

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

September 12, 2012 (Agenda)

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Agenda Item 8

LAFCO 12-03 San Damiano Annexation to East Bay Municipal Utility District (EBMUD)
PROPONENT EBMUD by Resolution No. 33853-11 adopted November 22, 2011
ACREAGE & LOCATION The District proposes to annex 27.5± acres (three parcels) located in western Danville at the terminus of Highland Drive (APNs 208-130-031/032/035).

SYNOPSIS

EBMUD filed an application with LAFCO to annex property to the District. The purpose of the annexation is to correct the EBMUD service area map and place the use boundary in compliance with LAFCO regulations and the EBMUD contract with the United States Bureau of Reclamation. The properties are developed and have existing water service through EBMUD.

DISCUSSION

On May 8, 2012, EBMUD submitted an application to Contra Costa LAFCO to annex 27.5± acres (three parcels) to the District. The properties are located in Danville and already receive water service through EBMUD. The purpose of the annexation is to correct a boundary/map irregularity.

EBMUD is a multi-county district which serves portions of Alameda and Contra Costa counties. Alameda County is the principal county; therefore, Contra Costa LAFCO must request a transfer of jurisdiction from Alameda LAFCO in order to consider the EBMUD boundary change application.

Contra Costa LAFCO staff requested a transfer of jurisdiction and on July 12, 2012, Alameda LAFCO approved the request to transfer jurisdiction to Contra Costa LAFCO.

In considering a boundary change proposal, the Commission must consider various factors set for in Government Code §56668. In the Commission's review and evaluation, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

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

The properties proposed for annexation are within EBMUD's sphere of influence (SOI) and within the County Urban Limit Line; and all parcels are located in the Town of Danville.

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

The annexation area includes the San Damiano Catholic Retreat facility, an adjacent residential parcel, and a portion of an undeveloped third parcel that is partially within EBMUD's service area (Attachment 1).

The Town of Danville's General Plan designation is Residential, Country Estates and the Zoning designation is Residential R-65 (Single Family Residential - lot size 65,000 sq. ft. minimum). No changes are proposed to General Plan or zoning designations as part of this proposal.

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

The properties proposed for annexation contain no prime farmland or land covered under Williamson Act Land Conservation agreements.

4. Topography, Natural Features and Drainage Basins:

The topography of annexation area is rural urban interface. The surrounding areas include similar country residential estates to the north, east and west, and open space and parkland (East Bay Regional Parks) to the south.

5. Population:

The proposed annexation will result in no increase in population.

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. The proposed annexation will have no effect on regional housing needs.

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

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

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

The "Plan for Providing Services within the Affected Territory," as required, is on file in the LAFCO office. The properties proposed for annexation are currently served by various local agencies including, but not limited to, the Town of Danville, Contra Costa County, San Ramon Valley Fire Protection District, and Central Contra Costa Sanitary District.

The proposal before the Commission is to annex the properties to EBMUD to correct a boundary irregularity. The properties currently receive water service from EBMUD.

8. Timely Availability of Water and Related Issues:

The properties proposed for annexation are already receiving water service through EBMUD. EBMUD provides wholesale water, retail water, wastewater collection and wastewater treatment services for an area of 331± square miles in Alameda and Contra Costa counties, serving over 1.4 million people. Water service includes production, distribution, retail, treatment, recycling and conservation services. Historically, over 90% of EBMUD's water comes from the Mokelumne River watershed. Other water sources include local watershed runoff and Central Valley Project (Sacramento River).

The proposed annexation will have no effect on water usage, and will not lead to the construction of new or expansion of existing water facilities.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate areas 16022 and 16006. The assessed value for the area proposed for annexation is \$1,251,000 (2011-12 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies. The annexation is subject to a master tax sharing agreement.

