

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

October 14, 2015
Agenda Item 7

October 14, 2015 (Agenda)

LAFCO 08-30 West County Wastewater District (WCWD) Annexation No. 312

PROPONENT WCWD by Resolution No. 7-17-07A adopted June 17, 2007

SYNOPSIS

The WCWD proposes to annex 2.57± acres (APNs 430-122-030 /031) located on El Sobrante Ave in unincorporated El Sobrante as shown on Attachment 1.

This item was continued from the September 9, 2015 LAFCO meeting, and the public hearing remains open.

In September, the Commission discussed the proposal and expressed concern regarding the annexation boundary and creation of an island. Staff noted that while LAFCO encourages logical and orderly boundaries, it is not unusual for sewer and water districts to have islands and pockets within their service boundaries; as historically, annexations to these types of districts are typically based on the need for service. See discussion under **#12 - Boundaries and Lines of Assessment** below.

The Commission asked that LAFCO staff work with WCWD staff to evaluate the potential of also annexing the island area. District staff has contacted the residents in the island areas, and they do not wish to be annexed at this time. Further, due to development potential in the island area, annexation of this area does not qualify for a categorical exemption under the California Environmental Quality Act (CEQA). Consequently, in order to proceed with annexation of the island area, the District would need to prepare an Initial Study and corresponding environmental document (e.g., Negative Declaration, EIR) pursuant to CEQA.

District staff indicated that they previously discussed with their Board a possible island clean-up effort; however, this is cost prohibitive for the District, primarily due to the CEQA requirements.

Regarding the two properties proposed for annexation, one contains a 1,162 square foot studio/residential structure and WCWD lift station and easement, and the other parcel is vacant. The property owner indicates that he is unable to obtain a Certificate of Occupancy from the County as on-site septic systems are no longer permitted in this area as it is designated as a septic tank moratorium area by the County. For these reasons, the District and the property owner request that the Commission approve annexation of the two parcels as submitted.

DISCUSSION

The District filed an application with LAFCO to annex the properties to WCWD. The proposed annexation will facilitate the development of up to two single family residential units.

Government Code §56668 sets forth factors that the Commission must consider in evaluating a proposed boundary change as discussed below. In the Commission's review, 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 area proposed for annexation is within WCWD's SOI, and within the County Urban Limit Line; both parcels are located in the unincorporated community of El Sobrante.

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

The County General Plan designations are Open Space (OS) for APN 420-122-030, and SM (Single Family Residential Medium) for APN 420-122-031. Both parcels are zoned by the County as R-10 (Single Family Residential, lot size 10,000 square feet minimum). Currently, one of the parcels (APN 420-122-030) contains a 1,162 square foot studio/residential structure, and the other parcel is vacant. No changes are proposed to the General Plan or zoning designations as part of this proposal. Surrounding land uses include vacant land, with residential development to the north and northeast (City of Pinole).

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

The subject property contains no prime farmland or land covered under Williamson Act Land Conservation agreements; there are no agricultural uses on the property proposed for annexation.

4. Topography, Natural Features and Drainage Basins:

The general topography of the site is relatively steep hills. The surrounding areas are characterized by rolling hills.

5. Population:

Development of two single family homes is planned for the annexation area. The estimated population increase for the annexation area is approximately six, based on 2014 California Department of Finance estimates for households in the El Sobrante area.

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 minimal effect on regional housing needs.

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

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 (Gov. Code §56653). 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 District's Plan for Providing Services is on file in the LAFCO office. The annexation area is served by various local agencies including, but not limited to, Contra Costa County, Contra Costa County Fire Protection District, and East Bay Municipal Utility District (EBMUD).

The proposal before the Commission is to annex two properties to WCWD for the provision of sanitary sewer service.

WCWD provides wastewater collection, treatment and disposal services for a 16.9± square mile service area within the City of Richmond (40% of District), the City of San Pablo (15% of District), the City of Pinole (2% of the District) and other unincorporated areas within Contra Costa County (43% of the District). WCWD serves approximately 93,000 customers. The District's facilities include a water pollution control plant, 249 miles of sewer pipeline, and 17 pump stations. WCWD's wastewater treatment plant has capacity of 12.5 million gallons per day (mgd) dry weather capacity and 21 mgd wet weather treatment capacity.

Based on the maximum number of dwelling units (two) planned for the annexation area, the maximum demand for service is approximately 540 gallons of wastewater per day. WCWD has the capacity to serve the annexation area.

WCWD has infrastructure in the area and serves a number of surrounding properties. There is an existing 6-inch vitrified clay pipe (VCP) sanitary sewer main line located in an easement on the northwestern side of the property. Revenue generated to serve the properties includes a one-time sewer connection fee and an annual sewer use charge paid by the property owner.

