

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

January 13, 2016  
Agenda Item 9

January 13, 2016 (Agenda)

LAFCO 15-02 West County Wastewater District (WCWD) Annexation 314 (Park Avenue)  
PROPONENT WCWD by Resolution No. 14-070 adopted October 7, 2014  
SYNOPSIS WCWD proposes to annex 21± acres (10 parcels) located on Park Avenue and Tisbury Lane in unincorporated Richmond as shown in Attachments 1a & 1b.

DISCUSSION

**This item was continued from the December 9, 2015 LAFCO meeting due to a public noticing issue.**

In July 2015, the District filed an application with LAFCO to annex 10 properties to WCWD in response to a petition submitted by all affected landowners. The proposed annexation will facilitate connection to municipal sewer services to properties currently served by onsite septic systems.

In 1964, Contra Costa County designated a number of areas in the County as “Septic Tank Moratorium Areas”, including the “San Pablo” areas which includes the properties proposed for annexation. The County has historically precluded private sewage disposal systems in this area “due to poor soil conditions, numerous failures, poor percolation and costly repairs of existing sewage systems, inability of numerous unimproved properties to meet regulations for individual sewage system installations (i.e., slopes, etc.), in addition to inadequate water systems and supply in some areas.” Under the septic tank moratorium, owners of homes that were built prior to the establishment of the moratorium are allowed to replace their on-site system if no municipal sewer is available. Replacement is subject to compliance with all on-site system requirements. Further, under the moratorium, new homes in this area are not allowed to install on-site septic systems. While all of the homes in the annexation area were built prior to 1964 [see Attachment 2 – WCWD Annexation 314 (Park Ave) Parcel Info], the annexation area is within the sphere of influence (SOI) of WCWD; and upon annexation, sewer service would be available.

In October 2011, the County updated its septic tank moratorium memo and reaffirmed that the San Pablo area continues to be subject to the moratorium and the ban on septic tanks. The County Environmental Health Department has expressed its support of connection of the subject properties to WCWD.

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 outside the County Urban Limit Line (ULL); the parcels are located in unincorporated Richmond.

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

The County General Plan designation for the area is OS (Open Space) and the zoning is A-2 (General Agricultural – 5 acre minimum). Currently, all parcels are developed with single family residential units, with the exception of two (APNs 418-160-005 and 418-170-006) which are vacant. The two vacant parcels are owned by landowners who also own developed parcels proposed for annexation.

According to the County Department of Conservation and Development (DCD), in order to build on a vacant lot, the lot must be considered “legal.” County records show that APN 418-160-005 is legal, and a Certificate of Compliance was issued with 16 conditions; thus, the property owner would be allowed to build one single family residential unit once all conditions are met. The County

has no information and no evidence at this time that the other vacant parcel, APN 418-170-006, is a legal parcel.

Surrounding land uses include parkland to the north and vacant land owned by the East Bay Regional Park District (EBRPD) to the southeast, and single family residential housing development to the west and south. No changes are proposed to the General Plan or zoning designations as part of this proposal.

As noted above, the area proposed for annexation is outside the ULL. The DCD notes that the County General Plan includes provisions relating to the ULL (Land Use Element), including the following:

*Policy 3-10 – The extension of urban services into agricultural areas outside the ULL, especially growth-inducing infrastructure, shall be generally discouraged.*

*Measure 3-v – To the extent legally permitted, advise LAFCO to (a) respect and support the County's 65/35 Preservation Standard, ULL, and growth management standards when considering requests for incorporation or annexation to cities or service districts.*

The Contra Costa County Ordinance Code (Chapter 82-1) includes provisions relating to the 65/35 land preservation plan, growth management and the ULL. The County Code provides that the Board of Supervisors (BOS) may conduct a cyclical review of the ULL every five years; and that the BOS will review the ULL in 2016. Since the ULL was last approved by the voters in 2006, there has been no review. The ULL creates a number of islands throughout the County that are outside the ULL, surrounded by areas that are inside the ULL, including the subject annexation area. Further, the ULL splits hundreds of parcels throughout the County. It is desirable when the County reviews the ULL in 2016, that it address the various islands and split parcels.

**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:**

Within the annexation area, parcels on the southern side of Park Avenue and on Tisbury Lane abut Wildcat Creek. The area is generally hilly with a history of slide activity in the vicinity, and includes one small canyon. Topography of the surrounding area is generally consistent with that of the annexation area (i.e., hilly with some historical slide activity). Portions of the surrounding area are composed of parklands, including Alvarado Park to the north, and one parcel of undeveloped land held by the EBRPD abutting the south-eastern portion of the annexation area.

**5. Population:**

County records show that one single family home can be developed in the annexation area. The estimated population increase for the annexation area would be approximately 2.6 persons based on the American Community Survey 5-year estimates from 2009-2013 for household size in this 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 the 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), City of San Pablo (15% of District), 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 a 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, including the existing eight residential units plus one potential dwelling unit, the maximum demand for service is approximately 2,430 gallons of wastewater per day. WCWD has the capacity to serve the annexation area.

