

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

May 11, 2011
Agenda Item 6

May 11, 2011 (Agenda)

LAFCO 11-02

Sphere of Influence (SOI) Amendment – Diablo Community Services District (DCSD) – Mt. Diablo Scenic Boulevard

SUMMARY

This is a proposal submitted by a petition of landowners to expand DCSD's SOI to include 11± acres (eight parcels). The properties are located on the eastern side of upper Mt. Diablo Scenic Blvd. and are contiguous to the existing District boundaries (Attachment 1). The landowners/petitioners have also submitted a corresponding annexation application.

The purpose of the SOI proposal is to allow for the ultimate annexation of the area and provision of District services, including road improvement and maintenance.

BACKGROUND

Diablo Community Services District - DCSD is an independent special district formed in 1968 as a successor district to the Diablo Utility District. The District serves the Diablo community, located northeast of the Town of Danville, between the unincorporated communities of Alamo and Blackhawk. The District encompasses 1.56± square miles and serves approximately 1,200 residents. The District's SOI is coterminous with its service boundary.

DCSD currently provides police/security, street lighting, road maintenance, parks and recreation services (i.e., equestrian trails, parks, recreational buildings) as described below. Also, in 2008, LAFCO authorized the District to activate its latent power to finance the operations of a Municipal Advisory Council (MAC). The District is funded primarily through property tax, a special tax/assessment, and other fees for service.

Police Services - Contra Costa County Sheriff's Department provides police services to DCSD through a contract. The District owns and maintains one patrol vehicle for use by a contract public safety officer.

Street Lighting Services - The District is authorized to provide street-lighting services; however, it is not currently providing these services.

Transportation and Road Services - The District indicates that, except for Caballo Ranchero, which has been dedicated to the County, none of the other roads within Diablo are dedicated County roads and are private roads. DCSD maintains 8.5 miles of improved roads within its bounds. The District provides maintenance services for roads, both improved and unimproved, and maintenance for 300 feet of a multi-use trail. The roads that are maintained by DCSD are in good condition and are subject to a 5-year maintenance review; some cut and replace, crack sealing, and slurry seal is accomplished every year as needed.

Parks and Recreation Services - Recreation services provided by DCSD are limited to maintenance of 100 yards of multi-use trail that connects Mt. Diablo Scenic Blvd. and Diablo Road.

LAFCO Law - The Cortese-Knox-Hertzberg Act (CKH Act) empowers LAFCO with the responsibility for developing and determining the SOI of each local agency within the county, and for enacting policies designed to promote the logical and orderly development of areas within the spheres.

An SOI is defined as a plan for the probable physical boundaries and service area of a local agency, as determined by LAFCO. The intent of an SOI is to identify the most appropriate areas for an agency's extension of services in the foreseeable future (e.g., 10-20 year horizon). Accordingly, territory included in an agency's sphere is an indication that the probable need for service has been established, and that the subject agency has been determined by LAFCO to be the most logical service provider for the area.

The CKH Act requires that LAFCO decisions regarding boundary changes be consistent with SOIs of local agencies. LAFCO is prohibited from approving annexations that are not within the annexing agency's SOI. Once an SOI is established, annexations must still be individually weighed and evaluated on their own merit.

LAFCO Municipal Service Review (MSR) - State law requires LAFCO to review and update the SOI of each local agency not less than every five years, as necessary. In conjunction with an SOI update, LAFCO must prepare a MSR.

In September 2009, LAFCO completed the *Central County Subregional MSR* covering city and other municipal services. The MSR included a review of DCSD services and provided SOI options and recommendations. One of the options was to expand the District's SOI. As noted in the MSR report, DCSD staff indicated that the District was considering expanding its SOI and service boundary to include the subject properties along Mt. Diablo Scenic, noting that this area contains a number of residences which have a community of interest with Diablo, as they have Diablo addresses, use the Diablo Post Office, and travel on Diablo roads; and that these residents could potentially benefit from services provided by DCSD. However, given the District's limited staff and financial resources, it was uncertain whether the District would pursue a boundary change; thus, the Commission retained the District's existing coterminous SOI.

