



Local Agency Formation Commission
LAFCO of Napa County

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Agenda Item No. 7a (Action)

January 25, 2010

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Brendon Freeman, Analyst

SUBJECT: Trancas Crossing Park Annexation to the City of Napa: Continuation
The Commission will continue consideration of a proposal from the City of Napa to annex approximately 33 acres of unincorporated territory located adjacent to the eastern terminus of Old Trancas Street. The proposal is intended to facilitate the development of a public park. Staff has prepared a second report addressing issues raised during the initial review of the proposal at the Commission's December 7, 2009 meeting. Staff has amended its earlier recommendation to eliminate a special condition to approval requiring Napa reach an agreement with neighboring landowners on the construction of an extended fence.

The Local Agency Formation Commission of Napa County ("Commission") is in receipt of a proposal from the City of Napa to annex 33.3 acres of unincorporated territory located adjacent to the eastern terminus of Old Trancas Street. Napa is proposing the annexation in conjunction with its plans to develop the affected territory into a passive recreational public park known as "Trancas Crossing." Napa's stated reasons for the annexation are two-fold. First, annexation would enable Napa to coordinate public safety services within the park. Second, annexation would save Napa approximately \$6,100 annually by no longer paying property taxes.

A. Background

The Commission received an initial staff report on the proposal at its December 7, 2009 meeting. The December report recommended approval of the proposal with two modifications to (a) exclude a one-fifth acre portion of the affected territory to make it non-contiguous to Napa while (b) detaching the annexed land from County Service Area (CSA) No. 4. Markedly, the former modification allows the Commission to apply a special provision codified under Government Code (G.C.) Section 56742. This provision allows the Commission to annex the affected territory, minus the excluded one-fifth acre portion, without requiring the land be added to the sphere of influence given it is owned and used by Napa for municipal purposes. It also helps to ensure annexation will not lead to unintended uses since the provision requires the affected territory be automatically

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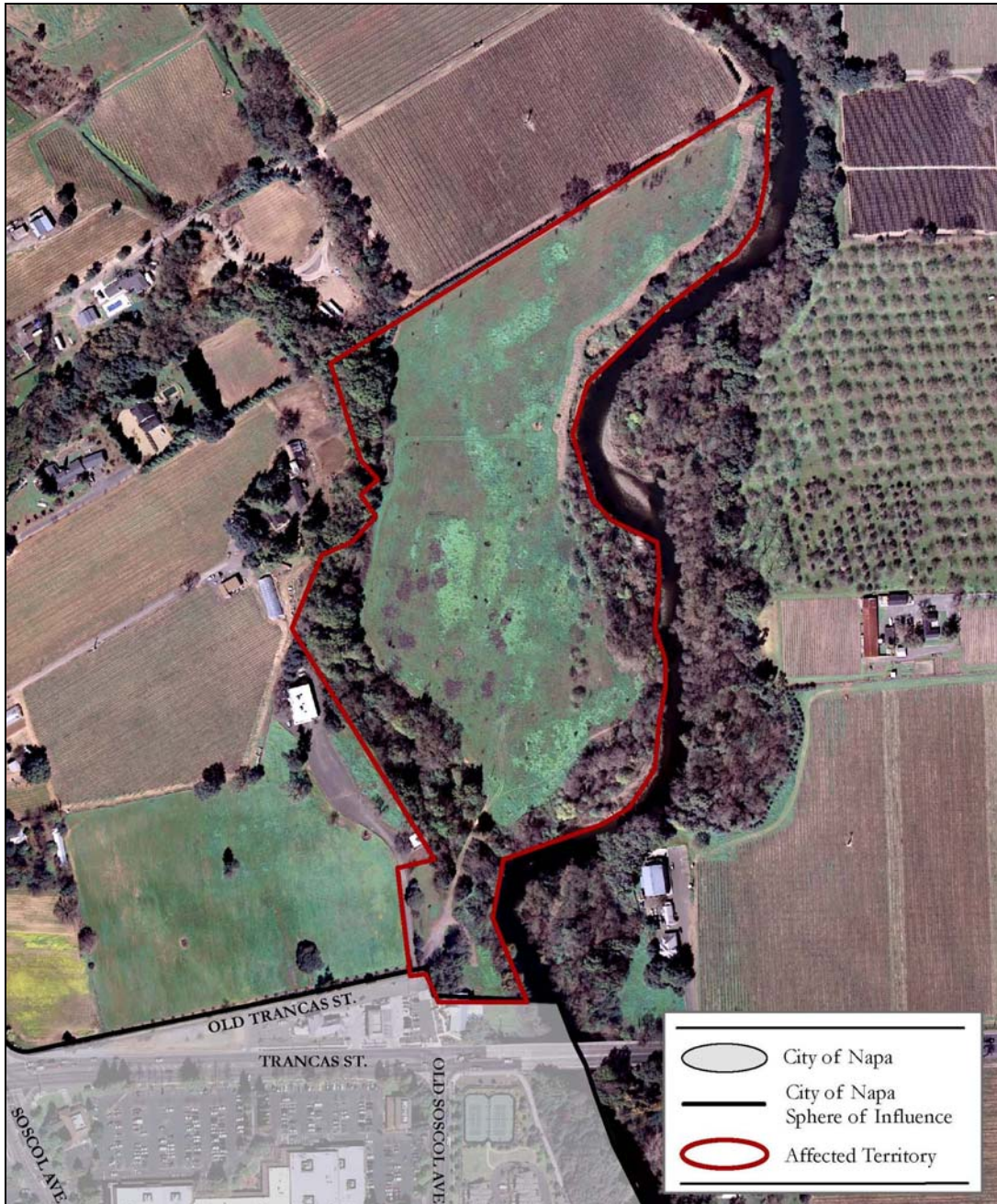
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Executive Officer

