

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

June 11, 2014 (Agenda)

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Agenda Item 6

LAFCO 13-01 City of Martinez - Out of Agency Service Request (Spencer)

SYNOPSIS

This is a request by the City of Martinez to provide water service outside its jurisdictional boundary to a 0.82± acre parcel (APN 367-100-011) located at 172 Gordon Way in the unincorporated Alhambra Valley (Attachment 1). The lot is currently vacant and is part of a subdivision approved by the County in 1955 (Subdivision 2037). According to County Planning, the property owner has obtained tree and grading permits; an application for a building permit to construct a single family residence has been submitted to the County, however, has not been issued pending completion of the plan check and submittal of a construction debris recovery plan.

The County zoning is Residential (R-20) with a General Plan designation of Single Family Residential Low Density. The subject parcel is located inside the County's voter-approved Urban Limit Line. The City's rezoning designation for the property is Rural Residential Single Family (RR-40). Surrounding uses include single family residential to the southeast and northeast. The areas north, west and south of the subdivision are primarily vacant; the County zoning and General Plan designations in these areas are A-2 (General Agricultural), and AL (Agricultural Lands), respectively.

The City of Martinez is currently providing water service to Subdivision 2037, and to all of the surrounding developed properties. The area is within the Central Contra Costa Sanitary District (CCCSD) service boundary.

DISCUSSION

Statutory Framework – Out of Agency Service - The Government Code and local LAFCO policies regulate the extension of out of agency service. Government Code §56133 states that “A city or district may provide new or extended services by contract or agreement outside of its jurisdictional boundary only if it first requests and receives written approval from the Commission.” Further, the law provides that LAFCO may authorize a city or district to provide new or extended services under specific circumstances: a) outside the agency's jurisdictional boundary but within its sphere of influence (SOI) in anticipation of a future annexation; or b) outside its jurisdictional boundary and outside its SOI in response to an existing or impending threat to the public health or safety.

The Commission's current policies regarding out of agency service are consistent with State law in that annexations to cities and special districts are generally preferred for providing municipal services. However, there may be situations where health and safety, emergency service, or other concerns warrant out of agency service. Historically, out of agency service is considered a temporary measure, typically in response to an existing or impending public health and safety threat (e.g., failing septic system, contaminated well); or in anticipation of a future annexation.

Out of Agency Service Request by City of Martinez and Background – As noted in the both the 2014 and 2008 *Water/Wastewater* and the 2009 *Central County Sub-regional* LAFCO Municipal Service Reviews (MSRs), the City is providing water services beyond its corporate limits to 1,500± water connections. These 1,500 water connections represent residents who do not have representation concerning policy, rates, or governance of their water supply. The MSRs recommend that the City of Martinez annex areas receiving city services, as appropriate.

The City previously attempted to annex portions of Alhambra Valley, and recently had some success. In 2011, the City submitted an application to annex 393± acres (139 parcels) in the Alhambra Valley. In response to community input, the City requested LAFCO to reduce the annexation boundary. In 2012,

LAFCO approved the Alhambra Valley annexation reduced boundary comprised of 316± acres (104 parcels). However, the Spencer property was not included in the previous annexation proposals.

The law permits LAFCO to authorize the City to extend services outside its jurisdictional boundary in specific situations as described above. The request by the City to provide water service to the property is in anticipation of a future annexation.

Although the Spencer property was not included in the previous annexation proposals, the City has taken the following actions in furtherance of the future annexation of the Alhambra Valley and the Spencer property:

- The Martinez General Plan includes policies and land use designations supporting the annexation of portions of Alhambra Valley to the City.
- The City has rezoned the Alhambra Valley.
- The City has established design guidelines for portions of Alhambra Valley.
- The City has prepared environmental and fiscal analyses and adopted a property tax sharing agreement for portions of Alhambra Valley.
- In December 2012, the Martinez City Council adopted a resolution reaffirming its intent to annex the Alhambra Valley to the City as opportunities arise. The resolution sets forth goals relating to community outreach and education.
- In May 2014, the Martinez City Council reaffirmed its commitment to annex Alhambra Valley and adopted a resolution “Establishing a Non-binding Strategy to Annex Alhambra Valley by the Year 2020 in a Single Phase Approach.”
- The City and the Spencers (property owners) have entered into a deferred annexation agreement.

Water Supply to the Project Area – The Alhambra Valley is characterized by steep hillsides with gently sloping hilltops. The boundary of the Alhambra Valley is roughly defined by the watershed surrounding Alhambra Creek. The topography of the area creates some challenges to using groundwater.

In 1992, the County Board of Supervisors adopted the Alhambra Valley Specific Plan (AVSP), which provides guidance relating to development in the Alhambra Valley. In recognition of some of the challenges associated with water availability in the Alhambra Valley, the AVSP provides goals and policies relating to water service, including the following:

Policy 3: Prior to approval of development entitlements, new development shall obtain verification from the appropriate water service agency, be it the City of Martinez or the County Environmental Health Services Department, that an adequate and safe water supply can be provided to serve development. All new subdivisions created after adoption of the Specific Plan within the Urban Limit Line shall be connected to the Martinez Water Department.

