LAFCo would consider a change in jurisdiction to the Contra Costa LAFCo for an SOI amendment.
3. Submit the Application for Detachment Now and Consider Submitting an Application for Sphere of Influence Amendment at a Future Date (Recommended): The County can submit an application for detachment to the San Joaquin LAFCo and request that jurisdiction be change to the Contra Costa LAFCo. If detachment is approved, the County can then pursue an SOI amendment with the San Joaquin LAFCo. It seems probable that a sphere amendment would likely be approved if the BBID and TODB are already detached from one another.

CONSEQUENCE OF NEGATIVE ACTION:

Should the Board elect to not submit an application to LAFCo, Discovery Bay residents of the overlap areas would continue to subsidize BBID ratepayers while receiving no opportunity for BBID services, and the opportunity to reallocate the BBID share of *ad valorem* property tax generated within the overlap area would be foregone.

CLERK'S ADDENDUM

DETERMINED that the Detachment and Sphere of Influence Amendment project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, based on the finding that the project has no potential to cause any adverse effect on the environment;

AUTHORIZED the County Administrator to request the Contra Costa Local Agency Formation Commission to seek a change in jurisdiction for the County's request from the San Joaquin Local Agency Formation Commission to the Contra Costa Local Agency Formation Commission.

AUTHORIZED the submittal of proposals to the San Joaquin Local Agency Formation Commission (LAFCo) and the Contra Costa Local Agency Formation Commission to detach the Byron-Bethany Irrigation District from the Discovery Bay Community Services District;

DIRECTED staff to plan to submit an application for amendment to the Sphere of Influence upon a successful detachment and keep the Board of Supervisors updated on progress toward this effort;

REQUESTED staff prepare and submit communication to the San Joaquin LAFCo to pursue the completion of the Municipal Service Review of the Byron-Bethany Irrigation District at no cost to Contra Costa County;

ADOPTED Resolution No. 2016/3 authorizing the submittal of the detachment proposal and/or the sphere amendment proposal;

DIRECTED the Director of Conservation and Development, or designee, to promptly file a Notice of Exemption with the County Clerk; and DIRECTED the County Administrator, or designee, to arrange for payment of the \$25 handling fee to the County Clerk for filing the Notice of Exemption and the \$25 handling fee to the Department of Conservation and Development for processing costs.

ATTACHMENTS

Resolution No. 2016/3

Exhibit A to Resolution No. 2016/3 - BBID Detachment Map

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 01/12/2016 by the following vote:

John Gioia
Candace Andersen
Mary N. Piepho
Karen Mitchoff
Federal D. Glover

AYE: 5

NO:

ABSENT:

ABSTAIN:

RECUSE:



Resolution No. 2016/3

IN THE MATTER OF INITIATING PROCEEDINGS FOR DETACHMENT OF THE BYRON-BETHANY IRRIGATION DISTRICT FROM THE TOWN OF DISCOVERY BAY COMMUNITY SERVICES DISTRICT

WHEREAS, there are several areas comprising approximately 480 acres where the Town of Discovery Bay Community Services District (TODB) and the Byron-Bethany Irrigation District (BBID) boundaries overlap; and

WHEREAS, both BBID and TODB are paid to provide water service to the properties in the overlap areas, either through a property tax allocation and/or fees; and

WHEREAS, in 1993 and again in 2014, the BBID was advised by the Contra Costa County Local Agency Formation Commission that it would be necessary to detach portions of the TODB from BBID due to the fact that BBID has not provided, is not providing, and will likely never provide water to the TODB; and

WHEREAS, if a secondary water supply source is ever needed by the TODB, other agencies such as Central California Irrigation District or East Bay Municipal Utilities District could be sources for emergency supplies, illustrating that BBID is by no means an exclusive option; and

WHEREAS, Contra Costa County's proposal will have no negative impact to the TODB or its residents and, on December 2, 2015, the TODB Board of Directors unanimously adopted a resolution (No. 2015-20) supporting detachment of BBID from the TODB; and

WHEREAS, the detachment of BBID from the TODB will allow the nearly \$685,000 of BBID tax revenue paid by property owners within the overlap areas to be reallocated to other affected taxing agency(ies) that are actually providing services to TODB residents; and

WHEREAS, Contra Costa County desires to initiate a proceeding for detachment of boundaries specified herein;

NOW, THEREFORE, THE BOARD OF SUPERVISORS does hereby resolve and order as follows:

1. This proposal is made, and it is requested that proceedings be taken, pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000, commencing with section 56000 of the California Government Code.
2. This proposal is a detachment of the Byron-Bethany Irrigation District from the Discovery Bay Community Services District.
3. A map of the affected territory is set forth in **Exhibit A**, attached hereto and by reference incorporated herein.
4. Because the sphere of influence of the Byron-Bethany Irrigation District is inconsistent with this proposal, this proposal may also include the application to LAFCO to amend the BBID sphere of influence to delete the territory shown on Exhibit A from the BBID sphere.
5. Consent is hereby given to the waiver of conducting authority proceedings.
6. For the purpose of compliance with the California Environmental Quality Act, that the proposed action is not subject to the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines 15061(b)(3), and that it can be seen with certainty

that there is no possibility that the proposed detachment and sphere of influence amendment will have any adverse effect on the environment.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

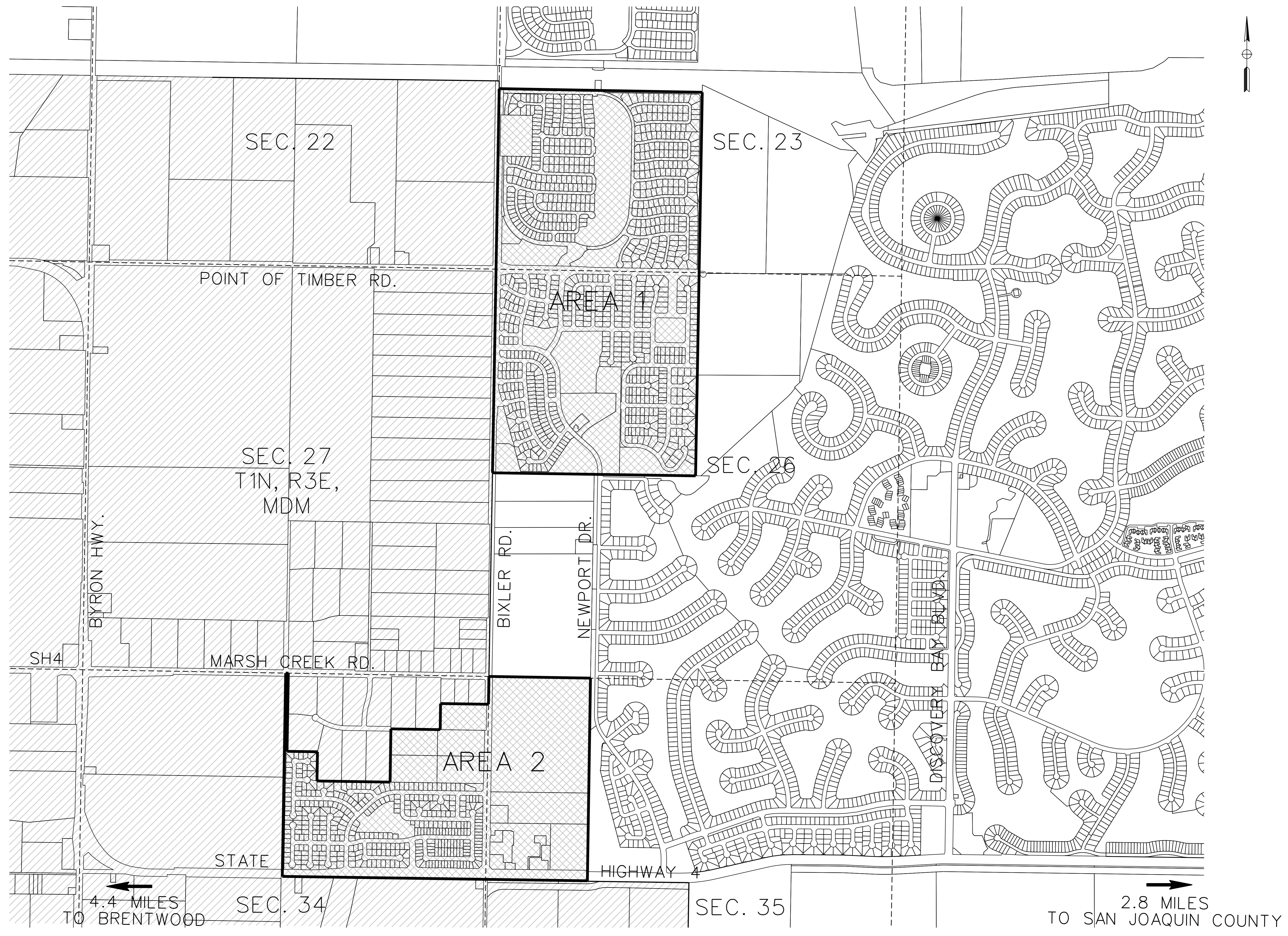
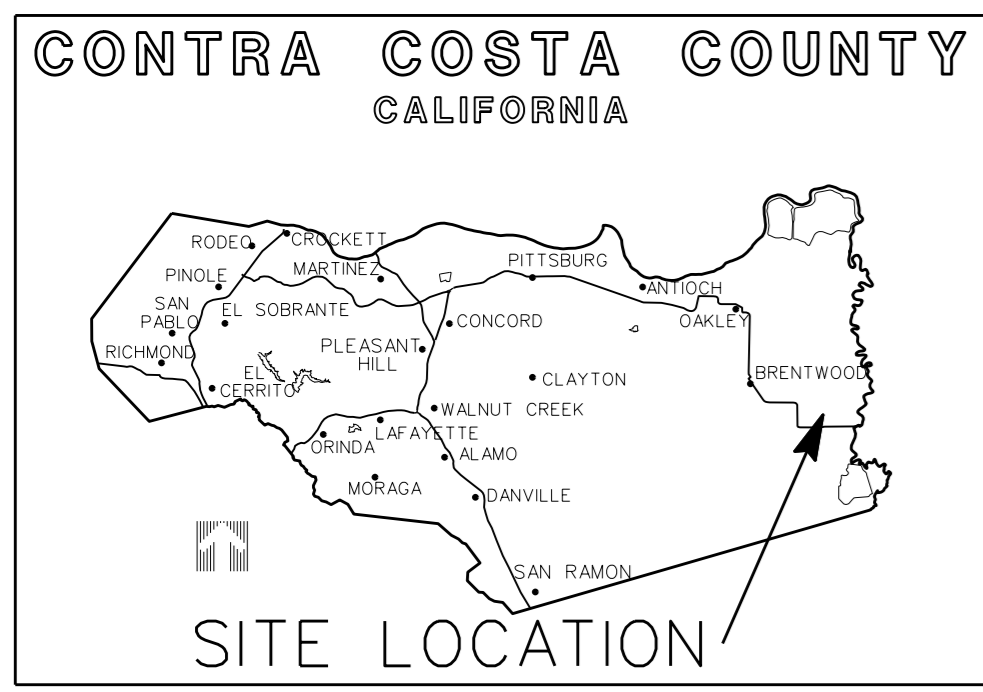
Contact: Julie DiMaggio Enea (925)
335-1077

ATTESTED: January 12, 2016
County Administrator and Clerk of the Board of Supervisors

By: June McMuen, Deputy



cc: CAO, District III Supervisor's Office, Conservation & Development Director,



- =PRESENT BBID AREA
- =PROPOSED BBID DETACHMENT AREA
- =SECTION LINES

REVISIONS			
NO.	DESCRIPTION	BY	DATE

DES: JS
 DRAWN: TL
 CHKD: JS
 DATE: JANUARY 2016
 SCALE: 1"=600'
 FLD.BK.

CONTRA COSTA COUNTY
 PUBLIC WORKS DEPARTMENT
 255 GLACIER DRIVE
 MARTINEZ, CALIFORNIA 94553

Exhibit A

FOR REDUCED PLANS
 ORIGINAL SCALE IS IN FEET

0 300 600 900 1200 1500 1800

BASE MAP	EAST COORD.	NORTH COORD.
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BYRON BETHANY IRRIGATION DISTRICT DETACHMENT
 VICINITY MAP

FILE NO. SHEET 1 OF 1

CADD FILE: BBID Detachment.dgn PLOT DATE: 1/5/2016

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
 651 Pine Street, Sixth Floor • Martinez, CA 94553-1229
 e-mail: LouAnn.Texeira@lafco.cccounty.us
 (925) 335-1094 • (925) 335-1031 FAX



Lou Ann Teixeira
 Executive Officer

MEMBERS

Donald A. Blubaugh <i>Public Member</i>	Mary N. Piepho <i>County Member</i>
Federal Glover <i>County Member</i>	Rob Schroder <i>City Member</i>
Michael R. McGill <i>Special District Member</i>	Igor Skaredoff <i>Special District Member</i>
Don Tatzin <i>City Member</i>	

ALTERNATE MEMBERS

Candace Andersen <i>County Member</i>
Sharon Burke <i>Public Member</i>
Tom Butt <i>City Member</i>
Stanley Caldwell <i>Special District Member</i>

February 10, 2016

Jim Glaser, Executive Officer
 San Joaquin LAFCO
 509 W. Weber Avenue, Suite 420
 Stockton, CA 95203

Dear Mr. Glaser:

Contra Costa LAFCO recently received an application from Contra Costa County, an affected local agency, to detach 480± acres located in Discovery Bay from the Byron Bethany Irrigation District (BBID).

Since San Joaquin LAFCO is the principal county for BBID, this is a formal request, pursuant to Government Code §§56387 and 56388, that San Joaquin LAFCO grant exclusive jurisdiction to Contra Costa LAFCO for the proposed detachment. This request for transfer of jurisdiction was approved by the Contra Costa LAFCO on February 10, 2016, at which time the Commission agreed to assume exclusive jurisdiction of the proposed detachment subject to San Joaquin LAFCO's approval of a transfer of jurisdiction.

We understand that the applicant has also submitted an application to San Joaquin LAFCO.

As you know, the purpose of the proposed detachment is to correct a boundary overlap. The subject territory is within the service boundary of the Town of Discovery Bay Community Services District (DBCSD), which provides a number of services to the area, including water service. BBID provides agricultural water service to parts of Alameda, Contra Costa and San Joaquin counties. BBID is not currently providing water service to the subject territory, nor is it anticipated that BBID will serve this area in the future.