DISCUSSION

LAFCO has received applications to amend the DCSD SOI and annex eight properties to the District. The landowners/petitioners seek these boundary changes primarily to receive road improvement and maintenance services. The properties are located on the eastern side of upper Mt. Diablo Scenic Blvd. and are contiguous to the existing District boundaries as shown on the attached map.

The history of Mt. Diablo Scenic Blvd. dates back to 1912, and predates the establishment of Mt. Diablo State Park and the California State Park System (1927). The road was once a toll road accessible to auto traffic all the way to Diablo's summit. In 1927-28, The State Park sold the road to the property owners and since 1931 has retained access easement rights for use of the road. Mt. Diablo Scenic Blvd. is one of the main access points to Mt. Diablo State Park. Contra Costa County Public Works Department has conducted traffic studies in 2002 and 2010 which estimate that 70 -85% of the traffic along the road is from Park users.

Mt. Diablo Scenic Blvd. is about one mile in length, terminating at the lower end of the Park gate. The lower half was constructed and improved in conjunction with the Diablo Ranch Estates development (2001); the upper half has not been improved in many years and has significantly deteriorated.

As noted above, Mt. Diablo Scenic Blvd. is a private road, owned jointly by the landowners of the properties along its length. The western side of the road is within the DCSD boundaries. The owners on the eastern

side of the road include the Athenian School and Diablo Rancho Estates on lower Mt. Diablo Scenic, and the eight landowners/petitioners on upper Mt. Diablo Scenic.

The DCSD does not include Mt. Diablo Scenic Blvd. in its inventory of roads as the road does not currently meet County standards for private roads (i.e., width, grade, turnaround, curves, signage, etc.). The County Public Works Department estimates that road repairs will cost between \$135,000 for minimal overlay work to \$500,000 for a reconstruction. The source of funding has not been identified.

There is significant Park and bicycle use on Mt. Diablo Scenic Blvd. and the State has a road easement for access to Mount Diablo State Park. Over the years, there have been discussions among the property owners, DCSD, County and State officials and other interested parties, including Save Mount Diablo and the cycling community, regarding options for improving the road. Such options have included re-establishing a toll road and pursuit of DCSD, County and State assistance/funding.

As previously indicated, neither the County nor DCSD will assume responsibility for the road maintenance as the road does not presently meet local agency standards. Re-establishing a toll road is not feasible due to the State's road easement.

We understand that State Parks officials recognize the problem and obligation and may be willing to offer assistance. However, the major challenge has been the number of private parties involved (i.e., numerous property owners). The State is reluctant to pursue road repair and maintenance assistance options with numerous private parties; however, it may be willing to work with another public agency – like DCSD. The annexation of the properties could help facilitate future road improvements and maintenance.

Sphere of Influence Determinations - The petitioners/landowners are proposing an expansion to the DCSD's SOI. Pursuant to Government Code Section 56425, in amending a SOI for a local agency, LAFCO is required to consider and prepare a written statement of determinations with respect to the following:

1. The present and planned uses in the area, including agricultural and open space lands.

Present land use in the area is residential; seven of the parcels are developed and one is undeveloped. The existing County General Plan designation for the areas is Single Family Residential Low, and the properties are Zoned A2 - General Agricultural. The proposal area is within the countywide Urban Limit Line. There are no current Williamson Act Land Conservation Agreements within the project site and the proposed SOI amendment will facilitate no changes in land use.

2. The present and probable need for public facilities and services in the area.

There is present and probable need for road improvement and maintenance services. The eight properties indirectly receive other DCSD services (e.g., police patrol).

3. *The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*

DCSD serves a population of approximately 1,200 residents in a 1.56± square mile service area. The District provides police/security, street lighting, road maintenance, parks and recreation services. DCSD maintains 8.5 miles of improved roads within its bounds.

DCSD indicates that it is willing to provide services to the subject area; however, as discussed above, there are conditions to be met before road services are extended, including ownership of the road, and meeting local agency road and drainage standards. The petitioners are aware of these conditions.

4. *The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

The subject area is located in unincorporated Diablo and is part of the social and economic Diablo community. The eight properties have Diablo addresses, use the Diablo Post Office, travel on Diablo roads, and could potentially benefit from services provided by DCSD.

