

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

September 15, 2010
Agenda Item 6

September 15, 2010 (Agenda)

LAFCO 10-02: Northeast Area Annexation to Delta Diablo Sanitation District (DDSD)

PROPONENT: City of Pittsburg – Resolution No. 09-11357 adopted December 21, 2009

ACREAGE & LOCATION Approximately 874 acres (42 parcels) located within the City of Pittsburg. The project area is generally located within the Northeast and Loveridge Subareas (Pittsburg General Plan) and includes parcels located around the northern portion of Loveridge Road and the Pittsburg Antioch Highway, extending north to the waterfront (see attached map).

SYNOPSIS

The City filed an application with LAFCO to annex the properties to DDSD to extend wastewater services to numerous industrial and light industrial parcels located in the northeast area of Pittsburg. The project involves no new development at this time, and will facilitate the extension of current and future services consistent with the Pittsburg General Plan.

DISCUSSION

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

1. Consistency with the Sphere of Influence of Any Local Agency:

LAFCO is charged with both regulatory and planning functions. Annexations are basically a regulatory act, while establishing spheres of influence (SOIs) is a planning function. The SOI is an important benchmark as it defines the primary area within which urban development is to be encouraged. In order for the Commission to approve an annexation, it must be consistent with the jurisdiction's adopted SOI.

The annexation area is within DDSD's SOI as updated by the Commission in July 2009, following completion of a Municipal Service Review (December 2007) and a special SOI study to expand the SOIs of the City of Pittsburg, Contra Costa Water District and DDSD. The annexation area is within the City of Pittsburg and Contra Costa County Urban Limit Lines.

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

The annexation area consists of 42 parcels. Existing uses within the project area include heavy industrial manufacturing, custom manufacturing, transportation and distribution services, automotive sales and servicing, contractor yards, a 16-unit apartment complex, and DDSD's plant operations. Some of the major businesses in the project area include DOW Chemical, USS POSCO, Antioch Building Materials, HASA Inc., East County Tow, Mt. Diablo landscape Center, SEG Trucking and A-1 Auto Dismantlers.

Surrounding land uses to the east include vacant marshlands, primary plant operations for DDS and the Delta Household Hazardous Waste Facility, and various light industrial and commercial uses to the east; industrial uses and vacant land with residential just beyond to the west; Suisun Bay Delta with Browns Island just beyond to the north; and a mix of vacant land and various commercial uses to the south.

Among the factors LAFCO must consider in reviewing a proposal is "Consistency with city or county general and specific plans." (Gov. Code §56668)

The Pittsburg General Plan designates the area General Industrial and Service Commercial District. There are no proposed zoning changes within the project area; all of the existing uses, with the exception of residential dwelling units, conform to the applicable zoning districts. Those residential units that do not conform are considered by the City to be legal non-conforming uses within their respective districts.

There are several land use applications in the project area, including two use permits for K&S Towing & Auto Sales (APN 073-230-091) and All Bay Vehicle Donations (APN 073-230-091), which are complete and tentatively scheduled for a Pittsburg Planning Commission hearing in September 2010; and a design review for Bragg Trucking Companies (APN 073-023-030), which is currently incomplete.

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 project area is generally flat with minimal grade difference throughout the overall site. There are marshlands around the northeast corner of the area, and the entire northern boundary is waterfront land that is adjacent to Suisun Bay Delta. There is also a natural drainage course that crosses the center of the project site and runs from south to north. The project area is mostly developed with commercial and industrial uses; however, there are some parcels that are currently vacant, fallow and undeveloped. Portions of the project area are located within the 100-year flood plain. The surrounding areas are generally flat with minimal grade differences. The entire northern boundary of the project site is bounded by the Suisun Bay Delta with Browns Island nature preserve just beyond the project area.

5. Population:

The project area includes a 16-unit apartment complex located along the south side of the Pittsburg Antioch Highway, and a modular home located on the north side of California Avenue. There is no residentially zoned or designated land within the project area, and no new dwelling units are anticipated.

6. Fair Share of Regional Housing:

Pursuant to §56668 of the CKH Act, LAFCO must consider in the review of a proposal 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. Given the current land uses, 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 must 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 LAFCO Executive Officer:

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

The "Plan for Providing Services within the Affected Territory," as required by Government Code §56653, is on file in the LAFCO office. The properties proposed for annexation are served by various municipalities and agencies including, but not limited to, the City of Pittsburg, Contra Costa County Fire Protection District, and Contra Costa Water District (CCWD) for wholesale water.

With regard to wastewater services, the City of Pittsburg operates the wastewater collection system, and treatment and disposal are provided by DDS. The City currently serves nearly 16,000 connections through 126 miles of sewer mains. DDS currently serves a total population of over 181,565 residents within its 52 square mile service area (i.e., cities of Antioch and Pittsburg, Bay Point and surrounding unincorporated areas). DDS's existing wastewater collection system consists of 49 miles of sewer main and five pump stations. The District's has a permitted average dry weather flow (ADWF) capacity of 16.5 million gallons per day (mgd); and in the most recent reporting year, 2008, the ADWF influent to the treatment plants was 12.9 mgd. The wastewater treatment plant capacity is 16.5 mgd (current design) and 22.7 mgd (ultimate capacity).

The annexation area includes major customers on seven parcels, totaling 564+ acres, who have been served via private sewer collection systems connected to DDS facilities since the 1990s and earlier. DDS will continue to provide service to existing customers. Some of the existing customers include Dow Chemical and its tenants, IGS Generon, USS POSCO, and the Contra

Costa Industrial Business park, as well as newer portion of the DDSW wastewater treatment and recycled water facilities. The existing properties on the southside of the Pittsburg Antioch Highway, and those fronting the highway, including the residential units, rely on septic systems.