We respectfully request that this matter be placed on your next available LAFCO agenda for consideration. Please contact me if you have any questions. Thank you for your assistance.

Sincerely,

LOU ANN TEXEIRA
 EXECUTIVE OFFICER

c: Rick Gilmore, BBID
 Rick Howard, DBCSD
 David Twa, Contra Costa County



Lou Ann Teixeira
 Executive Officer

MEMBERS

Donald A. Blubaugh <i>Public Member</i>	Mary N. Piepho <i>County Member</i>
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ALTERNATE MEMBERS

Candace Andersen
County Member
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Public Member
 Tom Butt
City Member
 Stanley Caldwell
Special District Member

February 10, 2016
 Agenda Item 8

February 10, 2016 (Agenda)

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

Request to Transfer Principal County Responsibility from Alameda LAFCO to Contra Costa LAFCO - Carr Annexation to the East Bay Municipal Utility District (EBMUD)

Dear Members of the Commission:

When a change of organization (e.g., annexation) to a multi-county special district is proposed, the Cortese-Knox-Hertzberg Act (CKH Act) vests exclusive jurisdiction with the commission of the principal county, that is, the commission in the county having the largest portion of assessed value within the subject district.

The CKH Act (Gov. Code §56387) also provides a mechanism to transfer jurisdiction over such proposals to a commission other than the commission of the principal county.

In order to transfer exclusive jurisdiction over a change of organization, the commission of the principal county must agree to relinquish jurisdiction and designate a specific commission to assume jurisdiction. The commission so designated must agree to assume exclusive jurisdiction.

In addition to State laws that govern boundary changes and the transfer of jurisdiction, Alameda and Contra Costa LAFCOs have adopted *Procedures for Processing Multi-County Changes of Organization or Reorganization – Alameda and Contra Costa LAFCOs*. Alameda and Contra Costa LAFCOs have a history of transferring jurisdiction.

Contra Costa LAFCO recently received an application from Kathryn and Scott Carr, property owners at 80 Carr Ranch Road, Moraga to annex their parcel to EBMUD. The property is 5.9± acres, contains one single family house, and is located entirely in Contra Costa County. The annexation area is with EBMUD’s sphere of influence, and the District has provided water service to the property since 1987.

The Alameda and Contra Costa LAFCO procedures provide for an initial review and consultation by the LAFCO Executive Officers. In accordance with the Alameda and Contra Costa LAFCOs adopted procedures, the Executive Officers have reviewed the proposal and have reached consensus on the proposed transfer of jurisdiction. Transferring jurisdiction of this proposal would greatly simplify processing.

RECOMMENDATION – It is recommended that Contra Costa LAFCO agree to assume exclusive jurisdiction for this proposal, and authorize LAFCO staff to send a letter (attached) to Alameda LAFCO requesting a transfer of jurisdiction.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attached – Draft Letter to Alameda LAFCO Requesting Transfer of Jurisdiction

c: Mona Palacios, Executive Officer, Alameda LAFCO
Andrew Lee, EBMUD
Scott and Kathryn Carr, Property Owners

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

651 Pine Street, Sixth Floor • Martinez, CA 94553-1229

e-mail: LouAnn.Texeira@lafco.cccounty.us

(925) 335-1094 • (925) 335-1031 FAX



Lou Ann Teixeira
Executive Officer

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Tom Butt
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Stanley Caldwell
Special District Member

February 10, 2016

Mona Palacios, Executive Officer
Alameda LAFCO
1221 Oak Street, Room 555
Oakland, CA 94612

Dear Ms. Palacios:

Contra Costa LAFCO recently received an application from Kathryn and Scott Carr, property owners at 80 Carr Ranch Road, Moraga (APN 258-290-021) to annex their parcel to the East Bay Municipal Utility District (EBMUD). The property is 5.9± acres and contains one single family house (see enclosed application and transfer of jurisdiction fee).

Since Alameda is the principal county for EBMUD, this is a formal request, pursuant to Government Code §§56387 and 56388 and our *Procedures for Processing Multi-County Changes of Organization or Reorganization – Alameda and Contra Costa LAFCOs*, that Alameda LAFCO grant exclusive jurisdiction to Contra Costa LAFCO for the subject annexation request. This request for transfer of jurisdiction was approved by the Contra Costa LAFCO on February 10, 2016, at which time the Commission agreed to assume exclusive jurisdiction of the proposed annexation subject to Alameda LAFCO's approval of a transfer of jurisdiction.

The purpose of the annexation is to bring the property into EBMUD's service area. The property is currently receiving EBMUD water. The District requires that in order to continue receiving EBMUD water, the property must be annexed pursuant to District policies and EBMUD's contract with the U.S. Bureau of Reclamation. The annexation area is within EBMUD's sphere of influence, and the District has provided water service to the property since 1987 (see attached letter from EBMUD).

We respectfully request that this matter be placed on your next available LAFCO agenda for consideration. Please contact me if you have any questions. Thank you for your assistance.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

Attachment – Letter to Scott Carr dated October 28, 2015 from EBMUD

c: Andrew Lee, EBMUD
Scott and Kathryn Carr, Property Owners

October 28, 2015

Mr. Scott Carr
80 Carr Ranch Road
Moraga, CA 94556

Subject: Water Service for 80 Carr Ranch Road, Moraga (APN 258-290-021)

Dear Mr. Carr,

It has come to East Bay Municipal Utility District's (District) attention that your property at 80 Carr Ranch Road (APN 258-290-021) is located outside of the District's service area and is currently receiving water service from a District meter. The District is prohibited by law to provide water service beyond our service area.

The meter you are currently using was previously designated as "agricultural use", and it was physically located within the limit of the District's service area. In 2013, the agricultural meter was relocated to its current location and the District erroneously allowed service from this meter to your residential property. As such, your water service must be brought into compliance with the District's regulations by taking action on one of the following options:

- 1) You may initiate the annexation process through the Contra Costa County Local Agency Formation Commission (LAFCO) to annex your property into the District's service area. You may submit a property owner petition with LAFCO for the annexation. If you need information regarding the annexation process and applicable fees, LAFCO can be reached at (925) 335-1094;
- 2) You may work with the developer for the adjacent 30 acre parcel (APN 258-290-023) to jointly petition for annexation into the District's service area to form a logical boundary. The District is aware that the adjacent parcel was sold to a developer and there is plan in place to annex the larger parcel into the City limit, as well as other utility services; or
- 3) You may remove the house line connection to the District's meter immediately and secure another source of water supply.

We assume you will prefer to annex your property to the District's service area. Following LAFCO's approval, the District must obtain approval from the United States Bureau of Reclamation (USBR) to include the annexed property into the Contractor Service Area in compliance with Article 35 of the Central Valley Project water supply contract. The District will

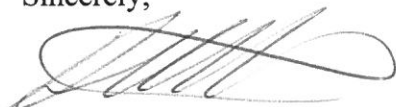
Mr. Scott Carr
October 28, 2015
Page 2

request LAFCO to condition water service to the property until the receipt of USBR's formal approval of inclusion. To initiate the USBR process, the District would provide the USBR with copies of a Board resolution initiating such application, LAFCO annexation documents, and any environmental documents that may be required. There will be a separate fee you must pay to the USBR for its review if you decide to move forward with an application. You will also need to enter into a reimbursement agreement with the District agreeing to pay all fees associated with the USBR review.

Furthermore, the District has become aware that the meter currently serving your property at 80 Carr Ranch Road is also serving 55 Carr Ranch Road (Mr. and Mrs. Hoover's property). Serving multiple lots from a single meter is prohibited under the District Regulations Governing Water Services. Section 19 of the District's Regulations states that "more than one premises will not be served from a single meter." A premise is defined as a "parcel of real estate." Since the meter is registered under your name, you are responsible for the removal of the illegal connection to mitigate the violation. We have notified the owners of 55 Carr Ranch Road of this problem, and we will be happy to work with both you and the owners of 55 Carr Ranch Road to ensure that there is no interruption in water service, provided you both work diligently to correct this problem.

Please contact the New Business Office to discuss the required follow-up actions immediately. If the District does not hear from you within the next 30 days, further actions may be initiated to address the unauthorized use of water outside of the service area and the illegal connection to 55 Carr Ranch Road. You can contact me at (510) 287-1182 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Lee", with a large, stylized flourish at the end.

Andrew Lee
Manager of New Business



Lou Ann Texeira
 Executive Officer

MEMBERS

Donald A. Blubaugh <i>Public Member</i>	Mary N. Piepho <i>County Member</i>
Federal Glover <i>County Member</i>	Rob Schroder <i>City Member</i>
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February 10, 2016 (Agenda)

February 10, 2016
 Agenda Item 9

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

Fiscal Year 2016-17 Budget Schedule and Work Plan Preview

Dear Members of the Commission:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) establishes a specific process for preparing and adopting LAFCO’s budget. Government Code §56381 provides that the Commission shall adopt annually a proposed budget by May 1 and final budget by June 15, following noticed public hearings. Contra Costa LAFCO generally adopts a proposed budget in March and a final budget in May each year.

WORK PLAN PREVIEW

In conjunction with a proposed budget, the Commission sets out a work plan in March each year. The work plan typically includes goals and objectives such as preparing Municipal Service Reviews (MSRs)/Sphere of Influence (SOI) updates, updating the Commission’s policies and procedures, and other projects and programs.

In 2013, the Commission participated in a strategic planning session to help identify future goals and objectives. As part of the session, the Commission identified several priorities, including conducting 2nd round MSRs, being an active participant in the County’s fire and EMS studies, updating the Commissioner Handbook, and facilitating island annexations. A brief update on some of these activities is provided below.

MSRs/SOI Updates - In 2013, the Commission completed its inaugural round of MSRs/SOI updates, and initiated 2nd round MSRs. In June 2014, we completed the 2nd round water/wastewater MSR/SOI updates covering eight cities, 19 special districts, and private water companies. In November 2015, we completed the 2nd round reclamation services MSR/SOI updates covering 14 special districts.

In October 2015, the Commission initiated a 2nd round MSR covering Fire Emergency Medical Services (EMS). The project team is currently compiling and summarizing information collected

from the service providers. It is anticipated that the Public Review Draft Fire/EMS MSR report will be released in April 2016.

LAFCO law provides that every five years the Commission shall, as necessary, review and update each SOI [Gov. Code §56425(g)]. The statute also provides that in order to prepare and update an SOI, the Commission shall conduct a MSR.

Services that are potential candidates for a 2nd round MSR include healthcare (2007), “city” services including cities and community services districts (2009), park & recreation (2010), cemetery districts (2010), mosquito & vector control (2010) and resource conservation (2010).

Previously, the Commission delayed the healthcare MSR mainly due to the tenuous situation with the West Contra Costa Healthcare District (WCCHCD)/Doctor’s Hospital. In 2014, the WCCHCD Board voted to close Doctor’s Hospital. The hospital officially shut down its operations in April 2015 following years of financial struggles. The District is currently in the process of winding down its activities and selling the hospital property. It would be timely to initiate a 2nd round MSR covering health care services, or a special study of governance options for WCCHCD.

Participation in County Fire and EMS Studies – In 2014, the County completed two separate studies – *Evaluations & Options Appraisal – Contra Costa County Fire Protection District and EMS Modernization Project Report*. Commissioners and LAFCO staff actively participated in these studies. The Commission appointed Commissioners Blubaugh and Tatzin to represent LAFCO in meetings with the project team and at stakeholder meetings. LAFCO representatives met with the project consultants, attended various community meetings, and provided written comments in response to the draft reports. LAFCO staff also participated in the Contra Costa EMS Ambulance Request for Proposals Development Workshop in September 2014. In 2015, the County Board of Supervisors approved a first-of-its-kind ambulance contract involving a partnership between American Medical Response (AMR) and the Contra Costa County Fire Protection District.

Policies and Procedures Updates – In the past several years, the Commission made significant progress updating its policies and procedures, and adopted new *procedures* for the following changes of organization: city annexations/detachments, district annexations/detachments, district mergers, establishment of subsidiary districts, LAFCO-initiated proposals, new or different services, district dissolution, district formation, district consolidation, city consolidation, disincorporation, reorganization and out of agency service; and updated the *Membership and Rules and Procedures* policies. Contra Costa LAFCO now has procedures for each type of change of organization. Most recently, the Commission adopted a legislative policy, and updated its policies to include broadband. Currently, the Policies & Procedures Committee is working on a policy to address agricultural and open space preservation, as part of an ongoing conversation with stakeholders and the Commission. Next in the queue are policies relating to Disadvantaged Unincorporated Communities (DUCs), environmental guidelines, and Procedures for Processing Multi County Boundary Change.

Island Annexations - LAFCO continues to work with local agencies to facilitate island annexations.

Potential New Projects/Budget Options - In addition to funding to support LAFCO's day-to-day activities, ongoing work on MSRs, and those priorities identified during the Commission's Strategic Planning session, the Preliminary FY 2016-17 Budget will include funding options relating to potential future activities, as summarized below. Details will be provided in March with the FY 2016-17 Preliminary Budget.

- ❖ **LAFCO Office** - Contra Costa LAFCO currently leases office space at 651 Pine Street in Martinez. We have an opportunity to relocate to 40 Muir Road in Martinez. There are several advantages to a possible relocation, including close proximity to the County GIS division with whom we have regular interaction, and the potential to lease additional space than is currently available at 651 Pine Street.
- ❖ **LAFCO Staffing** – Contra Costa LAFCO currently employs two full-time staff – an Executive Officer and an Executive Assistant/LAFCO Clerk. In addition, we contract for a number of services including environmental planning, financial auditing, GIS/mapping, legal, webmaster, MSR and special studies. There may be a desire to expand LAFCO staff in the future, as application activity increases, as we continue/expand our work on policies and procedures, to perhaps take on some inventive projects and programs, and to maintain our current level of involvement at a statewide level with CALAFCO and other stakeholders.
- ❖ **Special Studies** – In addition to LAFCO's ongoing work on 2nd round MSRs and SOI updates, there is occasionally the need to conduct a special study (e.g., Mt. Diablo Health Care District). There are presently a number of distressed districts in Contra Costa County, and at least one special district whose situation continues to worsen (Rollingwood Wilart Park Recreation and Park District). It is timely to prepare a special study, including governance options, for this district. Also, should the Commission postpone its 2nd round MSR covering healthcare services, it might be timely to conduct a governance option for the West Contra Costa Healthcare District.