Policy 5: The establishment of small community well water systems to serve proposed subdivisions shall be prohibited.

County Environmental Health confirms that finding groundwater in the Alhambra Valley is challenging, and notes that it is not uncommon during dry periods for property owners to truck in water.

The Spencer property is located in the Alhambra Valley. The City indicates that it has adequate water to serve the property. According to the City Engineer, water service will be provided to the Spencer property from the City's existing four-inch water main on Gordon Way. The water service will consist of approximately 10 linear feet of one-inch diameter pipe, a water meter, and a backflow prevention device.

The property owner is responsible for all site development, improvement and start-up costs including those associated with the domestic water system; operational and maintenance costs will be funded through water service and water usage fees collected by the City of Martinez.

Environmental Review - In May 2014, the City of Martinez, as Lead Agency, filed a Notice of Exemption finding that the proposal for out of agency water service is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15303. The LAFCO Environmental Coordinator has reviewed the document and finds it adequate for LAFCO purposes.

ALTERNATIVES FOR COMMISSION ACTION

LAFCOs were formed for the primary purpose of promoting orderly development through the logical formation and determination of local agency boundaries, and facilitating the efficient provision of public services. The CKH provides that LAFCO can approve with or without amendments, wholly, partially, or conditionally, or deny a proposal. The statute also provides LAFCO with broad discretion in terms of imposing terms and conditions. The following options and recommended terms and conditions are presented for the Commission's consideration.

Option 1 **Approve** the out of agency service request with the following terms and conditions.

- A. Find that the project is exempt pursuant to section 15303 of the CEQA Guidelines, consistent with the determination of the City of Martinez acting as Lead Agency.
- B. Authorize the City of Martinez to extend water service outside its jurisdictional boundary to the 0.82± acre parcel (APN 367-100-011) located at 172 Gordon Way in unincorporated Contra Costa County subject to the following terms and conditions:
 1. Water infrastructure and service is limited to the proposed single family dwelling unit, and
 2. The City of Martinez has delivered to LAFCO an executed and recorded deferred annexation agreement, and
 3. The City of Martinez has delivered to LAFCO an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions to challenging the out of agency service.

Option 2 **Deny** the request, thereby prohibiting the City of Martinez from providing water service to the project site.

Option 3 **Continue** this matter to a future meeting in order to obtain more information.

