

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

August 11, 2021 (Agenda)

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Agenda Item 6

LAFCO 21-02 Byron Bethany Irrigation District (BBID) Annexation – Lawrence Property
APPLICANT Byron Bethany Irrigation District – Resolution 2021-8 – March 16, 2021
SYNOPSIS This is an application to annex four parcels (APNs 003-070-015/017/019/021) to BBID. The parcels total 92.8± acres and are located at 2043 Camino Diablo in unincorporated Byron as shown in Exhibit A (attached).
Annexation will allow the properties to receive water from BBID for agricultural, municipal, and industrial purposes in accordance with permitted land uses.

DISCUSSION

Government Code (GC) §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 factor is to be evaluated within the context of the overall proposal.

1. Consistency with the Sphere of Influence (SOI) of Any Local Agency:

BBID is a tri-County district with territory in Alameda, Contra Costa, and San Joaquin counties. San Joaquin LAFCO is the principal LAFCO for BBID and has jurisdiction over the SOI and boundary. In June 2019, San Joaquin LAFCO approve a Municipal Service Review (MSR) and Sphere of Influence (SOI) update for BBID. The BBID SOI was expanded and now includes the Lawrence properties.

In coordination with the applicant and San Joaquin LAFCO, it was agreed that Contra Costa LAFCO would process the annexation application given the subject territory is in Contra Costa County. Subsequently, on October 14, 2020, the Contra Costa LAFCO Commissioners authorized the Executive Officer to request that San Joaquin LAFCO transfer jurisdiction to Contra Costa LAFCO to process the proposed annexation. On January 14, 2021, San Joaquin LAFCO approved the transfer of jurisdiction to Contra Costa LAFCO.

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

The County General Plan designation for the site is Agricultural Core and the County's zoning is Agricultural Preserve (A-4 – Parcel 40 acre minimum). The subject area is located outside the voter approved Urban Limit Line.

The subject property is currently used for agricultural production (row crops). No changes in the current land use are anticipated. Surrounding areas are designated as either Agricultural Core or Agricultural Land. Land uses on surrounding properties include dry farmland, grazing land, pastureland, vineyards, orchards, irrigated pasture, row crops, and agricultural preserve.

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

The project site is zoned for agricultural use and supports agricultural crop cultivation. The subject property is within a Land Conservation (Williamson) Act agreement (Contract No. AP13-0007). The proposed annexation will not change the current land use or designations of the subject parcels. The applicant indicates that no anticipated loss or conversion of agricultural land will result from the annexation.

4. Topography, Natural Features and Drainage Basins:

The subject property and most of the surrounding areas are flat, cultivated agricultural land with no significant natural features. There is a hilly property located to the west of the Lawrence property.

5. Population:

Annexation of the Lawrence property will not result in any development or population increase.

6. Fair Share of Regional Housing:

No development is proposed and there is no impact to regional housing.

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

If a proposal for a change of organization or reorganization is submitted, the applicant shall also submit a plan for providing services within the affected territory (Gov. Code §56653). The plan for services is included with the application. The plan shall include all 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 subject area is currently served by various local agencies including, but not limited to, Contra Costa County, East Contra Costa Fire Protection District, and Byron Brentwood Union Knightsen Cemetery District.

8. Timely Availability of Water and Related Issues:

BBID procures and supplies raw water to be used for irrigation and municipal purposes. In addition to its pre-1914 water rights, BBID also has a contract with the Bureau of Reclamation for 20,600 acre-feet (AF) for the Central Valley Service Area. Other sources of water include ground water and purchasing water from neighboring districts. The proposed annexation will allow BBID to extend irrigation water to the subject properties for crop production. As proposed, irrigation water will be supplied from BBID's Forty-Five Canal located along with westside of the Byron Highway. It is anticipated that the properties will need 200–250-acre feet of water per growing season to support the row crops.

9. Assessed Value, Tax Rates, and Indebtedness:

The subject area is within tax rate area 60003. The assessed value for the subject area is \$667,773 (2020-21 roll). The territory being annexed shall be liable for all authorized or existing taxes and bonded debt comparable to properties presently within the annexing agencies.

10. Environmental Impact of the Proposal:

In November 2020, the Byron Bethany Irrigation District (BBID), as Lead Agency, prepared and approved an Initial Study/Negative Declaration (IS/ND) in conjunction with the Lawrence Property Annexation. The Initial Study found that the proposed annexation will not have a significant effect on the environment and that no mitigation measures are needed.

11. Landowner Consent and Consent by Annexing Agency:

All landowners and registered voters within the proposal area and within 300 feet of the exterior boundaries of the area(s) were sent notice of the LAFCO hearing.

According to County Elections, there are zero registered voters in the subject area; thus, the subject area is considered uninhabited. The affected landowner has consented to the proposed annexation.

Therefore, if the Commission approves the annexation, the Commission shall waive the protest hearing (Gov. Code §56662) as no affected landowners have filed a protest.

12. Boundaries and Lines of Assessment:

The subject area is within BBID's SOI. A map and legal description to implement the proposed annexation have been received and are subject to final approval by the County Surveyor.