RECOMMENDATIONS

1. Provide input as desired;
2. Direct staff to present a Proposed Budget with budget options for review and approval at the March 9, 2016 LAFCO meeting; and
3. Direct staff to present a Final Budget for review and approval at the May 11, 2016 LAFCO meeting.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

- c: All Contra Costa County Cities
All Contra Costa County Special Districts
Contra Costa County Administrator
Contra Costa County Auditor-Controller

**CALAFCO Daily Legislative Report
as of Wednesday, February 03, 2016**

February 10, 2016
Agenda Item 12a

1

AB 115 (Committee on Budget) Water.

Current Text: Amended: 6/18/2015 [pdf](#) [html](#)

Introduced: 1/9/2015

Last Amended: 6/18/2015

Status: 9/11/2015-Ordered to inactive file at the request of Senator Mitchell.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would authorize the State Water Resources Control Board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. This bill would authorize the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation.

Position: Oppose

Subject: Disadvantaged Communities, LAFCo Administration, Special District Consolidations, Water

CALAFCO Comments: This bill is the same as SB 88. As amended, AB 115 gives the State Water Resources Control Board (SWRCB) direct authority to mandate either an extension of service or consolidation of water systems, including public and private systems, and individual wells. The bill focuses on disadvantage communities. Prior to ordering the consolidation, the SWRCB must make certain determinations and take certain actions, including conducting a public hearing in the affected territory. They are also required to "consult with and fully consider input from the relevant LAFCo, the PUC, and either the city or county (whichever has land use authority). Entities are allowed 6 months to find workable solutions before the SWRCB mandates the action. Prior to making the order, the SWRCB must make certain determinations. Upon making the order, the SWRCB must make funding available to the receiving water system for capacity building (no operations and maintenance funding is provided, adequately compensate the subsumed system, pay fees to the LAFCo for whatever work they will do (which is as of now undefined) to facilitate the action. The bill also contains certain CEQA exemptions and liability relief for the subsuming water entity, as well as various penalties. Finally, the bill makes legislative findings and declarations as to the reason for the SWRCB to have these powers, which has been taken directly from the legislative findings and declarations of CKH and the reason LAFCos have the powers they do.

CALAFCO has attempted to work with the administration for some time in defining the best possible process for these actions. However, for the most part, amendments proposed have been dismissed. CALAFCO has a number of concerns regarding the proposed process, not the least of which is the language in section 116682 (g) (the way it is worded now, it exempts the entire consolidation process and there is a legal argument that this would divest LAFCO of any authority to complete the consolidation since that authority is solely contained in CKH). Further, we requested indemnification for LAFCo as they implement section 11682(e)(4) which was also dismissed.

AB 448 (Brown D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.

Current Text: Introduced: 2/23/2015 [pdf](#) [html](#)

Introduced: 2/23/2015

Status: 8/27/2015-In committee: Held under submission.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally provides that each jurisdiction shall be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. This bill would modify these reduction and transfer provisions, for the 2015-16 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

Attachments:

[CALAFCO Support Letter March 2015](#)

Position: Support

Subject: Financial Viability of Agencies, Tax Allocation

CALAFCO Comments: As introduced, this bill is identical to AB 1521 (Fox) from last year. This bill reinstates the VLF payment (through ERAF) and changes the way that the growth in the VLF adjustment amount (property tax in lieu of VLF) is calculated starting in FY 2015-16 to include the growth of assessed valuation, including in an annexed area, from FY 2004-05 to FY 2015-16. Beginning in FY 2016-17, the VLF adjustment amount would be the jurisdiction's annual change in the assessed valuation

SB 552 (Wolk D) Public water systems: disadvantaged communities: consolidation or extension of service.

Current Text: Amended: 7/7/2015 [pdf](#) [html](#)

Introduced: 2/26/2015

Last Amended: 7/7/2015

Status: 7/17/2015-Failed Deadline pursuant to Rule 61(a)(10). (Last location was RLS. on 7/9/2015)

Desk	Policy	Fiscal	Floor	Desk	2 year	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Current law, for purposes of the California Safe Drinking Water Act, defines "disadvantaged community" to mean a disadvantaged community that is in an unincorporated area or is served by a mutual water company. This bill would allow a community to be a "disadvantaged community" if the community is in a mobilehome park even if it is not in an unincorporated area or served by a mutual water company.

Position: Watch

Subject: Disadvantaged Communities, Water

CALAFCO Comments: This bill is being amended as a vehicle to clean-up the water consolidation legislation [passed through as a

budget trailer bill, SB 88/AB 115.

SB 817 (Roth D) Local government finance.

Current Text: Introduced: 1/5/2016 [pdf](#) [html](#)

Introduced: 1/5/2016

Status: 1/28/2016-Referred to Com. on RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would state the Legislature's intent to enact legislation that would restore funding to cities that were incorporated after 2004.

Position: Placeholder - monitor

Subject: Financial Viability of Agencies

3

AB 1362 (Gordon D) Mosquito abatement and vector control districts: board of trustees: appointment of members.

Current Text: Amended: 1/19/2016 [pdf](#) [html](#)

Introduced: 2/27/2015

Last Amended: 1/19/2016

Status: 1/27/2016-In Senate. Read first time. To Com. on RLS. for assignment.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

Would authorize a city council, located in an existing or newly formed district as specified, to adopt a resolution requesting that appointments of persons to the board of trustees instead be made by a city selection committee, established pursuant to specified provisions of law, and conditioned upon a majority of authorized city councils adopting their respective resolutions. This bill would authorize the city selection committee to decrease the total number of appointments to be made by the committee if a majority of city councils within the district make this request in their respective resolutions.

Position: Watch

CALAFCO Comments: As amended, this bill amends the Health and Safety Code by creating an alternative option to the appointment process to the board of trustees of a district. The additional process calls for the City Selection Committee to make appointments rather than the cities themselves in a case where a majority of the city councils located within the district and are authorized to appoint a person to the board of trustees adopt resolutions approving of this alternate appointment process. No change is being made to how the County Board of Supervisors makes their appoint to the district board.

This is a locally supported bill, stemming from an issue in San Mateo with their Mosquito Abatement District which is in the Assembly member's district.

AB 1707 (Linder R) Public records: response to request.

Current Text: Introduced: 1/25/2016 [pdf](#) [html](#)

Introduced: 1/25/2016

Status: 1/26/2016-From printer. May be heard in committee February 25.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary:

The California Public Records Act requires state and local agencies to make public records available for inspection, unless an exemption from disclosure applies. The act requires a response to a written request for public records that includes a denial of the request, in whole or in part, to be in writing. This bill instead would require that response to be in writing regardless of whether the request was in writing. The bill would require that written response additionally to include a list that contains the title or other identification of each record requested but withheld due to an exemption and the specific exemption that applies to that record.

Position: Watch

Subject: Public Records Act

CALAFCO Comments: This bill would require LAFcos, when responding to a Public Records Request for which a determination has been made to deny the request, to include in the written response the title (or other identification) of each record that was requested and not provided, and the specific exemption that applies to that record.

Total Measures: 6
Total Tracking Forms: 6

2/3/2016 9:47:11 AM

**CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
PENDING PROPOSALS – FEBRUARY 10, 2016**

February 10, 2016
Agenda Item 12b

LAFCO APPLICATION	RECEIVED	STATUS
Town of Discovery Bay Community Services District (DBCSD) SOI Amendment (Newport Pointe): proposed SOI expansion of 20± acres bounded by Bixler Road, Newport Drive and Newport Cove (with corresponding annexation application)	7/28/10	Incomplete; awaiting info from applicant
DBCSD Annexation (Newport Pointe): proposed annexation of 20± acres to supply water/sewer services to a 67-unit single family residential development	7/28/10	Incomplete; awaiting info from applicant
Bayo Vista Housing Authority Annexation to RSD: proposed annexation of 33± acres located south of San Pablo Avenue at the northeastern edge of the District's boundary	2/20/13	Continued from 11/12/14 meeting
Northeast Antioch Reorganization Area 2A: proposed annexations to City of Antioch and Delta Diablo; and corresponding detachments from County Service Areas L-100 and P-6	7/30/13	Continued from 6/10/15 meeting to 6/8/16
Reorganization 186 (Magee Ranch/SummerHill): proposed annexations to Central Contra Costa Sanitary District (CCCSD) and East Bay Municipal Utility District (EBMUD) of 402± acres; 9 parcels total to CCCSD (8 parcels) and EBMUD (7 parcels)	6/20/14	Removed from the Commission's calendar pending further notice
Carr Annexation to EBMUD - proposed annexation of one parcel (5.9± acres) to EBMUD located at 80 Carr Ranch Road in unincorporated Moraga	1/15/16	Under review

Bay Area-wide tax aims to protect against rising sea levels

February 10, 2016
Agenda Item 12c

By Denis Cuff dcuff@bayareanewsgroup.com

Posted: 01/13/2016 03:07:24 PM PST Updated: about 16 hours ago

OAKLAND -- Bay Area voters will be asked in June to approve a \$12 annual parcel tax to protect and restore the San Francisco Bay shoreline and wetlands from rising sea levels due to climate change.

The proposed tax is believed to be the first to go on the ballot in all nine Bay Area counties. It needs two-thirds approval to pass.

In authorizing the measure unanimously on Wednesday, members of the San Francisco Bay Restoration Authority said the tax is needed to provide \$500 million over 20 years to fortify levees and create flood relief plains to protect homes, businesses, airports, highways and parks around the bay, and restore wetlands important to fish and wildlife.

"This is a historic day for Bay Area counties to get together on wetlands restoration on a scale not seen before," said Dave Pine, a San Mateo County supervisor who is chairman of the restoration authority board. "San Francisco Bay is a common resource people in our region want to protect. It's part of our identity."

The panel is made up of seven elected county, city and special district officials who oversee a partnership that aims to protect bay wildlife and wetlands.

Board members, environmentalist and business leaders say the tax is needed to guard against the growing risk of flooding from rising sea levels because of climate change. Scientists predict the sea level to rise 3 to 5 feet through 2100.

Business groups such as the Bay Area Council and Silicon Valley Leadership Group, and environmental groups such as Save San Francisco Bay, back the measure.

But not everyone is pleased.

Zelda Bronstein, of Berkeley, said big corporations, such as high-tech firms in the flood-vulnerable South Bay, would get a disproportion large benefit from the tax that would burden all Bay Area property owners for two decades.

"This isn't fair," she said Wednesday, urging the board to look into other financing tools that would make big corporations pay more.

John Gioia, of Richmond, a Contra Costa County supervisor on the restoration authority board, disagreed.

"This is not subsidizing any corporation," he said. "This is improving land under public ownership, making the bay more accessible, and cleaning the bay."

Gioia said \$1 a month per parcel is a modest price to invest to protect San Francisco Bay.

The Bay Area Council, a business coalition, supports the tax. The worst flood expected every 150 years from the combined impact of high tides and four-to-seven consecutive days of rain would cause more than \$10 billion in economic damage to the region, said Adrian Covert, the Bay Area Council's policy director.

Restoration board members also said they expect the tax dollars would provide leverage to secure federal grants.

The Contra Costa Taxpayers Association hasn't yet taken a stand on the measure, but a leader of the group said he is concerned 2016 is going to produce a rush of tax and fee ballot measures.

"We are worried this is going to put a tremendous burden on taxpayers," said Jack Weir, president of the taxpayers association board.

Weir said he believes the restoration tax is on the June ballot because backers want to avoid the November Presidential election ballot expected to be crowded with many other tax and fee measures. With many tax measures on the same ballot, voters are likelier to vote against all of them, he said.

Contact Denis Cuff at 925-943-8267. Follow him at [Twitter.com/deniscuff](https://twitter.com/deniscuff).

LAFCO Sues Gilroy to Stop the Proposed 4,000 Homes

Posted: **Thursday, January 14, 2016 4:19 pm**

The Local Agency Formation Commission (LAFCO) filed suit Wednesday in Santa Clara County Superior Court against the city of Gilroy, saying that the city broke the law when it approved the annexation of 721 acres of farmland as part of a planned 4000-home development. It asks a judge to stop the city from moving forward on the plan.

The suit contends that the approval of the project was “improper“ and that “Gilroy violated CEQA (the California Environmental Quality Act) in numerous ways.”



Part of the 721 Acres outside town

LAFCO is a state-mandated agency with a local board that oversees growth in the county,

The suit says that the city didn’t fairly consider impacts such as water; is using agricultural land when there is enough other land in the city on which to develop; and hasn’t addressed needs for more police and fire services.

The pleadings note that the “site consists of largely prime agricultural land and that the City wants to include these lands in its [Urban Service Area] even as the City has substantial amounts of land within its current boundaries that are vacant or underutilized.”

LAFCO believes in the suit that “Gilroy failed to identify and adequately analyze” impacts of the project.

The agency asks the court “To set aside certification of the EIR,” and to rescind all actions related to its approval.

LAFCO contends that “the Final EIR concedes that there is a "shortfall of water supply" for the Project which relies, in part, on the ‘provision of recycled water" which is not part of the City's Recycled Water Master Plan.’ ”

“The EIR fails to provide a discussion of the effects of changes to the environment from the construction of new police office space and to include, to the extent possible, recommendations as to any mitigation needed to address the significant impacts of such a new police office.”

“The uncertain status of the 2040 General Plan update undermines the adequacy of the EIR's

entire analysis of cumulative impacts of the Project.”

According to the suit, the city failed to conduct sufficient environmental review for the project despite the fact that the project has the potential to cause a number of foreseeable direct and indirect potentially significant impacts. These include, but are not limited to, those described above and the following: impacts to aesthetics, agriculture, air quality, biological resources, geology and soils, hydrology and water quality, water resources, cultural resources, greenhouse gases, hazards, health risks, land use and planning, minerals, noise, population and housing, public services, recreation, transportation, utilities, cumulative impacts to the above, growth inducing impacts, and other types of environmental impacts, including both construction-related and operational impacts.

“LAFCO has incurred and will incur substantial attorneys' fees and litigation costs because of Respondents' unlawful acts. ...LAFCO is entitled to be reimbursed for its attorneys' fees and costs.”

Mayor Perry Woodward said he's not surprised by the suit and thinks the city and LAFCO can negotiate a compromise.