detached if Napa ceases to be the landowner. The Commission has utilized this provision twice before in approving the annexation of Alston Park to Napa in 1989 and the incorporation of American Canyon in 1991. The latter occurrence involving the exclusion of American Canyon's then-used wastewater ponds at the western terminus of American Canyon Road from the City's sphere of influence.



The December report also outlined options to condition approval to help address the potential effects of the proposal in maintaining the economic and physical integrity of adjacent agricultural uses to the north at 2100 Big Ranch Road. These effects were initially brought to staff's attention by the landowners of the adjacent parcel, Steven and Tina Brown, who assert they have experienced a sizeable increase in trespassers on their commercial vineyard since Napa purchased the affected territory in 2005. The Browns state trespassers routinely walk around or through openings within an existing chain-linked fence running parallel along the shared property line. The Browns add the new parallel fence Napa has agreed to construct along the shared property line would not change existing conditions. In response, staff identified four special condition options in the December report ranging from encouraging to requiring Napa reach an agreement with the Browns on constructing an extended fence to help insulate agricultural uses. Staff ultimately recommended approval be conditioned to require Napa reach an agreement with the Browns on an extended fence while providing the City the opportunity to request a waiver if good-faith negotiations are unsuccessful.

B. Discussion

In presenting the December report, staff requested and the Commission approved a continuance of the proposal to the next regular meeting. The continuance was requested to provide staff additional time to review the proposal and address, if needed, information received after the preparation and circulation of the December report. This includes reexamining the agreement between Napa and the Browns, which among other matters, provides for the construction of a new parallel fence along the shared property line. Additionally, in discussing the proposal, the Commission identified several issues requiring new or expanded analysis. Issues raised by Commissioners include potential policy implications concerning the creation of islands and designation of spheres of influence as well as providing additional review of Napa's financial capacity to assume service responsibilities for the proposed park.

C. Analysis

As discussed in the preceding section, staff has prepared the following analysis on the proposal to supplement the information presented in its December report.

- **Does annexation create an unincorporated island?**

Annexation would not create an unincorporated island based on the Commission's adopted policies. Annexation would create a 30 acre unincorporated "pocket" to the west of the affected territory bordered four-fifths on its sides by Napa. The pocket would not meet the Commission's definition of a substantially surrounded island given the land lies outside Napa's sphere of influence, and therefore ineligible for streamlined annexation proceedings. The recommended modification to exclude a one-fifth acre portion along the affected territory's southern perimeter would result in expanding the pocket lying to the west to include a panhandle; modification would not create an island.

- **Does annexation create growth pressures on adjacent lands lying outside Napa's sphere of influence?**

Staff believes annexation would not create new urban growth pressures on adjacent lands outside Napa's sphere of influence given two specific and related circumstances underlying the proposal. First, the proposal is intended to facilitate Napa's plans to develop the affected territory into a passive recreational park. Second, the affected territory is subject to a conservation easement granted to the Napa County Land Trust ensuring no urban type of development will occur. These circumstances help to distinguish the proposal before the Commission from other potential proposals involving lands outside the sphere of influence.