RECOMMENDATION

Option 1 – Approve out of agency service request

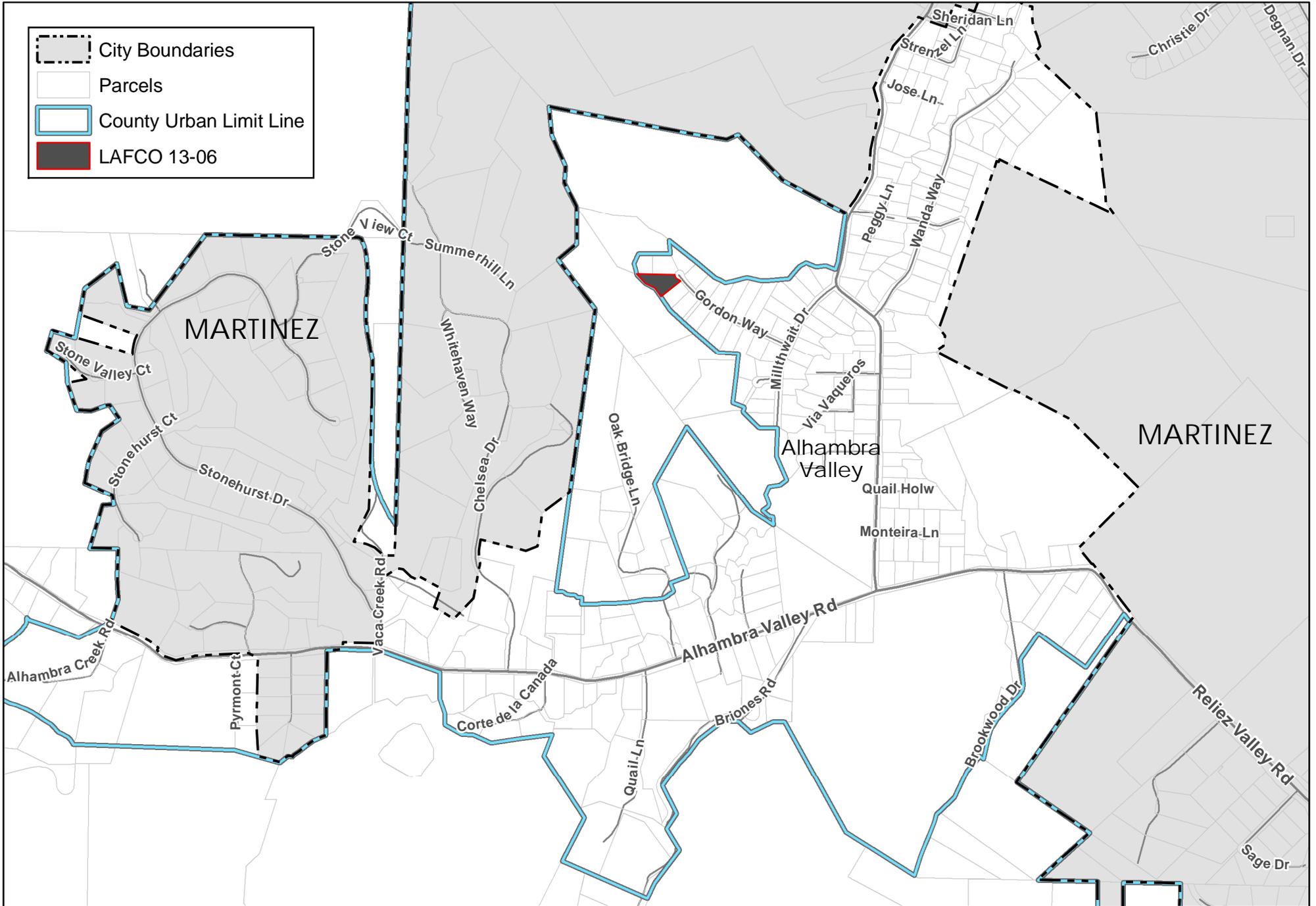
LOU ANN TEXEIRA, EXECUTIVE OFFICER
CONTRA COSTA LAFCO

Attachments

1. Map of Project Site
2. LAFCO Resolution 13-06

c: Tim Tucker, City of Martinez
 Rick Spencer, Property Owner

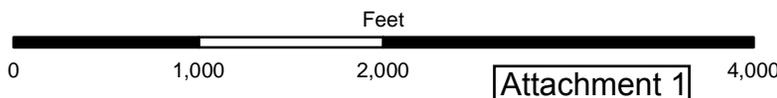
LAFCO No. 13-06 City of Martinez Out of Agency Service (Spencer)



-  City Boundaries
-  Parcels
-  County Urban Limit Line
-  LAFCO 13-06

Map created 05/29/2014
 by Contra Costa County Department of
 Conservation and Development, GIS Group
 30 Muir Road, Martinez, CA 94553
 37:59:41.791N 122:07:03.756W

This map or dataset was created by the Contra Costa County Department of Conservation and Development with data from the Contra Costa County GIS Program. Some base data, primarily City Limits, is derived from the CA State Board of Equalization's tax rate areas. While obligated to use this data the County assumes no responsibility for its accuracy. This map contains copyrighted information and may not be altered. It may be reproduced in its current state if the source is cited. Users of this map agree to read and accept the County of Contra Costa disclaimer of liability for geographic information.



RESOLUTION NO. 13-06**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
AUTHORIZING THE CITY OF MARTINEZ TO PROVIDE OUT-OF-AGENCY WATER SERVICE TO THE
SPENCER PROPERTY LOCATED AT 172 GORDON WAY (APN 367-100-011)**

WHEREAS, the above-referenced request 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 this request; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to this request including, but not limited to, the Executive Officer's report and recommendation; and

WHEREAS, out of agency service approval is needed in order to provide water services to the property in anticipation of a future annexation; and

WHEREAS, the City of Martinez and the property owner have entered into a Deferred Annexation Agreement in support of the future annexation of the property to the City of Martinez.

NOW, THEREFORE, BE IT RESOLVED DETERMINED AND ORDERED by the Contra Costa Local Agency Formation Commission as follows:

- A. Find that the project is exempt pursuant to section 15303 of the CEQA Guidelines, consistent with the determination of the City of Martinez acting as Lead Agency.
- B. Authorize the City of Martinez to extend water service outside its jurisdictional boundary to a 0.82± acre property located at 172 Gordon Way (APN 367-100-011) in unincorporated Contra Costa County subject to the following terms and conditions:
 - 1. Water infrastructure and service is limited to one single family dwelling unit,
 - 2. The City of Martinez has delivered to LAFCO an executed indemnification agreement providing for the City to indemnify LAFCO against any expenses arising from any legal actions to challenging the out of agency service, and
 - 3. The City of Martinez and the property owner(s) have signed a deferred annexation agreement (DAA), and that the DAA is recorded as prescribed by law and runs with the land so that future landowners have constructive notice that their property is encumbered by the DAA.
- C. Approval to extend City of Martinez services beyond those specifically noted herein is withheld and is subject to future LAFCO review.

* * * * *

PASSED AND ADOPTED AS REVISED THIS 11th day of June 2014, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ROB SCHRODER, VICE 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: June 11, 2014

Lou Ann Texeira, Executive Officer