“We will work with LAFCO to make sure their concerns are addressed,” he said. “When you have two public agencies, they will work together to find common ground.”

Woodward, a proponent of the plan on a now evenly divided city council, said such suits are common in big developments and factor into why it takes so long to build in California.

“We've been saying all along that this will take 10 to 15 years. This isn't a short-range project. We will have a discussion with LAFCO and if we can find a middle ground, then we will move forward.”

Friday, January 15, 2016

[SanJoseInside](#)

LAFCO Sues City of Gilroy over Proposed Housing Development

By [Dan Pulcrano @Pulcrano](#) / 16 hours ago



More than 700 acres of land in Gilroy has been designated for a new housing development that will reshape the city and South County.

The city of Gilroy broke the law when it approved [the annexation of 721 acres of farmland for a planned 4000-home development](#), the county's Local Agency Formation Commission (LAFCO) alleged in a lawsuit Wednesday.

The suit against the South County municipality, which was filed in Santa Clara County Superior Court, contends that the Dec. 7 approval, introduced by then-councilman Perry Woodward and approved on a 4-3 vote, was "improper" and that "Gilroy violated CEQA (the California Environmental Quality Act) in numerous ways."

Woodward was named mayor on Jan. 4 following ex-mayor Don Gage's resignation.



Perry Woodward was named mayor of Gilroy after a surprising resignation by Don Gage.

The suit contends that “Gilroy failed to identify and adequately analyze” impacts on water supply and police and fire services. The pleadings also note that the “site consists of largely prime agricultural land and that the City wants to include these lands in its [Urban Service Area] even as the City has substantial amounts of land within its current boundaries that are vacant or underutilized.”

The agency asks the court “to set aside certification of the EIR,” to rescind all actions related to its approval and reimburse the state-mandated county agency’s costs. “LAFCO has incurred and will incur substantial attorneys' fees and litigation costs because of Respondents’ unlawful acts. ...LAFCO is entitled to be reimbursed for its attorneys' fees and costs.”

Mayor Woodward downplayed the seriousness of the suit. “We will work with LAFCO to make sure their concerns are addressed,” he said. “When you have two public agencies, they will work together to find common ground.”

The project’s lead developer is Skip Spiering, who has taken Woodward out on duck hunting expeditions.

LAFCO members include Gilroy councilmember Cat Tucker, the current chair, county supervisors Mike Wasserman and Ken Yeager, Morgan Hill attorney Susan Vicklund Wilson, San Jose councilmember Johnny Khamis, open space district commissioner Sequoia Hall and water district board member Linda Lezotte. County supervisor Cindy Chavez just stepped aside as a commissioner but remains an alternate.

Between the 721-acre plan and other contemplated developments, the population of Gilroy would increase from 57,723 to 120,637, according to a 2014 study by San Jose-based Hexagon Transportation Consultants. Hexagon projects that morning rush hour trips on Highway 101 would nearly double from 20,438 to 39,763.

One Comment

1. Vacancy Vaquero [Jan 14, 2016 @ 9:57 pm](#)

Even though Gilroy Councilmember Cat Tucker is the LAFCO Chair, she didn’t attend the special LAFCO meeting at which they decided to sue. Vice-Chair Wasserman presided and alternate Commissioner Tara Martin-Milius, a Sunnyvale Councilmember, voted in her place.

Los Angeles Daily News

Supervisor Antonovich wants to stop development because of Porter Ranch gas leak



A view from above of Porter Ranch and the Southern California Gas Co.'s Aliso Canyon storage field. File photo

By [Gregory J. Wilcox](#), Los Angeles Daily News

Posted: **01/17/16**, 5:11 PM PST | Updated: 1 day ago



Supervisor Michael Antonovich File photo

Los Angeles County Supervisor Michael D. Antonovich on Tuesday will ask fellow board members to join him in seeing what can be done about halting residential development in parts of the northern San Fernando Valley because of a leaking well in Southern California Gas Co.'s Aliso Canyon storage field above Porter Ranch.

At least for a while.

“Until a thorough investigation can take place as to what caused the leak and what safeguards will be put into place to prevent a failure of this magnitude again, it is not appropriate to build more residential development in close proximity to Aliso Canyon,” Antonovich said in a statement his office released on Friday.

This may be difficult, at least in one respect.

One of the projects targeted by the supervisor was approved 16 years ago.

Antonovich's request includes Deerlake Ranch, which the statement says is near the storage facility.

The tract of 314 homes, being developed by Newport Beach-based Foremost Companies, was approved in 2004 and is now in the process of pulling building permits, according to the supervisor's staff.

It's planned for 230 acres north of the 118 Freeway at Topanga Canyon Boulevard, 10 miles west of the entrance to the storage facility at Tampa Avenue and Sesnon Boulevard.

But the 3,600 acres facility includes a big swath of the Santa Susans Mountains that form the northern boarder of the San Fernando Valley.

Foremost spokesman Eric Shabsis was surprised by Antonovich's action.

"I have no comment at this time. I have not seen what the supervisor has proposed," he said. "We are not adjacent to the gas company property."

This is the second project Antonovich, whose district includes the gas field, has sought action on.

He made the same argument in mid-December when he asked the Local Agency Formation Commission to block the annexation of county property into the City of Los Angeles for the construction of the 188-unit [Hidden Creek development](#).

Antonovich also asked County agencies to look into redesignating the land as permanent open space.

But the gas well leak is a huge, serious problem.

It has forced more than 2,000 Porter Ranch residents to see alternative housing, at the gas company's expense, and it impacting property values and home sales.

Since the leak was discovered on Oct. 23 it has pumped more than 65,000 tons of methane into the air, according to the California Air Resources Board.

Last week the board said the most recent air samples show the rate of leaking methane has dropped 60 percent from its peak in late November.

And on Friday the state's Department on Conservation said that crews have halted attempts to kill the well by forcing a brine solution down it after seven failed attempts.

Crews are now relying on a relief well being drilled to kill the leaking one, but whether this works might not be known until spring.



From the Silicon Valley Business Journal:

<http://www.bizjournals.com/sanjose/news/2016/01/19/anti-sprawl-agency-lafco-sues-gilroy-over-massive.html>

Anti-sprawl agency LAFCO sues Gilroy over massive growth plans

Jan 19, 2016, 5:26am PST **Updated: Jan 19, 2016, 7:42am PST**

Santa Clara County's chief overseer of municipal boundaries is suing the city of Gilroy over a proposed expansion that would add thousands of single-family homes on the city's edge, saying the city didn't perform adequate environmental studies of the project's impacts.

The lawsuit, filed last week by the Local Agency Formation Commission of Santa Clara County (LAFCO), says the city's analysis failed to ensure enough water for the project, didn't adequately mitigate for the loss of hundreds of acres of farmland and contained numerous deficiencies throughout its studies.

"The inadequacies described above ... require project approval to be revoked and the (environmental impact report) to be revised and recirculated before the project can proceed," LAFCO's attorneys state.

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newsletter.

LAFCO is a state-chartered agency tasked with reviewing city boundaries. Its goals include ensuring orderly development, discouraging sprawl, promoting the preservation of farmland and encouraging the efficient delivery of services. Its board is made up of city and county public officials, including Gilroy City Councilwoman Cat Tucker, who is its chair. Meeting minutes show she was absent on Jan. 5 when the board voted unanimously to initiate litigation against her city.

The lawsuit, first reported by Metro's Dan Pulcrano, adds a new wrinkle in a smoldering debate over land use and the future of development in southern Santa Clara County. It is extremely rare — perhaps unprecedented — for Santa Clara's LAFCO to sue a city over an annexation proposal, highlighting the state agency's concerns over the biggest expansion of a Santa Clara County city in decades.

"The reason this has gone to this step is because the issues are large and the differences are large," Mike Wasserman, vice chairman of LAFCO's seven-member commission, told me on Friday. "That's where we are right now."

At the same time, two landowners in another part of Gilroy — who had their annexation request delayed by city planners last year — also filed a lawsuit against the city last week, alleging similar inadequacies in the city's environmental review.



CITY OF GILROY

The slashed and checked outline shows the expansion of Gilroy if a boundary change gets the go-ahead.

Gilroy's City Council voted in early December to move forward with expanding its so-called "urban service area" to include a 721-acre chunk of land north of the city's current boundaries. That's a sign that the city intends to annex and develop the area within the next five years. The plan would include up to 4,000 homes and 40 acres of commercial development, though technically no formal development proposal yet exists.

Proponents say the expansion is necessary to plan for Gilroy's orderly growth, and that the city has long contemplated annexing the area, called the North Gilroy Neighborhood District. The property is largely owned by Jeffrey Martin, who grows olives on a portion of it, but includes several other property owners as well.

"At least since the 1960s, the city's general plan has provided for growth in the area we're now calling the North Gilroy Neighborhood District," said interim city manager Ed Tewes. "In 1984, LAFCO put together a very extensive report that shows the city's sphere of influence should bring it in, because eventually it should urbanize."

But the idea has drawn intense opposition in Gilroy from residents who say the plan will add to traffic congestion. Meanwhile, environmental groups like the Committee for a Green Foothills worry it could set a precedent for more sprawl to replace farmland and habitat. That's a battle many conservationists thought they were winning, after plans to build thousands of homes in San Jose's Coyote Valley dissipated last decade.

"We cannot pave our streets, fix our sidewalks," Councilman Dion Bracco said at the City Council last month, before voting against the plan. "Our city's falling apart because we can't fix what we have, and we're adding more. It doesn't make sense."

LAFCO is not saying that Gilroy cannot expand its boundaries. Rather, it is asking the court to require Gilroy to set aside certification of the environmental impact report, complete a new one and halt any actions by the city or developer and property owner "pursuant to Gilroy's

approval of the project until Gilroy fully complies with all requirements of CEQA and all other applicable state and local laws, policies, ordinances and regulations," the complaint states. LAFCO is also seeking attorney's fees.

With the litigation, Gilroy faces essentially two choices: withdrawing its proposal and trying to address LAFCO's concerns, or fighting it tooth and nail in court.

In interviews on Friday, both Tewes and Wasserman played down the seriousness of the litigation, despite what appears to be an unprecedented step. Tewes said the city is "open to finding out what their precise objections are." Wasserman said LAFCO was required to litigate or else "it infers agreement" with the city's CEQA study. "I'm hoping we sit down, Gilroy and LAFCO, and work out these issues and get it resolved," he said.

The city council has yet to meet to decide how to respond to the litigation, Tewes said.

Meanwhile, the city faces a challenge from another quarter on similar grounds.

The petitioners in the other CEQA lawsuit are Ken Kerley and Daniel Fiorio, property owners who had requested an annexation of about 150 acres in the southern reaches in July of 2013. Those property owners, who were backed by homebuilder Standard Pacific Homes, say they were eventually told by city planners that they should withdraw their application while the city undergoes a review of its land-use bible, the city's general plan. They say the northern annexation was allowed to go forward, even though that general plan update remains unfinished.

Their attorney, Andrew B. Sabey of Cox, Castle & Nicholson LLP, declined to comment last week.

Nathan Donato-Weinstein
Real Estate Reporter
Silicon Valley Business Journal



Contra Costa Times

Guest Commentary: Bryan Scott: Stop asking ECCFPD to provide adequate services with inadequate funding

By Bryan Scott For the Times

Posted: 01/19/2016 03:15:53 PM PST Updated: about 17 hours ago

At its Dec. 7, 2015, meeting the East Contra Costa Fire Protection District Board voted 9-0 to accept a self-appointed task force's recommendation of short-term funding from the cities of Brentwood and Oakley, as well as the county. This one-time money will allow the ECCFPD to open a fourth fire station for less than two years.

The money is needed because the ECCFPD is unable to provide adequate fire and emergency medical services to the residents of the district, according to Fire Chief Hugh Henderson and Gus Vina, Brentwood's city manager who leads the task force. The ECCFPD receives the lowest property tax funding rate of any fire district in the county. This inadequate funding has forced the closure of five of its eight fire stations in recent years.

The county's auditor-controller, Bob Campbell, has estimated that within the fire district a total of \$154,000,000 is raised for government purposes through the 1 percent property tax. All real estate, except that property owned by government agencies, schools and religious organizations, is assessed the property tax. That translates to roughly \$1,400 of property tax money allocated for government services for each of the 110,000 residents of the 249-square-mile fire district.

The ECCFPD budget states that the district will receive \$11,654,565 in property tax funding this fiscal year. This translates to about \$106 for each of the 110,000 residents of the district. Of the total property tax district residents pay (\$1,400), just a small portion (\$106) is allocated to the life-preserving services the ECCFPD provides, only 7.57 percent.

Other county fire districts receive much more of this property tax funding.

The San Ramon Valley Fire Protection District receives \$349 per person for each of their 169,000 residents, and the Moraga-Orinda Fire Protection District receives \$366 for each resident it serves.

The most recent Local Agency Formation Commission examination of fire districts puts the county average of property tax funding at 12 percent. The ECCFPD would need to have their property tax funding increased by 63 percent, just to reach the county's "average" funding level. LAFCO is the county agency responsible for overseeing most forms of local government boundary change, including incorporation, annexations, and special district formations.

Elected government officials work for the people of the community, the residents and taxpayers and voters of the fire district. We, the people, need to allocate more of the property tax dollars collected within the fire district to the lifesaving services provided by the ECCFPD.

The city councils of Brentwood and Oakley, along with the County Board of Supervisors, need to change the allocation of the property tax. Each of these elected bodies recognizes the need, as evidenced by their recent contributions of one-time money to the ECCFPD.

To make a solution permanent, the leaders and members of the East County community need to agree to reallocate property tax funding allocation percentages so that ECCFPD has a level of funding comparable to other parts of the county.

It is time we stop asking the ECCFPD to provide adequate fire and emergency medical services with inadequate funding. Each body needs to hear from the residents they serve. They need to hear from the community that it is time to correct this underfunding situation.

Bryan Scott is a Brentwood resident who occasionally becomes a community affairs activist. He is Co-Chair of East County Voters for Equal Protection, a citizens action committee whose aim is to improve funding for the ECCFPD. Those interested in learning more about this grass roots effort can reach him by email at scott.bryan@comcast.net or by telephone at 925-418-4428. The group's Facebook page is located at <https://www.facebook.com/EastCountyVoters/> on the Internet.