- **Does annexation undermine Napa's sphere of influence?**

Annexation as proposed necessitates a concurrent amendment to Napa's sphere of influence under G.C. Section 56375.5.¹ An amendment would undermine and conflict with the Commission's policy and practice in designating Napa's sphere of influence since the affected territory is planned for non-urban use and lies outside the City's rural urban limit (RUL) line. Notably, it is the policy of the Commission to designate a city sphere of influence to direct the appropriate location of urban development.² It is also the practice of the Commission to use Napa's RUL to inform its decision-making in determining the appropriate location of urban development with respect to designating the City's sphere of influence.

Given the preceding conflict, staff has recommended modifying the proposal to exclude an approximate one-fifth acre along the affected territory's southern perimeter for purposes of applying G.C. Section 56742. This modification allows the Commission to annex the affected territory without requiring a concurrent sphere of influence amendment. As noted, this modification is consistent with the established precedent of the Commission in approving the annexation of Alston Park to Napa in 1989 and the incorporation of American Canyon in 1991.

In considering the proposal, the Commission should provide direction to staff if it wishes to revisit its policy and practice in designating city spheres of influence if they are no longer consistent with Commissioner preferences. For example, the Commission may consider establishing a broader definition of urban development for purposes of designating spheres of influence to include city parks, such as Trancas Crossing. The Commission may also consider whether it desires to continue to utilize G.C. Section 56742 to accommodate city annexations of municipally owned and used lands. Notably, the Commission has a similar proposal on file from St. Helena proposing a non-contiguous annexation of their

¹ G.C. Section 56375.5 states approved changes of organization or reorganizations subject to subdivisions (a), (m), and (n) shall be consistent with the spheres of influence of local agencies. Napa's proposal is subject to subdivision (a).

² Policy Determinations II(c)(1)(a).

wastewater spray field site. The Commission's action on this proposal will guide staff's review and recommendation of St. Helena's proposal.

- **What effects do the easements associated with the affected territory have on the annexation relative to the review of the Commission?**

There are two existing easements tied to the affected territory. A review of these easements relative to the annexation follows.

Uno Fratelli Easement

This easement is granted to the neighboring land to the south of the affected territory located at 600 Trancas Street, which is currently owned by Uno Fratelli.³ The easement covers an approximate 1.3 acre portion of the affected territory along its southern boundary and includes two distinct elements. The first element grants a non-exclusive easement to 600 Trancas to use the existing gravel road within the affected territory to access all portions of the grantee's land along with overflow parking to the east of the road. Staff does not believe this element adversely affects the annexation, with or without modification, given Napa retains the right to use the gravel road for accessing the remainder of the park site as well as utilizing the land earmarked for overflow parking.

The second element grants an exclusive easement for any lawful purpose relative to outdoor activities along the rear of 600 Trancas Street, which was formerly used by the previous landowner for volleyball courts and bandstands. This component does raise a question whether the Commission can modify the proposed annexation as recommended to exclude a one-fifth acre portion along the affected territory's southern perimeter for purposes of utilizing G.C. Section 56742 to avoid amending Napa's sphere of influence. This question is born from whether the modification would continue to meet the statute's preconditions, which require eligible land be owned and used by the city for municipal purposes. Counsel has reviewed this element of the easement and believes the Commission can proceed with the modification given Napa remains the landowner and the affected territory is predominately dedicated for recreational uses, a recognized municipal purpose.⁴ A copy of the easement is attached for Commission review.

³ The easement was granted to the previous landowner of 600 Trancas Street, Daniel Campbell, in August 2001.

⁴ The portion of the exclusive easement represents 3.78% of the total 33.3 acre affected territory. The portion of the exclusive easement if the affected territory is modified to exclude a one-fifth acre along the southern boundary is reduced to 3.34%.

Napa County Land Trust Easement

This easement is granted to the Napa County Land Trust and covers the entire affected territory.⁵ The easement restricts uses within the affected territory as follows: (a) developing and managing passive recreational activities; (b) maintaining, reconstructing, and using existing roads necessary to accommodate recreational and agricultural uses; (c) clearing and restoring damaged land; (d) preventing entry by unauthorized persons; (e) restoring native wildlife; (f) constructing a recreational fish pond; and (g) engaging in commercial or non-commercial agriculture with the specific prohibition involving wine grapes. Staff does not believe the easement adversely affects the annexation. In contrast, the easement provides certainty to the Commission annexation, with or without modification, may only facilitate the development of the affected territory consistent with expressly authorized uses under the easement. A copy of the easement is attached for Commission review.