According to the City, and pursuant to the City's General Plan and land use designations, future development within the project area could increase wastewater flow by approximately 828,500 gallons per day, or 0.83 mgd. Although no new development is proposed at this time, DDSW has provided a letter indicating that the District's wastewater treatment plant has the capacity expansion potential to serve growth and development within the annexation area.

8. Timely Availability of Water and Related Issues:

The annexation area is located in the City of Pittsburg. Municipal water services are provided by the City and Contra Costa Water District (CCWD). In 2006, Pittsburg updated its Urban Water Management Plan. This plan addresses overall water supply and future demand for the City. The City provides water treatment and distribution to its residents and businesses. The City obtains approximately 90% of its untreated water supply from CCWD through the U.S. Bureau of Reclamation (USBR) Central Valley Project (CVP); water supplies are supplemented by locally produced ground water.

The City currently serves over 15,000 connections. Major infrastructure includes 150 miles of main and five booster stations. The City's water treatment facilities currently operate at a peak rate of approximately 22 million gallon per day (mgd). It has a design capacity of 32 mgd, and is currently permitted by the State for 28 mgd.

CCWD provides wholesale water to the project area. The District provides both treated and untreated water throughout central and portions of east Contra Costa County. CCWD's untreated water service area includes Pittsburg and Bay Point.

CCWD is a CVP contractor and delivers untreated water through USBR CVP. The untreated water is conveyed through the Contra Costa Canal. The contract provides for a maximum delivery of 195,000 acre feet per year (174 mgd) with reductions in deliveries during water shortages including regulatory restrictions and drought. In addition to CVP water, CCWD has other water sources including various water rights and entitlements.

The City's Urban Water Management Plan projects safe yields of well water through the planning horizon, 2020 to accommodate future development in the annexation area.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate areas 07047, 07048, 07051 and 07071. The total assessed value for the parcels is \$595,795,128 (2009-10 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agency.

10. Environmental Impact of the Proposal:

In January 2010, the City of Pittsburg, as Lead Agency, adopted a Negative Declaration for the Northeast Area Annexation to DDS. The LAFCO Environmental Coordinator reviewed the document and finds it adequate for LAFCO purposes.

11. Landowner Consent and Consent by Annexing Agency:

The area proposed for annexation is considered uninhabited, as there are fewer than 12 registered voters in the proposal area. The City indicates that the annexing agencies have consented to the reorganization, and that less than 100% of the affected landowners have provided written consent to the annexation. Thus, the Commission's action is subject to notice, hearing, as well as conducting authority (protest), proceedings. All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the September 15 hearing.

As of this writing, LAFCO has received no communication from any affected party. If no written objection is received from an affected party prior to the conclusion of the hearing on September 15, the Commission may waive the protest proceedings. However, if any objection is received at any time prior to or during the hearing, then a protest hearing is required (Gov. Code Section 56663).

12. Boundaries and Lines of Assessment:

There are no conflicts with lines of assessment or ownership. A map to implement this change is subject to approval by the County Surveyor.

13. Environmental Justice:

Beginning January 1, 2008, Government Code §56668(o) requires that LAFCO 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 or additional materials that are submitted the Commission should consider taking one of the following options:

Option 1 Approve the reorganization as submitted.

- A. Determine that the City of Pittsburg, as Lead Agency, approved a Negative Declaration for the Northeast Area Annexation to DDS D on January 19, 2010.
- B. Certify that the Commission has reviewed and considered the information contained in the Negative Declaration prepared and adopted by the City of Pittsburg.
- C. Adopt this report and approve the proposal, to be known as the Northeast Area Annexation to Delta Diablo Sanitation District, subject to the following terms and conditions:
 - 1. The territory being annexed to DDS D shall be included in Zone 2.
 - 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. Prior to recordation, the applicant shall deliver an executed indemnification agreement providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the reorganization.
- D. Find that: 1) the subject territory is uninhabited, 2) all affected landowners have consented to the annexation and 3) the annexing agencies have consented to the waiver of conducting authority proceedings.
- E. Waive conducting authority proceedings and direct the staff to complete the proceeding.

Option 2 Adopt this report and DENY the proposal.

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

RECOMMENDED ACTION:

Approve Option 1.

LOU ANN TEXEIRA, EXECUTIVE OFFICER
LOCAL AGENCY FORMATION COMMISSION

Attachment – Map
c: Distribution

RESOLUTION NO. 10-02

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
NORTHEAST AREA ANNEXATION TO DELTA DIABLO SANITATION DISTRICT**

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

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

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

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

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

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

1. Determine that the City of Pittsburg, as Lead Agency, adopted a Negative Declaration for the Northeast Area Annexation to DDS D on January 19, 2010.
2. Certify LAFCO has reviewed and considered the information contained in the Negative Declaration adopted by DDS D.
3. Said annexation is hereby approved.
4. The subject proposal is assigned the distinctive short-form designation:

NORTHEAST AREA ANNEXATION TO DELTA DIABLO SANITATION DISTRICT

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 authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.
7. That City of Pittsburg, as applicant, delivered an executed indemnification agreement between the City and Contra Costa LAFCO providing for the City to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.

Contra Costa LAFCO
Resolution No. 10-02

8. The territory proposed for annexation is uninhabited.
9. The proposal has less than 100% landowner/registered voter consent; however, no affected landowners/registered voters opposed the annexation, and the annexing agency has given written consent to the waiver of conducting authority proceedings. Said conducting authority proceedings are hereby waived.
10. 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 15th day of September 2010, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

MARTIN McNAIR, 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 15, 2010

Lou Ann Texeira, Executive Officer

LAFCO No. 10-02: Northeast Area Annexation to Delta Diablo Sanitation District

