

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

December 12, 2018
Agenda Item 7

December 12, 2018 (Agenda)

LAFCO 18-11

Spinnaker Cove Waterline Extension - Annexation to Contra Costa Water District

PROPONENT

Contra Costa Water District by Resolution No. 18-0004 adopted April 18, 2018

SYNOPSIS

The applicant proposes to annex 35.37± acres (numerous parcels) located at 4100 Sandmound Blvd, adjacent to Sandmound Slough on the Hotchkiss Tract, in the unincorporated Oakley area (Exhibit 1). Annexation will bring the property and a portion of road right-of-way into the service boundary of CCWD, and will allow for the extension of municipal water service to 91 approved residential units including 27 single family units and 64 condominium units; 12 of the units are constructed and are currently without water service.

The proposed waterline extension will enable the allocation of untreated water from CCWD and delivery of treated water by the Diablo Water District (DWD). The subject area is within the sphere of influence (SOI) of CCWD, and is within the boundary and SOI of DWD. The area proposed for annexation is partially outside the County's Urban Limit Line (ULL) as shown on the attached map.

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:

The area proposed for annexation is within CCWD's SOI.

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

The subject property consists of graded land with 91 approved homes, 12 of which are constructed. The County's land use designations include Single Family Residential High Density and Agricultural Lands & Off Island Bonus Area (General Plan) and Planned Unit Development (zoning). The project site is bounded on the east by Sandmound Slough, boat docks, and unimproved land/open space; on the west and south by unimproved land/open space; and on the north by the Summer Lakes community; residential homes along Sandmound Blvd, and boat docks. The proposed annexation will have no effect on the land uses.

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

There are no proposed land use changes associated with the annexation. The 91-unit residential development project was approved by the County in 1986. No portion of the subject area is subject to a Williamson Act contract. The area directly east is water. Immediately east of the waterway is land designated Delta Recreation (General Plan) and zoned A-3 (Heavy Agriculture) (parcel 10 acre minimum). Impacts to agricultural land was analyzed in a project-level environmental report prepared in 1980 in conjunction with the development project and in the 2017 Mitigated Negative declaration. In 2002, LAFCO relied on the County's 1980 CEQA environmental when it approved annexation of the project site to DWD. The proposed annexation to CCWD will have no direct impact on agricultural lands.

4. Topography, Natural Features and Drainage Basins:

The subject property is a generally flat site which previously underwent rough grading. The project site is bounded by Sandmound Slough on the east.

5. Population:

No development is proposed in conjunction with the annexation, and no population increase will result from this proposal. The 91 home development was approved by the County in 1986. The development project will result in an increase in population of approximately 300 people.

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

In Contra Costa County, the Association of Bay Area Governments (ABAG) determines each city's fair share of regional housing needs. Each jurisdiction is required, in turn, to incorporate its fair share of the regional housing needs into the housing element of its General Plan. In July 2013, ABAG adopted the 2014-2022 Regional Housing Needs Allocation (RHNA) Plan for the San Francisco Bay Area. None of the Spinnaker Cove residential units are designated "above moderate", "moderate", "low" and/or "very low" income units.

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 is without the boundaries of a number of municipal service agencies including Contra Costa County, DWD, East Contra Costa Fire Protection District, and Ironhouse Sanitary District.

The proposal before the Commission is to annex the property to CCWD for the provision of municipal water service for domestic and fire suppression purposes. Municipal water service is needed to support the 91-home development project. The subdivision is located within DWD's service boundary and within CCWD's SOI. CCWD supplies untreated water to DWD, and DWD provides treated water service.

The Spinnaker Cove project was originally approved by Contra Costa County in 1986 with authorization for use of ground wells, subject to water quality testing and County Health Department approval. Analysis of the well water shows that the levels of iron, manganese, and

nickel present in the water are significantly in excess of the allowable County and State standards. Further, that the ability to treat and maintain acceptable water quality over time through a privately maintained system is questionable.

Following receipt of all local, state, and federal permits, the developer completed all subdivision grading and site improvements, including roadways, utilities, street lights, drainage, etc. Twelve single-family homes have been built within the overall 91-unit subdivision, but none have yet been occupied due to the lack of a reliable source of acceptable water. Municipal water is needed to serve the project.

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, facilities, and improvements to be provided and financed by the agency responsible for the provision of such services, facilities and improvements.

The proposal before the Commission includes annexation of the subject property to CCWD. CCWD's boundary encompasses 220± square miles in central and eastern Contra Costa County. CCWD's untreated water service area includes Antioch, Bay Point, Oakley, Pittsburg, and portions of Brentwood and Martinez. The District's treated water service area includes Clayton, Clyde, Concord, Pacheco, Port Costa, and parts of Martinez, Pleasant Hill, and Walnut Creek. CCWD also treats and delivers water to the City of Brentwood, Golden State Water Company (Bay Point), Diablo Water District (Oakley), and the City of Antioch. CCWD serves approximately 500,000 (61,085 water connections). The primary sources of water are the USBR CVP and delta diversions. One of CCWD's prerequisites for service, including annexation, is inclusion in the CVP service area. The CVP inclusion review is a separate process, and requires specific environmental documents. The landowners and CCWD will work together to complete the CVP process.

The District's water delivery will be facilitated through construction of a new potable water transmission line by DWD, who will be the retail water service provider. The line will extend east from a point within the existing East Cypress Road/Summer Lake Drive intersection, approximately 1,700 feet within the existing street right-of-way of Sandmound Blvd, and then south approximately 2,700 feet within the existing right-of-way of Sandmound Blvd into the entrance of Spinnaker Cove. At project buildout there will be 91 residential one-inch water meters, one recreation building one-inch water meter, and three one-inch irrigation water meters. Fire hydrants will be installed approximately every 500 feet.