5. *The nature, location, extent, functions and classes of service to be provided.*

The District provides police/security, street lighting, road maintenance, parks and recreation services (i.e., equestrian trails, parks, recreational buildings) to the unincorporated Diablo community.

Environmental Impact of the Proposal - With respect to the environmental review, LAFCO staff has considered the proposed SOI amendment and annexation and has determined that the project is exempt from the California Environmental Quality Act (CEQA). The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. While the SOI amendment would have no effect on the physical environment, future road improvement work would potentially be considered a "project" under CEQA and environmental review may be required at that time.

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 proposed expansion to the DCSD's SOI to include 11± acres (eights parcels) as shown on the attached map (Attachment 1).
- A. Determine that the project is exempt pursuant to CEQA Guidelines, Section 15061(b)(3).
 - B. Adopt this report and amend the DCSD's SOI described herein and shown on the attached map.

- 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
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

Attachments

- 1 – Map – DCSD Proposed SOI Amendment
- 2 - Draft LAFCO Resolution – DCSD SOI Amendment

c: Senator Mark DeSaulnier
Assembly Member Joan Buchanan
Supervisor Mary Piepho
Steve Bachman, California Department of Parks & Recreation
Richard J. Breitwieser, General Manager, DCSD
Julie Bueren, Director, County Public Works
Ron Brown, Executive Director, Save Mt. Diablo
Petitioners

SPHERE OF INFLUENCE RESOLUTION NO.11-02

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND EXPANDING THE SPHERE OF INFLUENCE
OF THE DIABLO COMMUNITY SERVICES DISTRICT – MT. DIABLO SCENIC BLVD.

WHEREAS, a proposal to expand the sphere of influence (SOIs) of the Diablo Community Services District (DCSD) was filed by petition of landowners with the Contra Costa Local Agency Formation Commission (LAFCO) pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56425); 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, SOI and applicable General and Specific Plans and all testimony, correspondence and exhibits received during the public hearing, all of which are included herein by reference;

NOW, THEREFORE, the Contra Costa LAFCO DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. The matter before the Commission is proposed expansion to the SOI of the DCSD to include 11± acres (eight parcels) along Mt. Diablo Scenic Blvd. in the unincorporated Diablo community.
2. Contra Costa LAFCO, as Lead Agency, finds the project Categorical Exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant Section 15061(b)(3).
3. The DCSD SOI is hereby modified in the area as shown on the attached map (Exhibit A).
4. The Commission has considered the criteria set forth in Government Code §56425 and determines as follows:

The present and planned uses in the area, including agricultural and open space lands.

Present land use in the area is residential; seven of the parcels are developed and one is undeveloped. The existing County General Plan designation for the areas is Single Family Residential Low, and the properties are Zoned A2 - General Agricultural. The proposal area is within the countywide Urban Limit Line. There are no current Williamson Act Land Conservation Agreements within the project site, and the proposed SOI amendment will facilitate no changes in land use.

The present and probable need for public facilities and services in the area.

There is present and probable need for road improvement and maintenance services. The eight properties indirectly receive other DCSD services (e.g., police patrol).

The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

DCSD serves a population of approximately 1,200 residents in a 1.56± square mile service area. The District provides police/security, street lighting, road maintenance, parks and recreation services. DCSD maintains 8.5 miles of improved roads within its bounds. DCSD indicates that it is willing to provide services to the subject area; however, there are conditions to be met before road services are extended, including ownership of the road, and meeting local agency road and drainage standards.

The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

The subject area is located in unincorporated Diablo and is part of the social and economic Diablo community. The eight properties have Diablo addresses, use the Diablo Post Office, travel on Diablo roads, and could potentially benefit from services provided by DCSD.

The nature, location, extent, functions and classes of service to be provided.

The District provides police/security, street lighting, road maintenance, parks and recreation services (i.e., equestrian trails, parks, recreational buildings) to the unincorporated Diablo community.

PASSED AND ADOPTED THIS 11TH day of May 2011, 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 above

Dated: May 11, 2011

Lou Ann Texeira, Executive Officer

LAFCO No. 11-02: Mt. Diablo Scenic Blvd. Amendment to Diablo Community Services District SOI