10. Environmental Impact of the Proposal:

In October 2011, EBMUD, as Lead Agency, filed a Notice of Exemption finding that the proposed Annexation is exempt from CEQA pursuant to CEQA Guidelines Section 15319(a). The LAFCO Environmental Coordinator reviewed the document and finds it 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 area proposed for annexation. Thus, the area proposed for annexation is considered uninhabited.

All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the annexation area have received notice of the September 12 hearing. EBMUD indicates that less than 100% of the affected landowners have provided written consent to the annexation. Thus, the Commission's action is subject to notice, hearing and protest proceedings.

12. Boundaries and Lines of Assessment:

The annexation area is within EBMUD's SOI and is contiguous to existing EBMUD service boundary. The proposed annexation brings three parcels, which are currently receiving EBMUD water service, into the EBMUD service boundary.

13. Environmental Justice:

LAFCO is required to consider the extent to which proposals for changes of organization or reorganization will promote environmental justice. As defined by statute, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the

provision of public services. The proposed annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

ALTERNATIVES FOR COMMISSION ACTION

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

Option 1 Approve the annexation as submitted and adopt the attached resolution (Attachment 2).

1. Determine that EBMUD, as Lead Agency, found the project to be Categorical Exempt pursuant to CEQA, Section 15319.
2. The Commission determines the project is exempt pursuant to CEQA Guidelines, consistent with the determination of EBMUD acting as Lead Agency.
3. Adopt this report and approve the proposal, to be known as the *San Damiano Annexation to EBMUD* subject to the following terms and conditions:
 - 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 agency.
 - b. EBMUD has delivered an executed indemnification agreement providing for EBMUD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
4. Find that the subject territory is uninhabited and that the annexing agency has consented to waiving the conducting authority proceedings. However, less than 100% of the affected landowners have consented to the annexation; therefore, LAFCO's approval is subject to protest proceedings.

Option 2 Adopt this report and DENY the proposal.

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

RECOMMENDED ACTION:

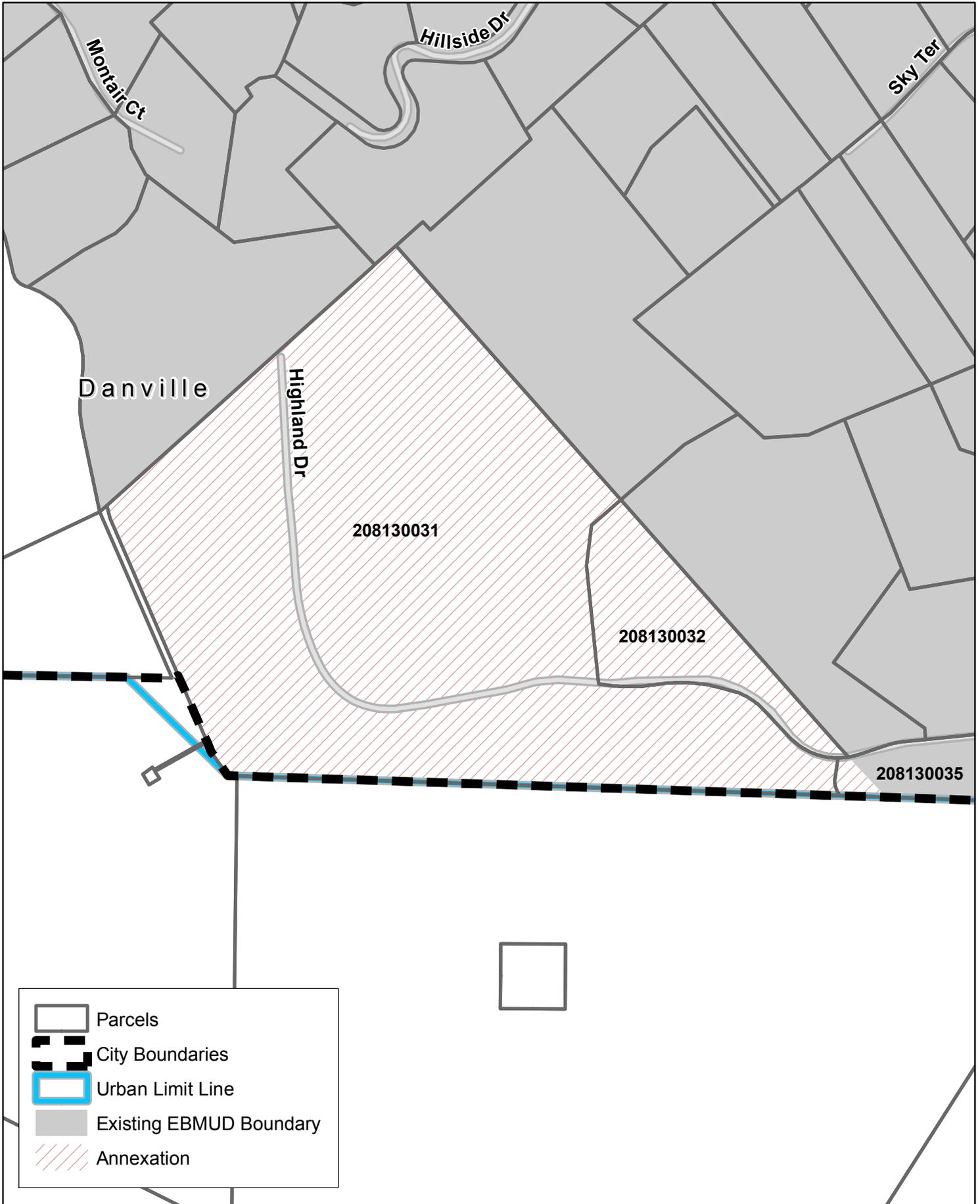
Approve Option 1.