8. Timely Availability of Water and Related Issues:

The properties are currently served by EBMUD. The EBMUD service area is approximately 331 square miles (Contra Costa and Alameda counties). EBMUD provides potable water to approximately 1.3 million people within the two-county service area. Within Contra Costa County, EBMUD provides water service to a 146± square mile service area, serving an estimated 477,212 residents.

EBMUD's water supply is distributed through a collection system consisting of aqueducts, reservoirs, and other components. The primary source of water supply for EBMUD is the Mokelumne River; this watershed accounts for 90 percent of EBMUD's water supply. EBMUD's existing water rights allow the delivery of up to 325 mgd or approximately 364,046 acre-feet per year of water from the Mokelumne River.

9. Assessed Value, Tax Rates and Indebtedness:

The annexation area is within tax rate area 85036. The total assessed value, including land and improvements, for the annexation area is \$249,751 (2015-16 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies. The County and District will rely on the master tax transfer agreement for this annexation.

10. Environmental Impact of the Proposal:

The District, as Lead Agency, found the project to be exempt from CEQA pursuant to sections 15061(b)(3), 15319, and 15303. The LAFCO environmental coordinator concurs with the District's finding.

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.

WCWD indicates that 100% of the affected landowners have provided consent to the annexation. Thus, if the Commission approves the annexation, the Commission may waive the

protest hearing (Gov. Code §56662). 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 9, 2015 LAFCO hearing.

12. **Boundaries and Lines of Assessment (This section has been updated):**

The annexation area is within WCWD's SOI and contiguous to the District's service boundary. A map and legal description to implement the proposed boundary changes have been submitted and are subject to approval by the County Surveyor. The proposed annexation will create an island to the west. While LAFCO encourages logical and orderly boundaries, it is not unusual for sewer and water districts to have islands and pockets within their service boundaries; as historically, annexations to these types of districts have occurred as the need for service arises. The island area is composed of six whole parcels and portions of three parcels that are already paying into WCWD. The County General Plan designations for the island area is comparable to the annexation area and includes OS, SM and SH (Single Family Residential – High). Zoning for the island area includes R-7, R-10 and P-1 (Planned Unit – Residential and Non-Residential). Of the six “island” parcels, there are residential dwelling units on three of the parcels, miscellaneous buildings on one, an EBMUD reservoir on one, and one vacant parcel. Of the three remainder areas, one is an existing residential lot and the other two are vacant.

According to County Planning, there are currently no pending development applications in the island area. A summary of development potential is presented below:

- APN 430-200-007 contains an EBMUD reservoir.
- APNs 430-200-009 and -010 are owned by the same property owner and appear to be developed with single-family residences.
- APN 430-200-018 is developed with a single-family residence and second unit.
- APN 430-200-020 (6.33 acres) appears to be undeveloped.
- All of APNs -007 and -009, and significant portions of -010 and -018 have a County General Plan designation of Open Space. No significant development can occur in areas with this land use designation.
- Most of APN -020 and 1.6± acres of -010 are designated Single-Family Medium Density. While this could theoretically accommodate up to 28 units, the topography precludes that many units.

Due to development potential, annexation of the island would not qualify for a categorical exemption under CEQA. Consequently, in order to proceed with annexation of the island area, the District would need to prepare an Initial Study pursuant to CEQA.

According to County Environmental Health (EH), the island area has a slope in excess of 30%, so on-site septic systems would likely not be allowed. Also, in the area to the east on Sobrante Ave and Circle Drive, there are septic systems that have had issues in recent years.

Due to development potential and topography, future development of this area may necessitate annexation to WCWD.

13. **Environmental Justice:**

LAFCO is required to consider the extent to which proposals for a change 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.

14. Disadvantaged Communities:

In accordance with recent legislation (SB 244), local agencies and LAFCOs are required to plan for disadvantaged unincorporated communities (DUCs). Many of these communities lack basic infrastructure, including streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service. LAFCO actions relating to Municipal Service Reviews, SOI reviews/amendments, and annexations must take into consideration DUCs, and specifically the adequacy of public services, including sewer, water, and fire protection needs or deficiencies, to these communities. According to the County Department of Conservation and Department, the annexation area does not meet the criteria of a DUC.

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 annexation as proposed.

- A. Determine that the project is exempt pursuant to CEQA Guidelines, Section 15061(b)(3).
- B. Adopt this report, approve LAFCO Resolution No. 08-30 (Attachment 2), and approve the proposal, to be known as West County Wastewater District Annexation No. 312 subject to the following terms and conditions:
 1. 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.
 2. That WCWD has delivered an executed indemnification agreement providing for WCWD to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is uninhabited, the proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.