Contra Costa Times

Stormwater floods Modesto almond orchard in experiment to restore aquifer

By Lisa M. Krieger lkrieger@mercurynews.com

Posted: 01/20/2016 06:52:08 AM PST Updated: about 9 hours ago



Almond trees are flooded on Tuesday, Jan. 19, 2016, in Modesto, Calif. Scientists from UC Davis are flooding the almond orchard with about 7 inches of water at four different times as part of a groundwater banking experiment. (Aric Crabb/Bay Area News Group) (ARIC CRABB)

MODESTO -- In an effort to restore California's desperately depleted ancient aquifers, scientists are testing an approach that seizes surplus winter rain and delivers it to where it's most useful: idle farms and fields.

On Tuesday, roiling, muddy water from the storm drains of the city of Modesto flooded an almond orchard, where UC Davis researchers will track its progress as it slowly percolates -- over weeks, months, even years -- into a 45-foot-deep underground reservoir.

"If we can recharge our basin during the wet years, that's water we have banked away for dry years," said farmer Nick Blom, who authorized the experiment on his orchards southwest of Modesto, where hundreds of trees are in winter slumber.



Stored rainwater is used to flood an almond orchard on Tuesday, Jan. 19, 2016, in Modesto, Calif. Scientists from UC Davis are flooding the almond orchard with about 7 inches of water at four different times as part of a groundwater banking experiment. (Aric Crabb/Bay Area News Group) (ARIC CRABB)

The UC Davis team seeks to answer some hard questions: Is the water clean enough? Will it drown the valuable trees?

Could it introduce waterborne diseases or make trees more vulnerable to insect pests?

If the technique is proven safe and effective, the scientists will encourage its broader use on California's 3.5 million to 5.6 million acres of suitable soils.

The approach replicates Mother Nature's eons-old pattern, with wet winter storms restoring the state's depleted aquifers. But this balance has been upset by excess agricultural and urban "overdrafting" of this water supply. In short, we're taking more than we're giving.

Both farmers and state water experts urgently need a solution to the problem, which has stressed 21 of the state's aquifers, especially in Tulare County, in the southern San Joaquin Valley. In some areas, it is so severe that the land is subsiding -- permanently in some cases.

The state's first-ever groundwater protection law, passed by the Legislature in 2014, calls for "sustainable" aquifer management, said Helen Dahlke, assistant professor of UC Davis' department of land, air and water resources.



UC Davis professor Helen Dahlke is photographed at a monitoring station in an almond orchard on Tuesday, Jan. 19, 2016, in Modesto, Calif. Scientists from UC Davis are flooding the almond orchard with about 7 inches of water at four different times as part of a groundwater banking experiment. (Aric Crabb/Bay Area News Group) (ARIC CRABB)

To achieve the necessary balance between supply and demand, it's not enough for farmers to simply reduce how much water they pump; they also need to return the water to its source, she said.

That's a tall order for many agriculturally rich parts of the state, especially the most arid regions.

If this experiment works, scientists envision pulling floodwaters off rivers such as the Sacramento and diverting them to dry regions via the state's vast network of canals. This would not only ease the risk of flooding but could also deliver water to drought-ravaged parts of the state.

Meanwhile, farmers elsewhere are enlisting other approaches. In the Pajaro Valley, farmers have dug small "percolation ponds" on the edges of their fields. Along the Consumnes River and Yolo Bypass, there are newly widened levee setbacks, giving river water more time to drain and recede.

"Hopefully, we can come up with a system so we can at least maintain the water table where it is right now," Dahlke said.

Such recharge strategies could face political, legal and economic challenges, the UC Davis team says.

Many people claim rights to the state's water the moment it lands from the sky. And the delivery canals aren't historically available in the winter. This is the time when they are cleaned and maintained.

Tuesday's experiment -- flooding a 5-acre field with 6 inches of water -- was possible only because the Modesto Irrigation District provides water to both the city of Modesto and surrounding farms. So it has control over water use and also has access to the intricate web of delivery canals.

If not diverted to the Blom farm, the storm drain water would have flowed into the nearby Tuolumne River. The experiment is funded by the Almond Board of California.

Scientists will monitor any root damage with underground cameras, inserted 3 feet deep through plastic tubes. They will also watch next spring to see if the trees bloom and leaf normally. And they will measure the orchard's almond production to see if yields decline.

To track water flow rates, they use temperature sensors; water retains heat more than the surrounding soil.

And they will test the loamy soil to make sure the water isn't delivering nitrates, salts or dangerous pollutants.

This Modesto basin could be quick to recover because it's shallow and relatively healthy. But other basins, such as those in the southern San Joaquin Valley, may need 20 years before the surface water gets to where it's needed -- and flows may need to be repeated annually, said Ken Shackel, a professor in the department of plant sciences at UC Davis.

If successful, "there is enough acreage in almonds and similar crops that it could make a huge difference to the state water balance," Shackel said. "And it is a lot cheaper than building a reservoir.

"We are thinking about this as the first step in a very long-term strategy."

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4,000 Home Development Off the Table

Posted: Thursday, January 21, 2016 11:01 am

Overwhelmed by public criticism and two lawsuits, the developers of the biggest housing project in Gilroy's history have pulled their application to take more time to sell it to the public.

Landowners proposed 4,000 homes including 1,500 units for "active seniors," two schools and parks for the 721-acre tract of farmland bordered by Monterey, Santa Teresa, Fitzgerald and Day roads.

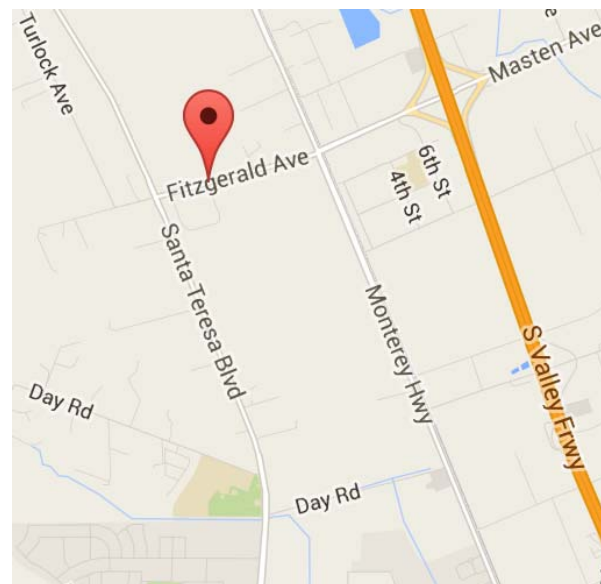
The land would have to be annexed by the city and would need approval from the county's Local Agency Formation Commission (LAFCO). The city voted Dec. 7 to move forward.

However, the developers on Wednesday temporarily shelved the project, saying they were advised by Mayor Perry Woodward to do so.

"I asked the applicant to please rescind their application to allow for time for the city and greater community to better understand the proposal, the benefits to our community, how it gains local control and fits within the collective long-term vision of Gilroy's future," said Woodward, a supporter of the project, in a press release.

Added developer Skip Spiering: "By heeding the mayor's request to pull our application for consideration at this time, we have chosen to temporarily take a step back. We will continue to work with the city of Gilroy and the local community to help them understand the long-term vision of Rancho Los Olivos and will engage community leaders, stakeholders and neighbors as we complete the 2040 General Plan."

The developers of what could be a \$3 billion project involving 27 landowners, including Jeff Martin, who owns 400 of the 721 acres. In a big public relations push, they have changed the name from Rancho 101 to Rancho Los Olivos (Ranch of the Olives) and launched a website (rancho-olivos.com) and Facebook page (Rancho Los Olivos Community), looking to improve their image. They have also hired a public relations firm, Farmhouse Communications, spearheaded by Kristina Chavez Wyatt, who as communications director, led the unsuccessful oil company-funded opposition to San Benito County's 2014 anti-fracking referendum.



Map of the 721-acre proposed area

The City Council is divided 3-3 on the proposal, with a seventh member due to be selected Jan. 25. The Planning Commission voted unanimously against it. Mayor Perry Woodward, Councilman Peter Leroe-Muñoz and Terri Aulman voted for it, while Dion Bracco, Cat Tucker and Roland Velasco opposed.

Spiering put a positive spin on the hold and the project, which was opposed by 2,000 people who signed an online petition.

“We are experiencing a groundswell of support from community members now that they are taking time to understand the details of the proposal and how it fits within the city’s long-term planning. The Rancho Los Olivos plan will address existing needs such as major roadway improvements, new schools and a much-anticipated active adult community.”

Meanwhile, other opponents of the project weighed in last week.

LAFCO and a group of developers filed separate suits asking the courts to stop the project, claiming that it is illegal, that a big environmental problem would cause too much demand for fire and police, and that its reviews were badly managed by the city.

The LAFCO suit contends that the approval of the project by the council was “improper” and that “Gilroy violated CEQA (the California Environmental Quality Act) in numerous ways.” The city voted in December to send the proposal to LAFCO for review, but the agency filed suit to stop the plan, even before it had a chance to vote on it.

The suit says the “site consists of largely prime agricultural land and that the city wants to include these lands in its [Urban Service Area] even as the city has substantial amounts of land within its current boundaries that are vacant or underutilized.”

The agency asks the court “to set aside certification of the EIR,” and to rescind all actions related to its approval.

Woodward said he’s not surprised by the suit and thinks the city and LAFCO can negotiate a compromise.

“We will work with LAFCO to make sure their concerns are addressed,” he said. “When you have two public agencies, they will work together to find common ground.”

Woodward said such suits are common in big developments and factor into why it takes so long to build in California.

“We’ve been saying all along that this will take 10 to 15 years. This isn’t a short-range project. We will have a discussion with LAFCO and if we can find a middle ground, then we will move forward.”

According to the LAFCO suit, the city failed to conduct a sufficient environmental review for the

project, given that it has the potential to cause a number of foreseeable and significant direct and indirect impacts. These include impacts on aesthetics, agriculture, air quality, biological resources, geology and soils, hydrology and water quality, water resources, cultural resources, greenhouse gases, hazards, health risks, land use and planning, minerals, noise, population and housing, public services, recreation, transportation, utilities, cumulative impacts to the above, growth-inducing impacts, and other types of environmental impacts, including construction-related and operational impacts.

LAFCO has also asked that the city pick up its legal fees, which could be considerable.

The second lawsuit, filed by developers Ken Kerley and Daniel Fiorio, argues that they were told not to pursue their plans to build housing in south Gilroy and then found the city approved the Rancho Los Olivos plan.

Their suit challenges the City Council's Dec. 7 decision to approve the 721-acre project and certify the environmental impact report, without first analyzing and mitigating potential environmental impacts.

The landowners' lawsuit also contends that the City Council's approval of the project causes the city's general plan to be "internally inconsistent," in violation of state planning and zoning laws.

Both suits also name the project's investors and landowners, including Martin Limited Partnership, Wren Investors LLC, and Mark Hewell.

Kerley and Fiorio are no strangers to City Hall. In July 2013 they were part of a consortium of landowners that submitted an application to amend the city's Urban Service Area to encompass approximately 150 acres in the unincorporated south Gilroy neighborhood district (called South Gilroy USA proposal in the lawsuit), where the two own property.

The petitioners allege that in January 2014, city staff provided them with an evaluation of the South Gilroy USA proposal and advised them to withdraw their application and not to resubmit until after the city adopted its 2040 general plan, which was then underway. The petitioners followed the recommendation and withdrew their application five days later.

In July 2014, the city accepted Martin Limited Partnership's application to add 721 acres into the city's USA boundary even as the city was still developing its 2040 general plan, contrary to the advice allegedly given to the South Gilroy USA landowners.

Approval of the 721-acre project is "premature and should await adoption of the 2040 general Plan," the lawsuit states.

The general plan was approved by the City Council on Jan. 4, clearing the way for an environmental review and final reading sometime this summer.

Interim City Administrator Ed Tewes said he expects that the lawsuits would be moot if the city

agrees Monday to withdraw its request to annex the land for the project. He said council will also consider decertifying the environmental impact report it agreed to in December.

Editorial: LAFCO lawsuit an embarrassment for mayor and city council

Posted: Friday, **January 22, 2016** 10:12 am

The bungled attempt to slide the largest development in Gilroy's history through the county Local Agency Formation Commission came off the rails this week when LAFCO sued the city in Santa Clara County Superior Court. It's unprecedented for a city to be dragged into court by the very agency whose approval it needs, and the mayor and council members who voted to submit the half-baked application for a highly unpopular project should be embarrassed about the way this all was handled.



Mayor Perry Woodward

Citizens elect leaders to make wise and cautious decisions that reflect the will of their constituents, and the North Gilroy Neighborhood District initiative reflected none of those qualities.

Mayor Perry Woodward, especially, displayed poor judgment. He makes money litigating as a profession—he has sued the city of Gilroy and this newspaper in the past—and just signed on to work for a big San Jose law firm. He, more than anyone, should understand the need to follow procedures and keep the city out of court. Litigation between taxpayer-funded entities is a game that no one wins.

Luckily, landowner Jeff Martin made a sound decision to withdraw the application, promptly and without fuss. He has been a part of the community long enough to know which way the wind's blowing, and he wants to do the right thing.

In our view, a project this big should undergo a community visioning period, or charette, otherwise the nice watercolors, elegant website and new name—Rancho Los Olivos—are just lip gloss on a boar. It should have widespread community buy-in before it is handed off to regional agencies for approval. The process should not simply move from a small political in-group clumsily and arrogantly telling Gilroyans what's best for them to a slick PR campaign by an out-of-county agency hired to sell the plan. Instead, if it's to move forward, there has to be a genuine willingness to listen to a community that has spoken up loud and clear.

“I asked the applicant to please rescind their application to allow for time for the city and greater

community to better understand the proposal, the benefits to our community, how it gains local control and fits within the collective long-term vision of Gilroy's future," Woodward said in the developer's press release. First off, why was the mayor of Gilroy's position expressed through the project publicist's press release, rather than in a city announcement? Does the mayor work for the city, or the developer? Second, should the mayor, after two weeks on the job, be using the personal pronoun and instructing a private applicant how to conduct his business affairs? And, third, is the problem really that the citizens of this community are too uneducated about the project's fabulous benefits to "understand"?