The extension of sewer service to the area will require construction of a sewer main which will run along Park Avenue, along with hubs for connection of service to each of the parcels. A subset of the homeowners in the annexation area will finance the construction upon the creation of a Toll Zone, allowing the funding parties to recoup with interest a ratable share of the costs from property owners who wish to receive sewer service at a later time. A special assessment district will also be established for those parcels seeking annexation, who wish to immediately connect to WCWD sewer service but cannot immediately pay their portion of the construction costs. The assessment district will allow property owners to pay their share of the construction costs, plus interest, over an eight year timeframe, to be collected through property tax payments. Costs associated with lateral construction and septic tank removal will be paid separately by each individual property owner. Upon completion of construction, the system will be dedicated to WCWD, which will operate and maintain the system. Annexed parcels receiving sewer service from WCWD will then pay their regular sewer service fees. The required infrastructure needed to connect to WCWD will cost over \$200,000 and cannot be financed without maximum participation of the property owners. Exclusion of any of the parcels will make the financing and the annexation infeasible; thus, approving annexation of only the eight built out parcels is not an option for the property owners.

**8. Timely Availability of Water and Related Issues:**

The properties are currently served by EBMUD, which serves 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. The proposed annexation is not expected to increase water usage.

**9. Assessed Value, Tax Rates and Indebtedness:**

The annexation area is within tax rate area 85124. The total assessed value, including land and improvements, for the annexation area is \$3,920,953 (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 the California Environmental Quality Act (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 12 or more registered voters in the area proposed for annexation; thus, the area is considered inhabited, and 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 and within 300 feet of the exterior boundaries of the annexation area have received notice of the January 13, 2016 LAFCO hearing.

All landowners within the annexation area have provided written consent to the proposed annexation; and, as of this writing, LAFCO has received no objection from any affected landowner or registered voter. If no objection is received from an affected party prior to the conclusion of the hearing on January 13, the Commission may waive the protest proceedings. However, if any objection is received from an affected landowner or voter at any time prior to or during the hearing, then a protest hearing is required.

**12. Boundaries and Lines of Assessment:**

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 excludes one parcel from the area (APN 418-160-003). This parcel (0.25 acres) is undeveloped, and it is a legal parcel. The property owner did not respond to the petition to be included in the annexation.

**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.

- A. Determine that the project is exempt pursuant to CEQA Guidelines, Section 15061(b)(3).
- B. Adopt this report, approve LAFCO Resolution No. 15-02 (Attachment 3), and approve the proposal, to be known as West County Wastewater District Annexation 314 (Park Avenue) 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 inhabited, all affected landowners have consented to the annexation, and that the annexing agency has consented to waiving the conducting authority proceedings. However, should LAFCO receive any objection to the annexation from an affected landowner or registered voter prior to or during the public hearing, then a subsequent protest hearing is required. Should no protest be received, then the Commission may waive the protest hearing and direct LAFCO staff to complete the proceedings.

