

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

May 9, 2018 (Agenda)

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Agenda Item 7

LAFCO 17-06 Bay Point Regional Shoreline Annexation to Delta Diablo (DD) Zone 1
PROPONENT East Bay Regional Park District (EBRPD) by Resolution No. 2017-12-330 adopted December 5, 2017

SYNOPSIS This is a proposal to annex 2.74± acres of the Bay Point Regional Shoreline (BPRS) to DD sanitary district as shown on the attached map (Attachment 1). The annexation area includes 2.58± acres of EBRPD land (APN 098-020-021), along with a 0.16+ acre strip of a Contra Costa Water District parcel (APN 098-020-002). The annexation area is located at the end of McAvoy Road in unincorporated Bay Point, and is outside the Urban Limit Line.

PURPOSE The purpose of the proposal is to facilitate an upgrade to the existing vault toilet restroom and allow for a flush toilet restroom at the BPRS staging area. Installing a sewer line to the new restroom would require connection to a DD pipeline.

DISCUSSION

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

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

In April, 2018, the Commission amended the SOI for DD to coincide with the proposed annexation. Thus, the area proposed for annexation is within DD's SOI.

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

The County's General Plan designation for the subject property is Parks and Recreation (PR) and the zoning is Planned Unit (P-1). The land uses in the area are park and recreation and the area provides access to the shorelines, trails and picnic facilities. Adjacent to and north of the parkland is marsh owned by the California State Lands Commission that is leased to the EBRPD. The Shore Acres/ Bay Point neighborhood is south of the project site, McAvoy Harbor is to the east, and marshland owned by the federal government is to the west.

In 2001, the EBRPD prepared a Land Use Plan (LUP) for the BPRS. Consistent with prior planning efforts, the parkland will be managed to conserve natural resources including wetlands and uplands habitat, provide recreational opportunities, and improve shoreline access and public safety in the area. The LUP includes a recreation/staging unit development component on 7+ acres. The staging area includes shade structures, parking, a bus turnaround and restrooms. Recreational amenities in this area include picnic facilities, carry-in boat access to the channel, and trailheads for two trails, along with related utility infrastructure.

Since the project approval in 2001, some of the project components have been constructed. To date, parking, bus turnaround, vault toilet, picnic facilities, electrical services, and the two trailheads are all in place; components not yet implemented include shade structures, potable water, non-motorized watercraft launch, and the marsh restoration project and natural unit management elements. The EBRPD now proposes some modifications to the original plan, along with construction of the remaining components, including marsh restoration, two trails, a non-motorized watercraft launch, and a municipal sewer connection to upgrade the existing restroom.

The proposed annexation will have no effect on any of the above described land uses.

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

There is no proposed land use change associated with the annexation; the subject area will remain a regional shoreline. No portion of the subject area is subject to a Williamson Act contract; and the proposed annexation will have no impact on agricultural or open space lands.

4. Topography, Natural Features and Drainage Basins:

The property proposed for annexation is located on an upland area, and on an existing graded parking lot/staging area.

5. Population:

No development is proposed in conjunction with the annexation, and no population increase will result from this proposal.

6. Fair Share of Regional Housing:

In its review of a proposal, LAFCO must consider the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments, which in Contra Costa County, is the Association of Bay Area Governments (ABAG). The proposed annexation will have no effect on regional housing, as no development is proposed.

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

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

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

The subject property receives municipal services from a number of public agencies including Contra Costa County and Contra Costa County Fire Protection District (CCCFPD).

The proposal before the Commission is to annex the property to DD for the provision of municipal sewer service to upgrade the restroom facility from a vault toilet to a flush toilet which will better serve the shoreline visitors. No other changes to services are proposed.

8. Timely Availability of Water and Related Issues:

Pursuant to the CKH, LAFCO must consider the timely and available supply of water in conjunction with a boundary change proposal. Contra Costa LAFCO policies state that any proposal for a change of organization that includes the provision of water service shall include information relating to water supply, storage, treatment, distribution, and waste recovery; as well as adequacy of services and facilities. The area proposed for annexation will rely on ground water from an on-site well which is expected to have adequate yield to meet anticipated demands.

The proposal before the Commission is to annex the subject property to DD sanitary district. DD serves the cities of Antioch and Pittsburg and the unincorporated Bay Point community. DD serves approximately 212,000 residents in a service area of 54± square miles. DD has over 49 miles of gravity sewer main, 14 miles of pressure force mains, and five pump stations. DD's treatment plant has an average dry weather flow capacity of 19.5 million gallons per day (mgd). During the most recent reporting period (2016), the average dry weather flow was 12.3 mgd. In 2010, 2013, and 2014, the average dry weather flows at the plant were 13.4, 13.1 and 12.5 mgd, respectively. The subject area is located in Zone 1 of DD's service area. DD estimates that the proposed flush toilets will generate approximately 220 gallons per day of wastewater discharge. DD indicates that it has adequate capacity to serve the restroom at the BPRS.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 79076. The area proposed for annexation is publicly owned and shows \$0 assessed value (2017-18 roll). The territory being annexed shall be liable for all authorized or existing taxes and bonded debt comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