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

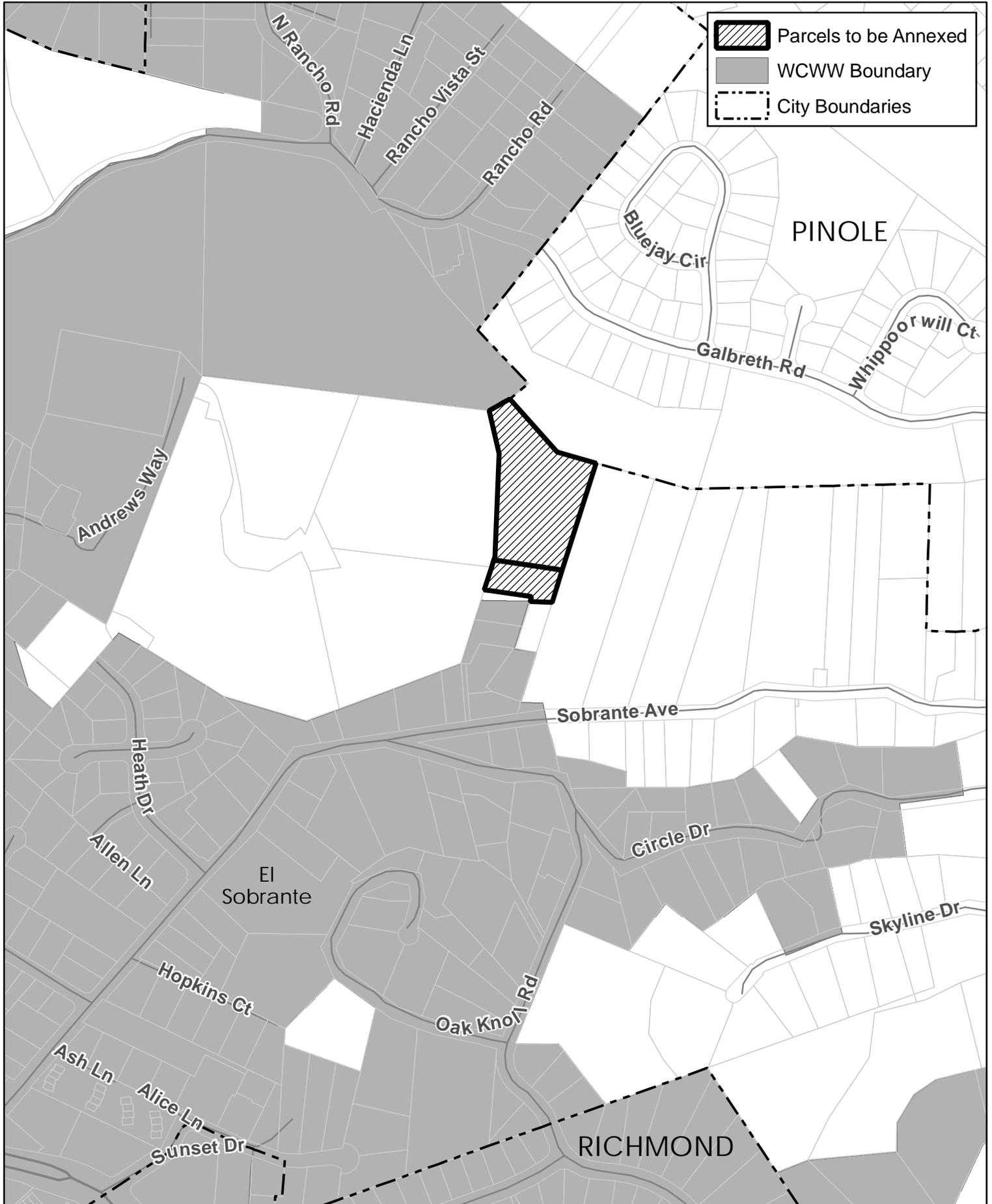
Exhibits

A – WCWD Annexation Map

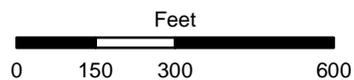
B – Draft LAFCO Resolution 08-30

c: Distribution

LAFCO No. 08-30: West County Wastewater District Annexation #312 (Sobranite Ave) Attachment A



	Parcels to be Annexed
	WCWW Boundary
	City Boundaries



RESOLUTION NO. 08-30**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING
WEST COUNTY WASTEWATER DISTRICT ANNEXATION NO. 312**

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, 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 Executive Officer has reviewed available information and prepared a report including her recommendations therein, and the report and related information have been presented to and considered by the Commission; and

WHEREAS, at a public hearing held on September 9, 2015 and continued to October 14, 2015, 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, consistency with the sphere of influence, contiguity with the districts' boundaries, and related factors and information including those contained in Gov. Code §56668; 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 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. The project is categorically exempt pursuant to CEQA Guidelines, Section 15061(b)(3).
2. The annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

WEST COUNTY WASTEWATER DISTRICT ANNEXATION NO. 312

Contra Costa LAFCO
Resolution No. 08-30

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.
6. That West County Wastewater District (WCWD) delivered an executed indemnification agreement between the WCWD and Contra Costa LAFCO providing for WCWD 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 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.
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 14th day of October 2015, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ROB SCHRODER, 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: October 14, 2015

Lou Ann Texeira, Executive Officer