13. Environmental Justice:

LAFCO is required to consider the extent to which proposals for changes 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 State legislation, 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 Development, the subject area does not meet the criteria of a DUC.

15. Comments from Affected Agencies/Other Interested Parties:

As of this writing, LAFCO has received no objection from any affected local agency, landowner, or registered voter within the subject area. If no objection is received from any affected party prior to the conclusion of the hearing on August 11th, the Commission shall waive the protest hearing.

16. Regional Transportation and Regional Growth Plans:

In its review of a proposal, LAFCO shall consider a regional transportation plan adopted pursuant to Gov. Code §65080 [Gov. Code §56668(g)]. Further, the Commission may consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or sub regional basis (Gov. Code §56668.5). Regarding these sections, LAFCO looks at consistency of the proposal with the regional transportation and other regional plans affecting the Bay Area.

SB 375, a landmark state law, requires California's regions to adopt plans and policies to reduce the generation of greenhouse gases (GHG), primarily from transportation. To implement SB 375, the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), in July 2013, adopted Plan Bay Area as the "Regional Transportation Plan and Sustainable Communities Strategy" for the San Francisco Bay Area through 2040. Plan Bay Area focuses on where the region is expected to grow and how development patterns and the transportation network can work together to reduce GHG emissions. The Plan's key goals are to reduce GHG emissions by specified amounts; and to plan sufficient housing for the region's projected population over the next 25 years.

In July 2017, ABAG and MTC adopted Plan Bay Area 2040, which updates the 2013 Plan Bay Area and reaffirms the goals/targets identified in the earlier version. Plan Bay Area establishes "Priority Conservation Areas" (PCAs) and "Priority Development Areas" (PDAs) and focuses growth and

development in nearly 200 PDAs. These existing neighborhoods are served by public transit and have been identified as appropriate for additional, compact development. The subject area is not within a PCA or a PDA; however, the proposed annexation does not appear to conflict with the regional transportation or growth plans. The *Draft Plan Bay Area 2050* was released in May 2021. Finalization of *Plan Bay Area 2050* is scheduled for Fall 2021.

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. Find that, as a Responsible Agency under the California Environmental Quality Act (CEQA), LAFCO has reviewed and considered the environmental effects of the Lawrence Property Annexation as shown in BBID's *Initial Study/Negative*, determines that the negative declaration is adequate, and finds that there are no direct or indirect environmental effects that would result from LAFCO's approval of the annexation.
- B. Adopt this report, approve LAFCO Resolution No. 21-02 (Attachment 1), and approve the proposal, to be known as *Byron Bethany Irrigation District Annexation – Lawrence Property* subject to the following terms and conditions:
 1. The subject territory 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. Find that the subject territory is uninhabited, and the subject landowner does not object to the annexation; thus, the conducting authority 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

Exhibit

Annexation Map – Exhibit A

Attachment

1 – Draft LAFCO Resolution 21-02

c: Rick Gilmore, General Manager, Byron Bethany Irrigation District
James Lawrence, Landowner

RESOLUTION NO. 21-02

**RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION
MAKING DETERMINATIONS AND APPROVING THE
ANNEXATION TO BYRON BETHANY IRRIGATION DISTRICT
LAWRENCE PROPERTY**

WHEREAS, the above-referenced proposal was 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 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 gave notice of the Commission's consideration of the proposal; and

WHEREAS, the Executive Officer 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 August 11, 2021, 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, applicable General and Specific Plans, consistency with the sphere of influence, contiguity with the Byron Bethany Irrigation District's boundary, and related factors and information including those contained in Gov. Code §56668; and

WHEREAS, information satisfactory to the Commission has been presented that no affected landowners/registered voters within the subject area object to the proposal; and

WHEREAS, the Local Agency Formation Commission determines the proposal to be in the best interest of the affected area and the organization of local governmental agencies within Contra Costa County; and

WHEREAS, the applicant has delivered to LAFCO an executed indemnification agreement providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions to challenge the annexation.

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission **DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

1. As a Responsible Agency under CEQA, the Commission: has reviewed and considered the environmental effects of the proposed annexation as shown in the *Lawrence Property Annexation to Byron Bethany Irrigation District (BBID) Initial Study/Negative Declaration* approved by BBID in November 2020; determines that the negative declaration is adequate; and finds that there are no direct or indirect environmental effects that would result from the Commission's approval of the annexation.
2. The annexation is hereby approved.

- 3. The subject proposal is assigned the following distinctive short-form designation:
**ANNEXATION TO BYRON BETHANY IRRIGATION DISTRICT –
LAWRENCE PROPERTY**
- 4. The boundary of the subject territory is 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. The subject territory is uninhabited.
- 7. The proposal has 100% landowner consent, and the conducting authority (protest) proceedings are hereby waived.
- 8. 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 11th day of August 2021, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

IGOR SKAREDOFF, 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: August 11, 2021

Lou Ann Texeira, Executive Officer

LAFCO 21-02 Annexation to Byron Bethany Irrigation District (BBID) – Lawrence Property

Exhibit A