LOU ANN TEXEIRA
EXECUTIVE OFFICER
LOCAL AGENCY FORMATION COMMISSION

Attachments

1. Annexation Map
2. LAFCO Resolution No. 12-03

LAFCO No. 12-03: San Damiano Annexation to East Bay Municipal Utility District



RESOLUTION NO. 12-03

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
SAN DAMIANO ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT**

WHEREAS, a proposal to annex territory to the East Bay Municipal Utility District (EBMUD) was filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Gov. Code 56000 et seq.); and

WHEREAS, the Executive Officer has examined the application and executed her certification in accordance with law, determining and certifying that the filing is sufficient; and

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

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

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

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

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

1. That East Bay Municipal Utility District (EBMUD), as Lead Agency, found the project to be Categorical Exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15319.
2. That the project is exempt pursuant to CEQA Guidelines, consistent with the determination of EBMUD acting as Lead Agency.
3. Said annexation is hereby approved.
4. The subject proposal is assigned the distinctive short-form designation:

SAN DAMIANO ANNEXATION TO EAST BAY MUNICIPAL UTILITY DISTRICT

Contra Costa LAFCO
Resolution No. 12-03

5. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
6. The subject territory shall be liable for any existing bonded indebtedness of the annexing agencies, if applicable.
7. The subject territory shall be liable for any authorized or existing taxes, charges, and assessments comparable to properties within the annexing agencies.
8. That EBMUD delivered an executed indemnification agreement between EBMUD and Contra Costa LAFCO providing for EBMUD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
9. The territory proposed for annexation is inhabited.
10. The proposal has less than 100% landowner consent and is subject to a protest hearing. Contra Costa LAFCO is designated to conduct the protest hearing; the authority for which has been delegated to the LAFCO Executive Officer, who shall give notice and conduct a public hearing on the matter pursuant to the Government Code.
11. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

* * * * *

PASSED AND ADOPTED THIS 12th day of September 2012, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

DON TATZIN, CHAIR, CONTRA COSTA LAFCO

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

Dated: September 12, 2012

Lou Ann Texeira, Executive Officer