



Lou Ann Texeira
Executive Officer

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Federal Glover <i>County Member</i>	Dwight Meadows <i>Special District Member</i>
Michael R. McGill <i>Special District Member</i>	Rob Schroder <i>City Member</i>
Martin McNair <i>Public Member</i>	Don Tatzin <i>City Member</i>
Gayle B. Uilkema <i>County Member</i>	

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Public Member

Tom Butt
City Member

George H. Schmidt
Special District Member

Mary N. Piepho
County Member

September 14, 2011 (Agenda)

Contra Costa Local Agency Formation Commission
 651 Pine Street, Sixth Floor
 Martinez, CA 94553

September 14, 2011
 Agenda Item 6

Results of Protest Hearing
Mt. Diablo Scenic Blvd. Annexation to Diablo Community Services District

Dear Commissioners:

DISCUSSION

At a public hearing on July 13, 2011, the Commission approved the Mt. Diablo Scenic Blvd. Annexation to the Diablo Community Services District (DCSD). This is a proposal to annex 11± acres (eight properties) to the DCSD. The purpose of the annexation is to facilitate the extension of district services, including future road maintenance, to the properties.

In accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH Act”), LAFCO is the agency to conduct the protest hearing. The purpose of the protest hearing is to receive written protests from affected landowners and/or registered voters regarding the proposal and determine whether a “majority protest” exists. With regard to this annexation, which is uninhabited (i.e., contains fewer than 12 registered voters), the Commission shall take one of the following actions:

- **Order the annexation** if written protests have been filed by less than 50% of the landowners owning less than 50% of the assessed value of land within the affected territory; or
- **Terminate the proceedings** if a majority protest exists. A majority protest constitutes 50% or more of the landowners owning at least 50% of the assessed value of land.

The protest hearing was properly noticed and held on Wednesday, August 17, 2011, at 3:00 p.m. at the LAFCO office located at 651 Pine Street, Sixth Floor in Martinez. The hearing was conducted by the LAFCO Executive Officer, who is delegated the authority to conduct the protest hearing on behalf of the Commission. The Chief Petitioner, Jerry Mulcahy, attended the protest hearing.

At the conclusion of the hearing, the number of protests received prior to and during the hearing were counted. No protests were filed; consequently, the annexation should be ordered.

RECOMMENDATION

It is recommended that the Commission adopt a resolution finding a majority protest was not received, and order the annexation subject to the terms and conditions as specified in the Commission's resolution of approval.

Sincerely,

Lou Ann Texeira
Executive Officer

c: Distribution List

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

DETERMINATION OF THE EXECUTIVE OFFICER OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION FINDING THERE ARE INSUFFICIENT WRITTEN PROTESTS TO TERMINATE THE PROCEEDINGS RELATING TO THE MT. DIABLO SCENIC BLVD ANNEXATION TO DIABLO COMMUNITY SERVICES DISTRICT (LAFCO 11-03)

1. This action is taken pursuant to the Cortese Knox Hertzberg Local Government Reorganization Act (Government Code §56000 et seq.) and policies of the Contra Costa Local Agency Formation Commission (hereafter Commission).

2. Proceedings for the Mt. Diablo Scenic Blvd. Annexation to the Diablo Community Services District (DCSD) were initiated by landowner petition filed with the Executive Officer of the Contra Costa LAFCO on February 17, 2011, proposing the annexation of 11± acres (eight properties) to DCSD. The purpose of the annexation is to facilitate the extension of District services, including future road maintenance, to the properties.

3. On July 13, 2011, the Commission adopted Resolution No. 11-03, making determinations and approving the proposal subject to certain conditions. A true copy of said Resolution is attached hereto and incorporated by this reference, containing the terms and conditions of the Commission's approval of this proposal.

4. Acting on delegated authority from the Commission, as Executive Officer I conducted on August 17, 2011, a properly noticed public hearing to receive protests filed against the proposed annexation and, following conclusion of the hearing, found that fewer than 50 percent of the land owners (owning less than 50 percent of the assessed value of land) within the area proposed for annexation filed written protests against the proposal.

5. Finding there are insufficient protests to terminate the proceedings, the Contra Costa LAFCO hereby orders the Mt. Diablo Scenic Blvd. Annexation to Diablo Community Services District subject to the terms and conditions contained within the Commission's resolution of approval.

This order is made on and is effective from September 14, 2011.

Lou Ann Texeira, Executive Officer
Contra Costa Local Agency Formation Commission

RESOLUTION NO. 11-03

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
MT. DIABLO SCENIC BLVD ANNEXATION
TO DIABLO COMMUNITY SERVICES 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 annexation 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. That Commission determines the project is exempt from environmental review pursuant to CEQA Guidelines, Section 15061(b)(3).
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

**MT. DIABLO SCENIC BLVD ANNEXATION TO DIABLO COMMUNITY
SERVICES DISTRICT**

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. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.

Contra Costa LAFCO
Resolution No. 11-03

6. That the applicant delivered an executed indemnification agreement between the applicant and Contra Costa LAFCO providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
7. The territory proposed for annexation is uninhabited.
8. The proposal has less than 100% consent of affected landowners, and is subject to a conducting authority proceeding.
9. 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 13th day of July 2011, by the following vote:

AYES: Glover, McGill, McNair, Schmidt, Schroder, Tatzin, Uilkema

NOES:

ABSTENTIONS:

ABSENT: Meadows (M)

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: July 13, 2011

Lou Ann Texeira, Executive Officer