The EBRPD, as Lead Agency, prepared a Mitigated Negative Declaration (MND) in 2001, and an Addendum in 2017; no environmental impacts from the proposed project have been identified. The Addendum specifically addresses annexation to DD and is adequate for LAFCO purposes.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are fewer than 12 registered voters in the subject area; thus, the area proposed for annexation is considered uninhabited. The applicant indicates that 100% of the affected landowners have provided written consent to the annexation. Thus, if the Commission approves the annexation, the Commission may waive the protest hearing (Gov. Code §56662). All landowners and registered voters within the proposal area and within 300 feet of the exterior boundaries of the area have received notice of the LAFCO hearing.

12. Boundaries and Lines of Assessment:

The annexation area is within the SOI of DD; an SOI amendment was approved by the Commission on April 18, 2018 to include the subject area. A map and legal description to implement the proposed boundary change has been received and is subject to final approval by the County Surveyor.

13. Environmental Justice:

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

14. Disadvantaged Communities:

In accordance with recent legislation (SB 244), local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic

infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/amendments, and annexations must take into consideration DUCs, and specifically the adequacy of public services, including sewer, water, and fire protection needs or deficiencies, to these communities. Based on State criteria, Bay Point is a DUC. Although Bay Point is a DUC, it receives critical services including police (Contra Costa County), fire (CCCFPD), water (Golden State Water) and wastewater (DD). Further, the improvements to the Bay Point Regional Shoreline will benefit the greater Bay Point community.

15. **Comments from Affected Agencies/Other Interested Parties:**

To date, LAFCO has received no comments from affected agencies or other interested parties.

16. **Regional Transportation and Regional Growth Plans:**

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to Gov. Code §65080 [Gov. Code §56668(g)]. Further, the Commission may consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or subregional basis (Gov. Code §56668.5). Regarding these sections, LAFCO looks at consistency of the proposal with the regional transportation and other regional plans affecting the Bay Area.

SB 375 requires California's regions to adopt plans and policies to reduce the generation of greenhouse gases (GHG), primarily from transportation. To implement SB 375, in July 2013, ABAG and the Metropolitan Transportation Commission (MTC) adopted Plan Bay Area as the "Regional Transportation Plan and Sustainable Communities Strategy" for the San Francisco Bay Area through 2040. Plan Bay Area focuses on where the region is expected to grow and how development patterns and the transportation network can work together to reduce GHG emissions. The Plan's key goals are to reduce GHG emissions by specified amounts; and to plan sufficient housing for the region's projected population over the next 25 years.

In July 2017, ABAG and MTC adopted Plan Bay Area 2040, which updates the 2013 Plan Bay Area and reaffirms the goals and targets identified in the earlier version. Plan Bay Area establishes "Priority Conservation Areas" (PCAs) and "Priority Development Areas" (PDAs), and focuses growth and development in nearly 200 PDAs. These existing neighborhoods are served by public transit and have been identified as appropriate for additional, compact development. The area proposed for annexation is not within a PCA or a PDA; the proposed annexation does not appear to conflict with the regional transportation or growth plans.

ALTERNATIVES FOR COMMISSION ACTION

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

- Option 1** Approve the annexation as proposed.
- A. Determine that the EBRPD, as Lead Agency, prepared a Mitigated Negative Declaration (2001) and an Addendum (2017) to the MND.
 - B. Certify that LAFCO has reviewed and considered the information contained in these CEQA documents as prepared by the EBRPD.
 - C. Adopt this report, approve LAFCO Resolution No. 17-06 (Attachment 2), and approve the proposal, to be known as the *Bay Point Regional Shoreline Annexation to Delta Diablo* subject to the following terms and conditions:

1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agencies.
 2. EBRPD has delivered an executed indemnification agreement providing for the District to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
 3. DD's wastewater service is limited to serving the restroom facility located in the annexation area.
- D. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

Option 2 Accept this report and DENY the proposal.

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

RECOMMENDED ACTION:

Option 1 – Approve the annexation as proposed.