If Woodward really wants to bring the community around on this defining issue, he can start by creating an inclusive city leadership, which means not hand-picking ideological soulmates for mayor pro-tempore and council appointee. If he goes ahead with Peter Leroe-Muñoz as his second-in-command and then engineers Bob Dillon's appointment—many City Hall watchers believe that that backroom deal's already been cut—Woodward will have a de facto four-member voting block to accelerate Gilroy's expansion over the objections of a large number, if not a majority of residents. And because a new general plan is in the works, Gilroy will live with the results of this political gamesmanship for decades to come.

We hope Woodward's colleagues on the council will realize that a mayor who's crashing into walls should not be followed blindly. Being aggressive and taking initiative can sometimes be confused with leadership.

A proclivity for action, to be sure, can be a very good thing when accompanied by sound judgment and a consensus of support. But when a moral compass is spinning freely and ambition charts the direction, what appears to be a march forward can really be just a bunch of lemmings sprinting to the cliff's edge, dazzled by the brilliance of a \$3 billion payday.



SAN BERNARDINO: In tentative deal, county would take on fire services

By [RICHARD BROOKS](#)

2016-01-25 21:49:28



After years of battling, the bankrupt city of San Bernardino and its fire department union have reached an all-encompassing -- though tentative -- agreement that would enable the city to obtain its fire protection from a county fire district, city officials say in a written statement.

The announcement was released Monday, Jan. 25, after a closed session of the San Bernardino City Council. Details of the plan are scheduled to be released by Thursday in the agenda packet for a Feb. 1 meeting when the council is expected to consider granting final approval.

"The proposed global settlement will bring a close to nearly nine years of legal disputes between the firefighters and the city," according to the statement. "It will also assist in preventing future litigation and will save the city substantial legal costs and liabilities which would have otherwise been incurred."

Because the plan was discussed in closed session and requires ratification of both sides, union attorney Corey Glave declined to discuss details during a phone conversation Monday.

If ratified, the city statement says, the plan "will eliminate any union opposition in relation to annexation of fire services to the (proposed) County Fire District."

That proposed annexation is under review by the county's Local Agency Formation Commission.

On Wednesday, LAFCO is scheduled to consider a staff recommendation to approve the annexation.

"The plan is important to the city in that it provides a means to return to the city's coffers an estimated \$7 million to \$8 million for use in addressing other service deficiencies ... such as police protection, roads, parks or even street lighting," the city announcement quotes the LAFCO analysis as saying.

"LAFCO's conclusion is right on the mark," the announcement quotes City Attorney Gary Saenz as saying. "Although annexation comes with a special tax to property owners of \$148.23 per year, those are funds (that) will go directly to improving fire service.

"This, in addition to settling with the fire union, will allow us to redirect revenue that would otherwise go to litigation or status-quo fire services to crime prevention programs, parks and community services, and economic development."

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California water: Silicon Valley leaders express skepticism of Gov. Jerry Brown's Delta tunnels plan

By Paul Rogers

progers@mercurynews.com

Posted: 01/26/2016 07:06:38 PM PST Updated: about 6 hours ago



Chuck Bonham, director of the state Department of Fish and Wildlife, addresses the board at the Santa Clara Valley Water District Board chambers in San Jose, Calif., Tuesday, Jan. 26, 2016. In a Bay Area showdown over Gov. Jerry Brown's controversial \$17 billion plan to build two giant tunnels under the Delta to make it easier to move water south, Mark Cowin, the director of the state Department of Water Resources and Bonham made their case for the plan Tuesday at a public meeting of the Santa Clara Valley Water District. (Patrick Tehan/Bay Area News Group) (Patrick Tehan)

SAN JOSE -- Three of Gov. Jerry Brown's top water lieutenants came to Silicon Valley on Tuesday to make the case for his \$17 billion plan to build two huge tunnels under the Delta to more easily move water from north to south.

But rather than embracing the idea, five of the seven board members of the Santa Clara Valley Water District -- whose support is considered critical to the controversial project -- instead voiced skepticism. Their concerns ranged from the price tag to environmental impacts to whether Santa Clara County property owners could be left with property tax increases without a public vote to pay for future cost overruns.

"For me there's a lot of uncertainty," said board Chairwoman Barbara Keegan. "I don't want urban water users to end up subsidizing rural water users."

Vice Chairman John Varela added: "We are talking about potential decisions we could make that very possibly could create extinction of species. I don't want to do that. Not on my watch."

Most of the water agencies supporting the tunnel plan are in Southern California and the Central Valley. The Santa Clara Valley Water District has so far been the Bay Area's largest supporter, which allows Brown to say the project isn't marked by the same north-south rivalry that resulted in a 1982 defeat at the ballot box of a similar "peripheral canal" plan he backed.

Brown's current plan is to build two tunnels, each 40 feet in diameter and 35 miles long, under the Sacramento-San Joaquin River Delta. The idea is to reduce reliance on the massive state and federal pumps at Tracy -- which are sometimes shut down to protect endangered salmon, smelt and other fish.

But environmentalists, Delta farmers and some Northern California lawmakers are trying to kill the proposal. They call it a water grab by Los Angeles and large corporate farmers in the Central Valley that would harm the water quality of the San Francisco Bay and the Delta, a vast network of sloughs and wetlands.

So far, the Santa Clara Valley Water District has contributed \$13.7 million toward the \$250 million the state has spent on reams of studies and analyses of the proposal. Other water agencies, including the Metropolitan Water District of Southern California, Westlands Water District in Fresno and the Kern County Water Agency, have contributed the rest.

State officials finished a draft environmental study last year. After the final version is completed this summer, they plan to ask the local water agencies for another \$1.2 billion to fund engineering and design studies, said Nancy Vogel, spokeswoman for the state Natural Resources Agency.

The Brown administration says that the local water agencies who support the plan also would be expected to pay the \$15 billion construction cost by raising their customers' water rates and property taxes.

The water agencies, including the Santa Clara Valley district -- which provides drinking water and flood protection to 1.9 million people -- must decide soon whether to continue to fund the studies or pull out. Earlier this month, the district's board forced out CEO Beau Goldie, in part over his robust support for the project, which some board members said had exceeded their level of comfort at times.

On Tuesday, Mark Cowin, director of the state Department of Water Resources, urged the agency to support the twin tunnels.

If built, Cowin said, the project would deliver about 4.9 million acre-feet of water a year from the Delta, enough for roughly 25 million people a year. That amount, he said, is roughly the same as what is being delivered now in an average year.

Some agencies, particularly in farm areas, have asked why they would spend billions of dollars for a project that delivers no more water than they are getting now. But Cowin said that the

tunnels are needed to help improve the system's reliability during earthquakes, in addition to offering flexibility so water can be taken out of the Delta at a new spot -- farther north on the Sacramento River near the town of Courtland. That, he said, would mean not having to rely as much on the Tracy pumps.

"This isn't a new water supply," Cowin said. "It's a modernization of an existing project."

Cowin said the price is high, but it would cost only \$5 a month for urban users.

Two other top Brown officials, Chuck Bonham, director of the state Department of Fish and Wildlife, and David Okita, director of ecosystem restoration for the Natural Resources Agency, highlighted the fact that the state also plans to restore 30,000 acres of wetlands and floodplains around the Delta.

"I'm thankful you are willing to take the time to look beyond the bumper stickers," Bonham told the board.

More than a dozen people spoke, representing some of the largest environmental groups in California, along with the League of Women Voters. All came out against the project.

Jonas Minton, a former deputy director of the state Department of Water Resources, said that Santa Clara Valley district will face costs of about \$500 million if all the major water agencies now involved decide to move forward. If Kern County pulls out, that rises to \$570 million. If only Metropolitan and Santa Clara Valley are left, the cost to Santa Clara ratepayers rises to \$1.5 billion, he said.

"We haven't gotten an answer yet that they are putting the money up," he said, suggesting instead that Santa Clara partner with the Contra Costa Water District to enlarge Los Vaqueros Reservoir in eastern Contra Costa County and share the water.

Other critics said the district should rely more on water recycling, conservation and stormwater capture. They argued that the tunnels are so large because Los Angeles and powerful farm agencies will eventually weaken environmental guarantees and drain more water from the north.

"This proposal will harm salmon. It's way too big," said John McManus, executive director of the Golden Gate Salmon Association.

Two water district board members, Tony Estremera and Nai Hsueh, expressed support for the plan, noting that the district gets 40 percent of its water supply from the Delta.

"Cost should be one consideration," Hsueh said. "But it shouldn't be the entire consideration."

Paul Rogers covers resources and environmental issues. Contact him at 408-920-5045. Follow him at [Twitter.com/PaulRogersSJM](https://twitter.com/PaulRogersSJM).

Contra Costa Times

Richmond: 'We have work to do,' mayor says in annual address

By Sarah Tan

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Posted: 01/26/2016 09:25:56 PM PST Updated: about 20 hours ago

RICHMOND -- Mayor Tom Butt said Tuesday that Richmond's financial situation would require some changes in the coming years and acknowledged that it is not stable or sustainable.

Those ongoing fiscal woes, along with more positive highlights, such as an overall decline in crime and unemployment in the city, were discussed in Butt's second State of the City address.

"The short story is that while the city's fiscal condition has been stabilized, our trajectory is not sustainable," Butt said. "We have work to do."

In 2015, bond rating agencies Moody's and Standard & Poor's downgraded Richmond's issuer rating, with Moody's downgrading Richmond to junk bond status, meaning the city may have to pay higher interest rates to borrow money in the future.

Until December, Richmond had been on a "credit watch" by Standard & Poor's. Butt mentioned in his look forward for 2016 that addressing this situation would require the city to make some big changes because it would need to find a way to save \$8.7 million through budget reductions this year.

"Our top priority is ensuring Richmond's budget is sustainable, both in the short term and the long term," Butt said.

He added that he will be asking the City Council to look for ways to cut expenses. He also suggested ways the city may raise its revenues, such as through instituting a soda tax, increasing the marijuana business tax and taxing Airbnb rentals.

A majority of Richmond's revenue comes through sales and property taxes, and Butt said that revenue has been low because of lower property values.

He also addressed a recent uptick in crime, though he also noted an overall 10-year decline since 2006. He also mentioned that it was his goal to reduce the city's annual homicides to a number in the single digits by 2017, saying that Richmond's financial situation was second only to his concern to increase public safety in the city.

Overall, however, the mayor was optimistic about Richmond's outlook in 2016. He mentioned that Richmond last year approved \$170 million in projects, which will include the building of some affordable and market-rate housing. He also mentioned that in 2015, the city's unemployment rate dropped to 5.2 percent, slightly below the state's rate of 6.3 percent.

"2016, here we come, get out of our way," he said.

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THE PRESS

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Let's save the fire district, spend tax money wisely

Bryan Scott
Jan 27, 2016

At the Dec. 7 meeting, the East Contra Costa Fire Protection District (ECCFPD) Board voted 9-0 to accept a self-appointed task force's recommendation of short-term funding from the cities of Brentwood and Oakley, as well as the county.

This one-time money will allow the ECCFPD to open a fourth fire station for less than two years. The money is needed because the (district) is unable to provide adequate fire and emergency medical services to residents, according to Fire Chief Hugh Henderson and Gus Vina, Brentwood's city manager, who leads the task force. The ECCFPD receives the lowest property-tax funding rate of any fire district in the county. This inadequate funding has forced the closure of five of its eight fire stations in recent years.

Bob Campbell, the county's auditor-controller, has estimated that within the fire district, a total of \$154,000,000 is raised for government purposes through the 1 percent property tax. All real estate, except property owned by government agencies, schools and religious organizations, is assessed the property tax. That translates to roughly \$1,400 of property-tax money allocated for government services for each of the 110,000 residents of the 249-square-mile fire district.

The ECCFPD budget states that the district will receive \$11,654,565 in property-tax funding this fiscal year. This translates to about \$106 for each of the 110,000 residents of the district. Of the total \$1,400 property taxes paid, just a small portion of \$106 is allocated to the life-preserving services the ECCFPD provides, only 7.57 percent.

Other county fire districts receive much more of this property-tax funding. The San Ramon Valley Fire Protection District receives \$349 per person for each of their 169,000 residents, and the Moraga-Orinda Fire Protection District receives \$366 for each resident they serve.

The most recent Local Agency Formation Commission (LAFCO) examination of fire districts puts the county average of property-tax funding at 12 percent. The ECCFPD would need to have their property-tax funding increased by 63 percent just to reach the county's average funding level. LAFCO is the county agency responsible for overseeing most forms of local government boundary change, including incorporation, annexations and special-district formations.

Elected government officials work for the people of the community - the residents, taxpayers and voters of the fire district. We, the people, need to allocate more of the property-tax dollars collected within the fire district to the life-saving services provided by the ECCFPD.

The city councils of Brentwood and Oakley, along with the county supervisors, need to change the allocation of the property tax. Each of these elected bodies recognizes the need, as evidenced by their recent contributions of one-time money to the ECCFPD.

In order to make a solution permanent, the leaders and members of the East County community need to agree to reallocate property-tax funding percentages so (the district) has a level of funding comparable to other parts of the county.

It is time we stop asking the ECCFPD to provide adequate fire and emergency medical services with inadequate funding. Each body needs to hear from the residents they serve. They need to hear from the community that it is time to correct this under-funding situation.

Bryan Scott is a Brentwood resident who occasionally becomes a community affairs activist. He is co-chair of East County Voters for Equal Protection, a citizens' action committee whose aim is to improve funding for the ECCFPD. For more information, email scott.bryan@comcast.net, call at 925-418-4428 or like the group on Facebook at www.facebook.com/EastCountyVoters.

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Lafayette Station 16 Rehabilitation Update

By Nick Marnell

Firefighters assigned to Contra Costa County Fire Protection District station 16 in Lafayette likely feared less for their lives entering a burning building than they did when they returned to the station. The building suffered possible mold contamination from rodent infestation, and the county pulled out the engine company and closed the distressed fire station in 2012. An on-again, off-again joint venture with the Moraga- Orinda Fire District to build a fire station in north Orinda crumbled in August when ConFire chose to rehab station 16.

"I am almost embarrassed to say that I had been convinced that station 16 was condemned and could not be fixed," said fire chief Jeff Carman, given a report by a building contractor indicating that the 58-year-old structure was not beyond repair. Based on that preliminary information, the chief presented a rehabilitation plan in August to his board of directors, which unanimously supported the effort and told Carman to report back with a final proposal.