Based on the development of the 91 residential units, one recreation facility and three irrigation services, the maximum demand for service is approximately 80,000 gallons of water per day. Both CCWD and DWD indicate they have the capacity to serve the project.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 72027. The assessed value for the annexation area is \$3,631,636 (2018-19 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 original entitlements for the Spinnaker Cove development were approved by Contra Costa County, following preparation of an Environmental Impact Report (EIR) in 1980. The previous EIR was also relied on by LAFCO in its 2002 annexation of the Spinnaker Cove development into DWD's service boundary. In 2017, DWD, as Lead Agency, prepared a Mitigated Negative Declaration (MND) in conjunction with the Spinnaker Cove Waterline Extension project and proposed annexation to CCWD. The LAFCO environmental coordinator has reviewed the MND and determines that it is acceptable for LAFCO purposes.

11. Landowner Consent and Consent by Annexing Agency:

According to County Elections, there are zero registered voters in the subject area; thus, the area proposed for annexation is considered uninhabited. The applicant indicates that less than 100% of the affected landowners have provided written consent to the annexation. Should LAFCO receive opposition from the landowner, a protest hearing will be required. All landowners and registered voters within the proposal area and within 300 feet of the exterior boundaries of the area have also received notice of the LAFCO hearing.

12. Boundaries and Lines of Assessment:

The annexation area is within the SOI of CCWD. A map and legal description to implement the proposed annexation 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 proposals 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 Senate Bill 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. According to the County's Department of Conservation and Development, the annexation area does not meet the criteria of a DUC.

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 Section 65080 [Gov. Code section 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 section 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, a landmark state law, 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. 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.

The Plan Bay Area directs future development to infill areas within the existing urban footprint and focuses the majority of growth in self-identified Priority Development Areas (PDAs). PDAs include infill areas that are served by transit and are located close to other amenities, allowing for improved transit, bicycle and pedestrian access thereby reducing the amount of transportation related GHG generated. Plan Bay Area also aims to protect open space and agricultural land by directing 100% of the region's growth inside the year 2010 urban footprint, which means that all growth occurs as infill development or within established urban growth boundaries or urban limit lines. As the plan assumes that all urban growth boundaries/urban limit lines are held fixed through the year 2040, no sprawl-style development is expected to occur on the region's scenic or agricultural lands.

Plan Bay Area also includes projections for the region's population, housing and job growth, and indicates that the region has the capacity to accommodate expected growth over the next 25 years without sprawling further into undeveloped land on the urban fringe.

ABAG and MTC are in the process of updating the Plan Bay Area. The final Plan and EIR are expected to be approved this summer.

The subject property is not designated as a "Priority Conservation Area" or a "PDA", and the proposed annexation will have no impact on the regional plan.

ALTERNATIVES FOR COMMISSION ACTION

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

- Option 1** Approve the annexation as proposed.
- A. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in Diablo Water District's Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program in conjunction with the *Spinnaker Waterline Extension Project*.
 - B. Adopt this report, approve LAFCO Resolution No. 18-11 (Exhibit 2), and approve the proposal, to be known as the *Spinnaker Cove Waterline Extension Project – Annexation to CCWD* subject to the following terms and conditions:

1. This annexation will allow the delivery of treated water exclusively for use by the future residents of the Spinnaker Cove residential development project, and related uses including fire suppression.
 2. 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.
 3. CCWD has delivered an executed indemnification agreement providing for the District to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
 4. Water service to the annexation area is conditioned upon CCWD receiving Central Valley Project (CVP) inclusion approval from the USBR, pursuant to the requirements in CCWD's contract with USBR for the use of CVP water.
- C. Find that the subject territory is uninhabited, and the proposal has less than 100% landowner consent. Thus, if the affected landowner protests the annexation, a protest hearing will be required. If no protests are received, the protest proceedings will be 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

Exhibits

1 – Annexation Map

2 – Draft LAFCO Resolution 18-11

c: Distribution

LAFCO 18-11 – Spinnaker Cover Waterline Extension Annexation to Contra Costa Water District (CCWD)



RESOLUTION NO. 18-11**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
SPINNAKER COVE WATERLINE EXTENSION
ANNEXATION TO CONTRA COSTA WATER DISTRICT**

WHEREAS, the Spinnaker Cove Waterline Extension Project annexation to Contra Costa Water District proposal (“Spinnaker Cove annexation proposal”) 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 Spinnaker Cove annexation proposal; and

WHEREAS, the Commission held a public hearing on December 12, 2018, on the Spinnaker Cove 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. Find that, as a Responsible Agency under CEQA, the Commission has reviewed and considered the information contained in the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program in conjunction with the Spinnaker Cove annexation proposal.
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:
SPINNAKER COVE ANNEXATION PROPOSAL
4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit 1, attached hereto and made a part hereof.
5. Approval of the Spinnaker Cove annexation proposal is subject to the following:
 - a. This annexation will allow the delivery of treated water exclusively for use by the future residents of the Spinnaker Cove residential development project, and related uses including fire suppression.
 - b. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
 - c. CCWD has delivered an executed indemnification agreement providing for the District to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.

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- d. Water service to the annexation area is conditioned upon CCWD receiving Central Valley Project (CVP) inclusion approval from the acceptance for inclusion of the annexed area from the United States Bureau of Reclamation (USBR), pursuant to the requirements in CCWD's contract with USBR for the use of CVP water.
- 6. Find that the subject territory is uninhabited, and no landowners have protested the annexation; thus, the protest proceedings are waived.
- 7. All subsequent proceedings in connection with the Spinnaker Cove annexation proposal shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

PASSED AND ADOPTED THIS 12th day of December 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: December 12, 2018

Lou Ann Texeira, Executive Officer