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

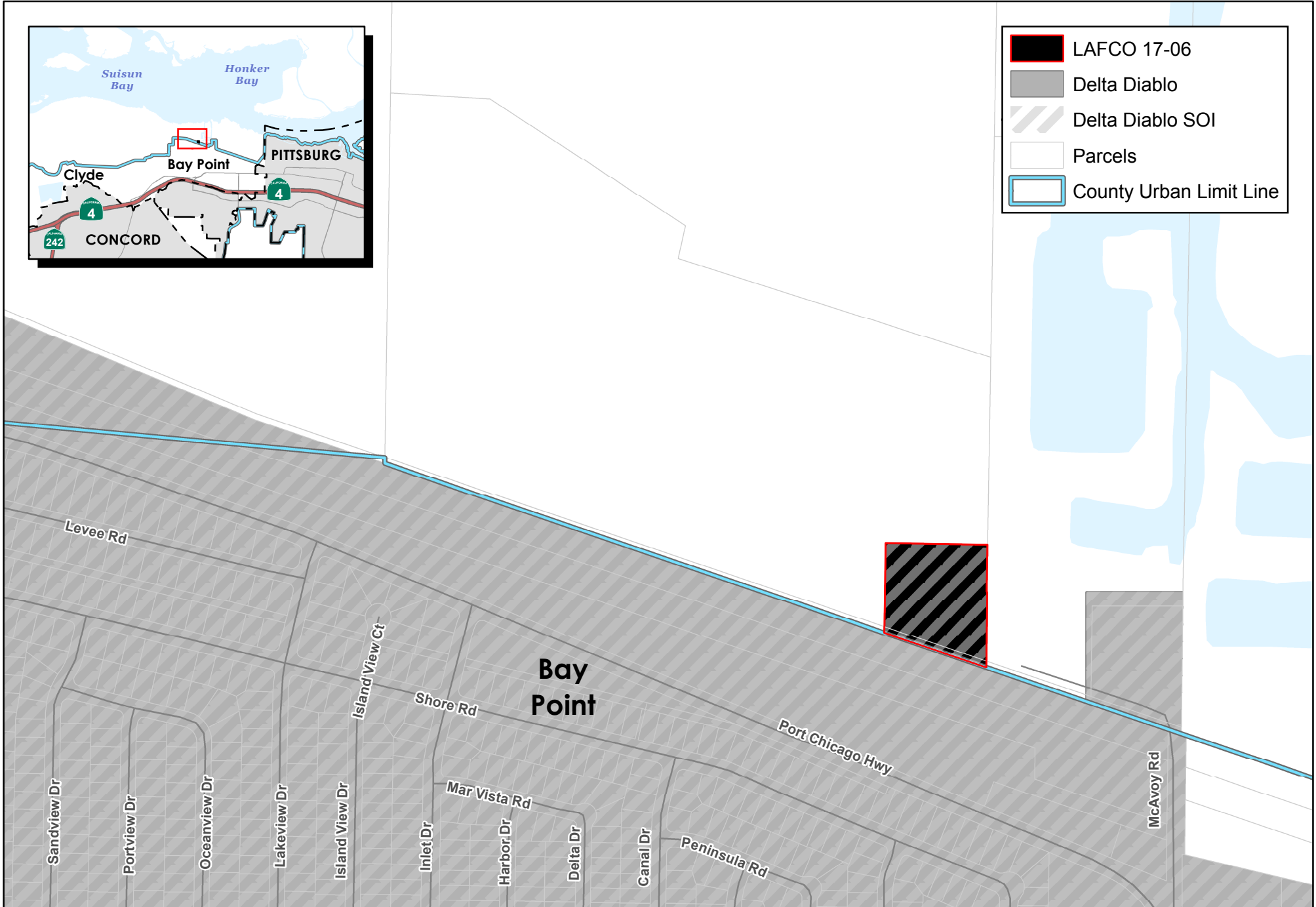
Attachments

1 – Annexation Map

2 – Draft LAFCO Resolution 17-06

c: Distribution

LAFCO No.17-06 - Bay Point Regional Shoreline Partial Parcel Annexation to Delta Diablo



RESOLUTION NO. 17-06

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
BAY POINT REGIONAL SHORELINE ANNEXATION TO DELTA DIABLO, ZONE 1**

WHEREAS, the Bay Point Regional Shoreline Annexation to Delta Diablo (DD) was filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code §56000 et seq.); and

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

WHEREAS, the Commission held a public hearing on May 9, 2018 to consider the Bay Point Regional Shoreline Annexation proposal; and

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

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

1. Determine that the East Bay Regional Park District (EBRPD) as applicant and Lead Agency, prepared a Mitigated Negative Declaration (2001) and an Addendum (2017) to the MND, and that LAFCO has reviewed and considered the information contained in these CEQA documents.
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:
BAY POINT REGIONAL SHORELINE ANNEXATION TO DELTA DIABLO, ZONE 1
4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
5. Approval of the Bay Point Regional Shoreline Annexation is subject to the following:
 - a. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agencies.
 - b. EBRPD has delivered an executed indemnification agreement between EBRPD and Contra Costa LAFCO providing for EBRPD to indemnify LAFCO against any expenses arising from any legal actions challenging the Bay Point Regional Shoreline Annexation.
 - c. DD's wastewater service is limited to serving the restroom facility located in the annexation area.
6. The territory proposed for annexation is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

Contra Costa LAFCO
Resolution No. 17-06

7. All subsequent proceedings in connection with the Bay Point Regional Shoreline Annexation shall be conducted only in compliance with the approved boundary set forth in the attachments and any terms and conditions specified in this resolution.

* * * * *

PASSED AND ADOPTED THIS 9th day of May 2018, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

MICHAEL R. MCGILL, CHAIR, CONTRA COSTA LAFCO

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

Dated: May 9, 2018

Lou Ann Texeira, Executive Officer