Not willing to be fooled again, Carman demanded a written report confirming that the Los Arabis Drive fire station was repairable, so the district hired H. D. Rueb Structural Engineers of Pleasant Hill to do the assessment. The company visited the station site four times in September and October and its report, delivered to ConFire Dec. 7, concluded, "The general structural appearance of the building appears to be adequate."

The report noted that the structure will require seismic upgrades and that the interior concrete slabs, one of them significantly cracked, should be replaced. It also recommended a geotechnical analysis on the soil below the slabs, which deputy chief Lewis Broschard said will soon be completed. "The concrete floor has sagged considerably and we need to determine why," said Carman. "So we will cut a couple of access points in the slab floor to determine soil quality and get a look at what happened to cause the sag." The rehab plan was to jackhammer up the slabs and replace them with new ones, but the chief said he must be assured that whatever happened below the floor will not happen again.

Design work must also be completed, from which the district can develop construction documents and then determine approximate costs to rehab the station. "I think before we go after design work we want to make sure there isn't something bad going on under the slab," said Carman.

Notwithstanding the unknown below the interior building slabs and the holdup in completing the station design, Carman said he still expects to present the board a financial plan for the rehab by March.

"It's an aggressive timeline, but I think we can do it," said the chief.

The initial estimate for rehabbing station 16 was \$1 million.

Reach the reporter at: nick@lamorindaweekly.com

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San Bernardino County Sun

San Bernardino gets \$148 parcel tax, fire outsourcing



Local Agency Formation Commission voted unanimously to move forward Wednesday with the city of San Bernardino's proposal to annex the 137-year old San Bernardino Fire Department into Fire Protection District Service Zone FP5-5, giving responsibility for fire and emergency medical response to the county fire department. PHOTO BY RYAN HAGEN

By [Ryan Hagen](#), The Sun

Posted: **01/27/16**, 11:09 AM PST | Updated: 2 hrs ago



Scores of San Bernardino residents and business owners attended a meeting Wednesday where the Local Agency Formation Commission voted unanimously to move forward with the city's proposal to annex the 137-year old San Bernardino Fire Department into Fire Protection District Service Zone FP5-5, giving responsibility for fire and emergency medical response to the county fire department. PHOTO BY RYAN HAGEN

SAN BERNARDINO >> A plan to outsource the city Fire Department and add a parcel tax of \$148 per year took a big step forward Wednesday with the unanimous approval of the agency in charge of overseeing that process.

The [Local Agency Formation Commission](#), or LAFCO, voted to move forward with San Bernardino's proposal to annex the 137-year old San Bernardino Fire Department into Fire Protection District Service Zone FP5-5, giving responsibility for fire and emergency medical response to the county fire department. That also means that zone's tax — \$148 per parcel in fiscal year 2016-17, and increasing by up to 3 percent each year — would be applied to each of the more than 42,000 properties in the city.

LAFCO will mail a form to registered voters and landowners that allows them to protest that move, which could kill it if enough protest.

But commissioners said that while they were sympathetic to concerns about new taxes and the sentiment that City Hall caused the financial problems this move aims to fix, the annexation proposal was the only way to give the city adequate, sustainable public safety.

“I don’t like this decision,” said Commissioner Acquanetta Warren, who is also mayor of Fontana. “But we’re here because we need to lead. ... If public safety has more cuts, it could be on the level of Armageddon for this city.”

Public safety — both fire and police protection — would continue to deteriorate if the plan wasn’t approved, said Andy Belknap of Management Partners, a consultant for the city.

“This will allow the city to get a sustainable level of service — which we are not at right now,” Belknap said. “The city fire service has been under severe stress for years.”

Overdue equipment maintenance and faster response times — in part due to the use of the county dispatch system — would be part of the switch, Belknap said, adding that the use of “tremendous economies of scale” was a path successfully taken by Fontana, Santa Ana, Irvine and other cities.

The city projects the plan will add \$7 million to \$8 million to its coffers, much of which will be used on a five-year plan to [ramp up the Police Department](#), he said.

Outsourcing the Fire Department was a key part of the [Plan of Adjustment](#) that the city passed in April to guide its exit from bankruptcy and continued recovery, said City Attorney Gary Saenz.

“(The exit plan) is extremely comprehensive — it touches on almost every type of service — and it’s extremely cohesive, with parts working together,” Saenz said. “Two of the most important components of the plan are addressing our deficiencies in police and fire.”

San Bernardino County Fire Chief Mark Hartwig said the county would take local accountability seriously.

The city’s acting fire chief, Tom Hannemann, said the city will continue to provide excellent service until the county takes over, when it would also provide excellent service.

And a statement to LAFCO by the San Bernardino City Professional Firefighters — who recently came to a [tentative “global settlement”](#) with city officials that includes ending all their litigation against the city — supported the move.

Going to the county would begin the reversal of years of cutbacks, John Marini said on behalf of the union. He said that as a firefighter he knows what remaining an in-house department means.

“It means more [closed fire stations](#),” he said. “It means [less firefighters](#).”

The county’s proposal would extend employment to San Bernardino employees with the rank of captain or below.

A majority of the 15 speakers who addressed LAFCO said they opposed the plan, in many cases because of the tax.

“You’re making more homeless people,” resident Sandra Ibarra said, crying, as she said she had just become a homeowner and now couldn’t afford it.

Residents of other cities who own property in the city said it would hurt them, as well, and residents suggested landlords would pass the cost on to tenants who couldn’t afford it.

Several also questioned the fairness of subjecting a city of more than 200,000 to a new tax by annexing the city into a district that was formed by a vote of only about 3,000 people in the High Desert. LAFCO’s attorney, Clark Alsop, said an appellate court decision and attorney general opinion supported the move’s legality.

The commission’s decision begins a 30-day reconsideration period, during which anyone affected by the decision can ask that the process be repeated if they show that relevant information was not considered, said LAFCO Executive Director Kathleen Rollings-McDonald.

“If no one requests reconsideration, as soon as that period is completed, then we will put together and advertise an eighth-page legal ad and send all the individual notices to the landowners about their protest rights,” Rollings-McDonald said. “The commission granted today, instead of the 30-day recommended, a 45-day protest period.”

That 45-day period would still allow the switch-over to meet the goal date of July 1, the beginning of the fiscal year, Rollings-McDonald said. That is the earliest it could happen.

However, enough protests would end the process.

- The plan will be terminated if LAFCO receives a protest from more than 50 percent of registered voters.
- An election will be called if protest is received from at least 25 percent but less than 50 percent of the registered voters, or if 25 percent to 100 percent of the number of landowners — who own at least 25 percent of the total land value — submit written protest.

Guest Column: Growth doesn't mean sprawl

Jeff Martin | Posted: Thursday, January 28, 2016 9:11 am

When I came to Gilroy in 1980, the Gilroy Dispatch was filled with letters about rampant growth. The development at the time was the Northwest Quadrant. The claims were that Gilroy was sprawling, we were becoming another San Jose and we were losing our small town charm.

I hear these same fears echoed today at the city's proposal to annex land of which I am an owner to the north of town. There are a lot of differences between then and now and a lot has thankfully changed since then.

The County's Local Agency Formation Commission (LAFCO) is the body that determines where urban expansions should and should not occur. Their goal is to encourage orderly boundaries, discourage urban sprawl and to preserve agricultural and open space lands.

The ultimate physical boundaries and services area line for any city is called the Sphere of Influence (SOI) line. At the time, Gilroy's northern SOI line was at Church Avenue in San Martin; Morgan Hill's southern SOI Line was at Church Avenue in San Martin. Theoretically, Gilroy and Morgan Hill could have expanded to this common road.

After a lengthy study, LAFCO decreed in their own 1984 SOI study that Gilroy should push back to Masten/Fitzgerald and Morgan Hill should retreat to Middle Avenue. This is a 3.5-mile separation that specifically addressed the fear of sprawl. Further, the Santa Clara County Board of Supervisors made this area a protected rural residential special use area in the general plan.

Not too many years later, Gilroy took a major step to address rampant growth in residential development by instituting the Residential Development Ordinance (RDO). The intent was to place a numerical annual limit on the number of homes that could be approved and built. For 20 years since the beginning of the RDO, Gilroy has grown at a modest 3 percent rate.

As time went on, Gilroy realized that while they had a handle on the volume of residential development, they did not have sufficient control of the quality of the homes, developments,



Jeff Martin on his 400 acres

neighborhoods, related infrastructure and services. All of these projects around town resulted in unsystematic, piecemeal development leading to problems such as the traffic congestion on Santa Teresa near Christopher High School.

The Neighborhood District Zoning Ordinance was implemented in the 2002 general plan as a strategic growth management tool that encourages greater innovation to achieve housing and community design goals. As the city's zoning code states, these districts were put in place to protect, maintain, and enhance the quality of the city's existing residential neighborhoods.

Former mayor Don Gage, Mayor Perry Woodward and councilmembers Peter Leroe-Muñoz and Terri Aulman took leadership and made the right call in proceeding with the annexation processes for the North Gilroy Neighborhood District—to gain permanent, local control over the planned future growth area, eliminating piecemeal development, maximizing community benefit (schools, roads, highway access, high-end retailers, taxes and fees), preserving our rural character and encouraging comprehensive, thoughtful investment over the next 20-plus years.

The fact is, not a speck of dirt will likely be turned for at least 10 years. This opportunity gives our community time to pause, reflect, engage, consider and verify the facts, cooperatively and carefully plan for a future of our hometown that we can continue to be proud of.

Jeff Martin owns land that is part of the proposed 721-acre North Gilroy Neighborhood District development. He wrote this column for The Dispatch.

Local PR pro takes on a big local development challenge

Posted: Thursday, **January 28, 2016** 9:16 am

As the local public relations professional behind the 247-megawatt Panoche Valley solar project and the No on Measure J campaign, which failed to stop a citizen-led effort to ban fracking in San Benito County in 2014, Kristina Chavez Wyatt is no stranger to controversy.

A native Gilroyan with strong ties to the civic and business networks of the tri-county area, Wyatt, owner-operator of Farmhouse Communications in Hollister, was handpicked to explain the merits of the contentious 721-acre Rancho Los Olivos proposal for north Gilroy to the community and area stakeholders.

Joining the team in December, Wyatt launched a website (rancho-olivros.com) and Facebook page in January, just as the project's application with the city was rescinded at the behest of Mayor Perry Woodward, and after two lawsuits were filed alleging the city's approval ran counter to state environmental guidelines.

Tasked with conveying the “process, methodology, truth and vision” of the proposal, Wyatt said she plans to present to community organizations like the Chamber of Commerce and Rotary as well as neighborhood groups—anyone interested in learning more about the proposal.

The mother of twin four-year-old girls is even open to a land use discussion over coffee or a play date.

“So much of it depends on people's questions and concerns,” said Wyatt. “You could talk until you are blue in the face but what you really want is to find out what are their concerns.”

Referring to herself as a “policy nerd,” Wyatt recently won an award as part of an interdisciplinary consulting team for its work on the economic development element of the city of Salinas general plan.

Wyatt said she has begun meeting with community leaders, like Gilroy Police Chief Denise Turner, and the results of her discussions will be featured in the Rancho Los Olivos website's FAQs.



Kristina Chavez Wyatt

“We are also trying to encourage people to get engaged with the city,” she said. “A lot of it has to do with understanding the planning process and how to work with your elected officials.”

Fully aware of the heightened emotions surrounding the Rancho Los Olivos project, Wyatt is undeterred.

“People don’t like engaging in what they think are contentious political discussions and I don’t really mind it, as long as I can stick to the facts and the truth and talk about what could be best for our community from a public policy standpoint,” said Wyatt, adding that she strives to maintain good relationships throughout the process.

Friendly and down-to-earth, Wyatt said when she is not in her professional attire she is usually wearing jeans and cowboy boots.

An 11-year resident of Hollister, she has ties to the regional agricultural industry. Her husband farms and grows blackberries while she is active in the farm bureaus of San Benito, Monterey and Santa Clara counties. Wyatt was appointed by Gov. Jerry Brown in July 2014 to serve as a Trustee of the San Benito County Fair.

When asked about the impact of Rancho Los Olivos to the ongoing loss of farmland in the county, Wyatt said it was important to preserve agriculture only where it is viable.

“The cost of inputs, labor, regulation, taxation and unwilling neighbors in Santa Clara County have pushed out agriculture,” she said.

“While people like looking at crops, they don’t like the dust, the chemicals, and they don’t like seeing agricultural employees,” she said, adding that some longtime farming families in the county have kids that do not want to be in farming anymore, and so the only way for the family to recoup value or to retire is to develop their property.

Wyatt said while the Rancho Los Olivos application was pulled, the vision for the project is still very much alive.

“The reality is, there is no development. There is a vision plan,” she said. “The reason why there is a vision plan is because LAFCO says you have to have one if you are even going to have the discussion, because you need facts behind it. LAFCO said in the 1960s and 1990s, if the city is to grow, it should be in the northwest quadrant, and that makes sense. It is contiguous to the urban area and its closer to transportation.”

Wyatt said the lawsuit by LAFCO effectively stopped the transfer of information from the applicants via city staff to the agency, whose approval they need to move forward with the annexation. As for the project’s time frame, that discussion is still ongoing.

“We need to talk to city leaders and LAFCO to answer their questions, because nothing can happen without the annexation.”

New cooperation among water agencies

Posted: Thursday, January 28, 2016 3:54 pm

Regional water agencies have been communication and cooperating for the past few years in stark contrast to past years when fights and lawsuits were more the order of the day as each agency sought to get its share.

The new cooperation has been formalized in two major agreements, both approved Wednesday, June 27, but the East Valley Water District (EVWD) Board of Directors.

EVWD General Manager John Mura gave much of the credit to Doug Headrick, general manager of the San Bernardino Valley Municipal Water District, for bringing local water agencies into the fold for the benefit of all.

The agreements also will take the lead in complying with existing law and judicial decisions. At the same time, it undermines efforts of the Local Agency Formation Commission (LAFCO) to force agencies to combine. Mura added that several agencies are very frustrated and angry about some of LAFCO's tactics.

One of the new agreements is the Groundwater Sustainability Council memorandum of understanding. The goal of this document is "to ensure that these groundwater basins are managed in a manner that will be reliable over the long term."

Agencies will work together to provide storage of water in the wet years to provide for adequate supply in the dry years, avoiding the "feast and famine" practices of the past, like the present drought restrictions.