##### **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.**

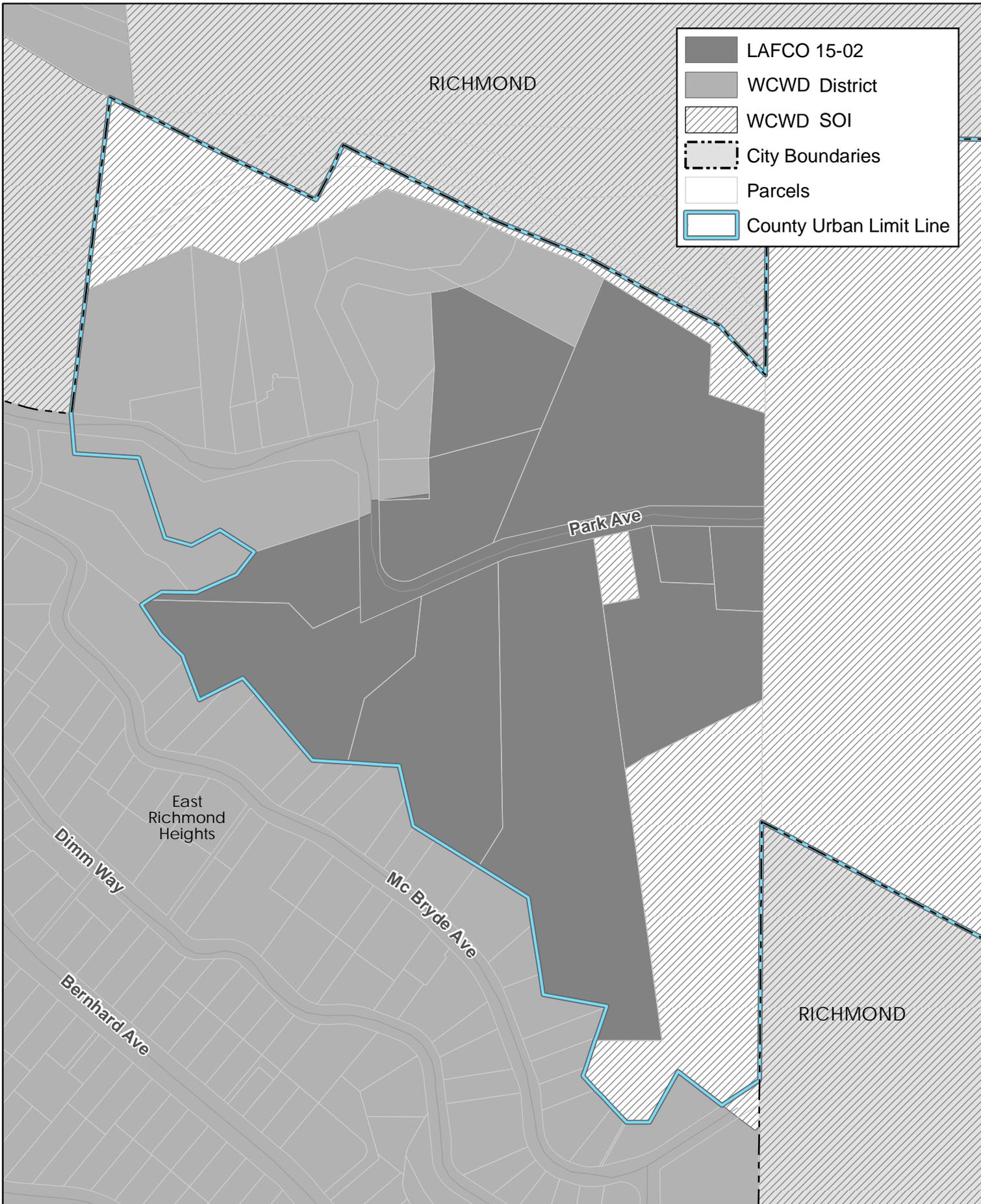
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LOU ANN TEXEIRA, EXECUTIVE OFFICER  
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

#### Attachments

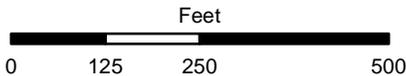
- 1a & 1b - WCWD Annexation Maps
- 2 - WCWD Annexation 314 (Park Ave) Parcel Info
- 3 - Draft LAFCO Resolution 15-02

c: Distribution

# LAFCO 15-02, West County Wastewater District Annexation 314 (Park Avenue)



	LAFCO 15-02
	WCWD District
	WCWD SOI
	City Boundaries
	Parcels
	County Urban Limit Line





085124

008049

418170006

418170017

418170002

418150004

**DA 314**

418150007

418150008

085124

418160004

418160005

418160006

418160001

Wildcat Canyon Pkwy

Park Ave

Dimm Way

**WEST COUNTY WASTEWATER DISTRICT**

McBryde Ave

Bernhard Ave

**West County Wastewater District Annexation 314 (Park Avenue)**

<b>REFERENCE</b>	<b>APN</b>	<b>PHYSICAL ADDRESS</b>	<b>ACREAGE</b>	<b>LAND VALUE</b>	<b>IMPVMT VALUE</b>	<b>YR BUILT</b>
A1	418-150-004	6138 PARK AVE	0.97	\$139,750	\$267,953	1940
A2	418-150-007	6100 PARK AVE	2.47	\$62,628	\$63,633	1947
A3	418-150-008	6102 PARK AVE	2.85	\$419,573	\$114,427	1963
A4	418-160-001	6140 PARK AVE	5.39	\$386,687	\$119,981	1940
A5	418-160-004	6166 PARK AVE	0.25	\$73,763	\$204,632	1960
A6-1	418-160-005	PARK AVE	0.36	\$65,062	\$0	vacant
A6-2	418-170-017	6151 PARK AVE	3.7	\$415,000	\$200,000	1951
A7	418-160-006	1 TISBURY LN	1.93	\$300,000	\$393,000	1942
A8-1	418-170-002	6101 PARK AVE	1.25	\$267,738	\$235,762	1960
A8-2	418-170-006	6101 PARK AVE	1.76	\$191,364	\$0	vacant

**RESOLUTION NO. 15-02**

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
WEST COUNTY WASTEWATER DISTRICT ANNEXATION 314 (Park Avenue)**

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 December 9, 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 314 (Park Avenue)**

Contra Costa LAFCO  
Resolution No. 15-02

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 inhabited.
8. The proposal has 100% landowner consent; no affected landowners/registered voters opposed the annexation. Said conducting authority 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.

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PASSED AND ADOPTED THIS 13<sup>th</sup> day of January 2016, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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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: January 13, 2016

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Lou Ann Texeira, Executive Officer