A second document, a memorandum of understanding for the Bunker Hill Basin Conjunctive Use projects also calls for water agency leaders to work together to provide the best reliability for the least cost.

The two documents puts into agreements that have already taken place, for the most part in "handshake" deals among agencies.

Contra Costa Times

Bay Point: Ambrose pool rebuild again delayed by money woes

By [Sam Richards](#)

srichards@bayareanewsgroup.com

Posted: 01/29/2016 06:33:55 PM PST Updated: 3 days ago

BAY POINT -- The resurrection of the Ambrose Park swimming pool is facing more delays, as the lowest among the latest round of bids for the work came in at about \$682,000 more than expected.

That is about 25 percent higher than the estimated cost of to rebuild the pool and replace the restrooms and associated outbuildings at the pool in Ambrose Park, which has been closed since 2009.

"That's a pretty big gap," said Doug Long, general manager of the Ambrose Recreation and Park District. "It's a surprise; the whole point of the redesign was to come in within budget."

Added Ambrose board President Judy Dawson, "I believe the project is still alive and well, and I'm looking at it very positively."

In any event, finding the needed money to close the gap and solicit a new round of construction bids will likely delay the project by months, if not longer.

The pool refurbishing project has been seven years in the planning, and has faced frequent money shortages and three project redesigns. But as recently as October, Ambrose leaders were optimistic that the needed money was in place, and that the remodeling plans -- scaled back from the original rebuild plans, with a pool about two-thirds the size of the old one -- and that almost all the money seemed to be in place gave rise to optimism.

Members of the citizen group West Pittsburg for Progress said this latest setback does nothing to bolster their faith that the pool will ever open again.

"I don't think they've been trying to get that money -- I don't think the effort has been there," said Eduardo Torres, a leader of the "Progress" group that has made the pool one of its main causes. His feelings on the matter are much like they were the last time the pool bids were significantly higher than the pot of money.

"Right now, there's zero confidence in the community with the board and the (Ambrose) general manager," he added.

Ambrose Park was annexed by the city of Pittsburg in September 2008, and therefore the city has influence over approving the pool plans. The Pittsburg Planning Commission in October approved the design review for the project, the last city approval needed.

Long said Friday it is now more important than ever to seek the needed money wherever possible, including from the county, the city of Pittsburg, area businesses and industries and other grant sources.

"We're working diligently to see if we can get some support somewhere to finally get this thing done," he said.

Torres said Long and other Ambrose officials have pledged before to do this.

"I want to see evidence they're actually reaching out to find money, something tangible," Torres said.

Contact Sam Richards at 925-943-8241. Follow him at [Twitter.com/samrichardsWC](https://twitter.com/samrichardsWC)

Imperial Beach News

Imperial Beach & LAFCO Sued Over Jurisdiction Of Sewer Service For Proposed Navy Campus

by Alessandra Selgi-Harrigan | Posted: Saturday, **January 30, 2016** 10:36 am

The City of Coronado has sued the City of Imperial Beach and the Local Agency Formation Commission (LAFCO) over jurisdiction to provide sewer service to the future Navy Coastal Campus, a \$1 billion project with construction scheduled to start in the fall. The complex will be comprised of a number of buildings for a total of 1.5 million square feet and will be the home of the Naval Special Warfare Command. Imperial Beach has a standing agreement to provide sewer service to the Navy since its incorporation in 1956. Prior to the incorporation of the city of Imperial Beach, the sewer district in the area (that is now IB) provided sewer service to the Navy.

Once the city was incorporated it inherited that agreement. "Our records go back to 1967 and state this is another five year extension to the agreement," said Imperial Beach City Manager Andy Hall.

About 10 years ago the Navy started studying the Naval Radio Facility location on the Strand to serve as a Navy campus. When the Environmental Reports were disclosed the City of Coronado responded with a 21 page document that requested that if IB was going to provide sewer service it needed the approval of LAFCO. LAFCO responded that since there was a standing agreement between Imperial Beach and the Navy predating 2001 the agreement was exempted from LAFCO's jurisdiction. LAFCO's executive director Michael Ott made a determination that the agreement predated 2001 and that decision upheld by LAFCO's board was approved it 7 to 1 votes.

LAFCO is an agency set up under state law that in simple terms puts together and makes sure boundaries are logical within cities and decides who provides services. "One of their duties is to decide service areas," confirmed Hall. The lawsuit points to LAFCO for allowing Imperial Beach to provide sewer service.

"We have always provided sewer service. If we did not have this agreement we wouldn't provide it. IB doesn't care. If [the Navy] says 'we have worked out an agreement with Coronado'...fine, but we have a contractual obligation and we'll not renege on our contract and we plan to honor it," said Hall.

It is to be noted that Imperial Beach would not benefit financially because the revenue is rolled back into the sewer enterprise fund and cannot be used for any other project. The same goes for the City of Coronado. "The Navy has made it clear they expect us to continue this agreement," said Hall.

The lawsuit states that the Navy Campus is within the Coronado's city boundaries and therefore "Imperial Beach has no authority to provide sewer service to the Coastal Campus Project....Sewer service many [sic] only be provided in another city's boundaries upon the consent of the affected city."

"IB agrees with the premise of Coronado that their city should provide sewer service within its municipalities but we have an agreement with the Navy before the formation of LAFCO. We are not going to go after providing water or police; we agree they should provide their own municipal services," said Hall. "We agree with the premises [of Coronado's position] but have an agreement we believe we have to honor."

"The city hopes to resolve the matter through negotiation. We feel that we have put forward a proposal that allows us to retain local control, does not affect the project's schedule and allows Imperial Beach to upgrade its infrastructure," read a statement via email from Coronado City Manager Blair King to the Eagle & Journal. The email also read, "That the proposed wastewater extension be allowed to exist for fifty years as long as the project remain the project described in the Environmental Impact Statement: (this will allow for the recovery of any costs for the investment in public infrastructure); we have asked to be held harmless and indemnified from any sewer spills that occur in Coronado originating from the City of Imperial Beach's Wastewater operations; we have asked that if Imperial Beach makes a profit from Coronado be returned to Coronado; and we have requested that stalled talks with regard to a Recycled Water Project be resumed."

The City of Coronado has asked the Navy to provide a recycled water system and provide water to its parks and golf courses.

Mayor Serge Dedina was surprised about the lawsuit. "I'm shocked the City of Coronado is doing this...we have a commitment with the Navy...we are stuck in the middle. Coronado has a \$45 to 46 million dollar budget we have a third of that," he said adding that the city has already spent \$10,000 to \$15,000 that could otherwise be used for other projects within the city.

A press release by the City of Imperial Beach states: "Legal action by Coronado could result in termination of the very important Special Warfare Campus that is vital for U.S. national security. That is because environmental studies to analyze the new sewer alignment will take many months, significantly increase the cost of the facility, and jeopardize the funding for a project deemed critical in the War on Terror."

Contra Costa Times

Kensington: Residents critical of local police board say cops have harassed them

By [Thomas Peele](#)

tpeele@bayareanewsgroup.com

Posted: 01/31/2016 04:05:00 PM PST Updated: about 5 hours ago

KENSINGTON -- In this bucolic East Bay hillside town divided by constant political strife, residents have watched the local police board's every move for years. Now some of them say they are being watched back -- and sometimes harassed.

As an outside police force investigates claims from one of Kensington's critical board members that two cops pulled her over and threatened to arrest her, some residents and former elected officials have come forward to say they've endured similar treatment after asking tough questions to the town's board that does little more than oversee its 10-member police department.

The uproar is the latest turmoil in this upscale community just months after the police chief's ouster over a scandal in which a Reno prostitute stole an officer's badge and gun.

Emails, interviews, police and town documents show at least four other people have made similar allegations here in the last five years and five others have come to the newspaper with complaints.

They range from a former California Inspector General to senior citizen activists. Some say they were followed home by cops who parked outside their houses. One former board member said the town's police launched a sexual harassment investigation against her after claiming she exposed herself to officers sent to deliver town documents to her house.

The feud has grown during nearly two years of contract talks with the police unions. Some critics insist officers should contribute to the cost of pension and health care benefits they now receive for free.

Police services board President Len Welsh downplayed the claims, saying that he believed the incidents were misinterpreted as threats and that police need "better training in how they appear in other people's eyes. People are very sensitive." But he added that some of the complaints "happened before my time" and he didn't know details.

The rancor is another example of how small towns with politically active citizens like Kensington can turn into a "fiefdom," said retired Superior Court Judge and San Jose Independent Police Auditor LaDoris Cordell. "If people are being harassed and retaliated against for exercising their First Amendment rights it is very scary."

Even a former high-ranking state official, former Inspector General Laura Chick, told this newspaper she felt intimidated after speaking critically of the town board at a community meeting.

She said two police officers came to her home days later and told her a 911 call had been made from the residence. But she'd made no such call, she said, and was the only one home other than a young grandchild.

"I wouldn't let them in," she said. "I don't get intimidated easily, but this was intimidating, unsettling. It was soon after I spoke. It was connected." She said she called police and was told the incident occurred because of a 'crossed wire.' It was ridiculous."

Town board member Vanessa Cordova, who has pushed for reforms, said police once came to her home claiming a 911 call had been made, which she also denied making. Cordova's complaint that two Kensington officers pulled her over in Berkeley in November is under investigation after Kensington's interim police Chief Kevin Hart asked Richmond police to review whether the officers harassed and threatened her as she claims.

Former police Chief Greg Harman, in office when nearly all of the allegations occurred, didn't return calls for interviews. He was forced out last year for his handling of Sgt. Keith Barrow's discipline after the officer's off-duty encounter with a prostitute in a Reno hotel room.

Barrow, who is the president of the local police union, also didn't return messages. The union's attorney Justin Buffington returned a message late Friday but did not provide a specific comment.

Hart, who recently wrote in a local online forum, "I am disappointed by how quickly the conspiracy theories arise within this community," didn't return messages.

Kensington officials "need to look very carefully at (the allegations) and track (them). There's a pattern," said Chick, who is also a former Los Angeles city councilwoman.

"Instances of harassment in Kensington have been legion, particularly for people who have become active in (district) business," said Cathie Kosel, a former board member and harsh critic of Harman.

In 2010, while Kosel was still on the board, district lawyer Kurt Franklin sent her an email with a shocking claim: Two cops were accusing Kosel of exposing herself to them.

"They said I'd answered my door and that I'd been naked. It takes your breath away to be in your 60s and have someone accuse you of indecent exposure," Kosel said recently. "They were trying to scare the crap out of me."

Kosel said the incident never happened. She was not charged with a crime. But Harman ordered a sexual harassment investigation, "having overheard comments by officers in the hallway at headquarters," and hired a lawyer to conduct it, Franklin wrote.

Kosel pushed back, demanding that if the cops had seen her naked, they could describe several scars on her body. But she said she never got an answer.

Eventually the allegation drifted away after Kosel lost a re-election bid. The investigator, Lee Ann Wallace, never submitted a report, Franklin emailed Kosel in 2012. Wallace declined to comment. Franklin did not return messages.

It's not just board members making claims. Three residents told the newspaper they had been followed closely by police cars after speaking out at public meetings. "They were 2 feet off my bumper. They're following old ladies around," Marilyn Stollen said.

UC Berkeley emeritus professor Andrew Gutierrez filed a formal complaint of intimidation in 2013 that two officers made a sharp U-turn and drove up behind his car at a high speed. Both he and the officers pulled over, but the cops remained in their car.

In response to Gutierrez's complaint, Harman wrote that the officers chose not to cite him for a broken taillight. The reason, the chief wrote: "to avoid any type of allegation of harassment made by you ... because of prior criticisms you have made against the Kensington Police Department."

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Contra Costa Times

San Pablo: Doctors Medical Center property to be sold to hotel group

By [Tom Lochner](#)

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Doctors Medical Center closes its doors in San Pablo, Calif. on Tuesday, April 21, 2015. (Kristopher Skinner/Bay Area News Group)

SAN PABLO -- The buildings and property that housed Doctors Medical Center, shuttered last year when it ran out of money, is under contract to be sold to a Davis-based operator of boutique hotels for \$13.5 million.

Royal Guest Hotels operates five hotels, according to its website: University Park Inn & Suites, Best Western Plus Palm Court Hotel and Aggie Inn, all in Davis; and Hotel Med Park and The Inn Off Capitol Park, both in Sacramento.

The board of the West Contra Costa Healthcare District, which owns the hospital, accepted Royal Guest Hotels' offer in January over those of several other bidders, some of whom offered more cash, although the firmness of the higher offers was in doubt.

"The board decided that other deals would take too long to close and were too speculative, in part because of needed environmental studies and city approvals -- especially if demolition and new construction were involved," a health care district staff report reads in part. "In staff's opinion the RGH deal provides more certainty and hopefully a shorter wait."

John Troughton, vice president at Sacramento-based Kennedy Wilson, the real estate brokerage that represented the health care district, opined that the district "is receiving a fair price for DMC."

Doctors Medical Center, which opened in 1954 as Brookside Hospital, closed its doors to patients on April 21 after years of financial struggles that officials blamed largely on low

reimbursement rates for Medi-Cal and Medicare patients, who constituted about 80 percent of DMC's patient mix. The hospital's emergency room closed in 2014.

District officials said last year that a viable and sustainable offer from a hospital operator would have priority over a more lucrative one for the remaining 8.3 acres of the hospital campus. In March, the district sold to the city of San Pablo a 2.5-acre slice of the campus that is being leased to the adjacent Lytton Rancheria casino for parking.

In the summer, the Salvation Army made an offer for the campus but withdrew it, according to the district staff report. Another offer, for \$19 million, from Drever Capital, was withdrawn as well; Drever had proposed renovating DMC and use it as a dementia facility, according to the staff report.

V Covington LLC, also known as US HealthVest, and Central Valley Specialty Hospital also made tentative offers that did not come to fruition, according to the district staff report.

The deal with Royal Guest Hotels is expected to close in six or seven months.

San Pablo, which had a right of first refusal to buy the property, decided not to exercise that right at a closed-session City Council meeting last week. "The price we would have to match is way too high and would be an unacceptable use of public funds," San Pablo Mayor Rich Kinney explained Monday.

"If that high-end hotel comes in here, it could be a very good thing for our community," Kinney said. A hotel would generate tax funds, he said, adding, "Most hotels around here are almost packed. All over West County, it's hard to find a room in a decent hotel."

Royal Guest Hotels did not return calls this week seeking comment.

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