- **Expanded review of Napa's financial capacity to develop and maintain the affected territory as a public park.**

The following analysis reviews information available regarding Napa's costs to develop and maintain the affected territory as a public park. The analysis also provides updated information on Napa's agency-wide financial status.

Park Development Costs

Napa has divided the development of the park project into two phases with a total budget cost of \$3.6 million.⁶ The first phase is specific to the proposal before the Commission and involves developing the affected territory into a passive recreational park at a budgeted cost of \$2.8 million. This phase is scheduled to be fully funded through two State grants.⁷ Napa must complete construction on the first phase by a May 1, 2011 deadline for both grants to ensure the City will receive reimbursement. The second phase involves creating a path connecting the affected territory through a portion of the adjacent southern property leading under the Trancas Street Bridge to the existing Napa River Trail. This second phase is budgeted at \$0.8 million and is expected to be covered through Napa's Capital Projects Fund.⁸ There are no current deadlines associated with completing the second phase.

⁵ The easement was granted to the Napa County Land Trust by the affected territory's previous landowners, John and Linda Miller, in December 2001.

⁶ Napa fully funded the purchase of the affected territory from the Napa County Land Trust in 2005 for \$0.21 million through two grants from the State of California.

⁷ Grant funding for the first phase is provided by Propositions 40 and 50 awards.

⁸ The second phase of development will presumably include negotiations between Napa and the landowner at 600 Trancas Street with respect to accommodating a trail easement necessary to connect to the Napa River Trail. Staff is in receipt of a letter from a representative for the landowner at 600 Trancas Street raising questions regarding this aspect of the project. A copy of the letter is attached for Commission review.

Park Maintenance Costs

Napa estimates the direct ongoing maintenance costs of the park project at \$37,700. This amount represents Napa’s present labor cost to fund 60% of a new full-time maintenance employee within the Parks Division of the Parks and Recreation Department (PRD). Ongoing maintenance duties shall include removing trash and vegetation debris, plant pruning, performing basic repairs, and opening and closing the entry gate. PRD has received approval to budget the new position beginning in 2010-2011. Overall, the estimated ongoing cost to maintain the proposed park represents 0.05% of Napa’s approved budget expenditures in 2010-2011. Maintenance costs would be partially offset through annexation by providing Napa \$6,100 in annual property tax savings.

Agency-Wide Financial Status

Napa’s operating budget in 2009-2010 is \$65.7 million. Napa anticipates collecting only \$62.4 million in general operating revenues, resulting in a shortfall of \$3.3 million. If these estimates prove accurate, Napa will need to rely on unrestricted reserves to cover its operating shortfall, which would reduce its total fund balance from approximately \$18.3 to \$14.9 million. A similar operating shortfall is anticipated in 2010-2011, which would further decrease Napa’s total fund balance to \$11.7 million as summarized in the following chart.

Napa’s Fund Balance

(Source: City of Napa FY09-10/10-11 Budget)

Category	Actual 2006-2007	Actual 2007-2008	Actual 2008-2009	Estimate 2009-2010	Estimate 2010-2011
Restricted	16.555	8.897	2.127	2.127	2.127
Unrestricted	5.888	10.881	8.262	4.844	1.411
Emergency	5.900	7.000	7.934	7.934	8.175
	<u>\$28.344</u>	<u>\$26.778</u>	<u>\$18.323</u>	<u>\$14.905</u>	<u>\$11.713</u>

Dollars in Millions

Similar to most municipalities, Napa’s reliance on dynamic revenue streams, such as property, sale, and transient-occupancy taxes, has resulted in recent and projected operating shortfalls due to the downturn in the national economy. Napa did experience operating surpluses totaling \$13.5 million between 2005-2006 and 2007-2008, which allowed the City to increase its fund balance prior to the downturn in the economy. This has positioned Napa to use its operating reserve to preserve existing service levels while meeting its policy of maintaining an emergency reserve equal to two months of its annual expenses.

- **Expanded review of Napa’s ability to extend public safety services to the affected territory.**

In preparing a mitigated negative declaration for the park project, Napa concluded the development and annexation of the affected territory would result in less-than-significant impacts on the City’s fire and police services. Napa specifically found the park would not measurably increase emergency call volumes relative to current demands or require additional equipment or personnel based on input received from the two affected City departments. This information is consistent with the data collected in the Commission’s recent municipal service reviews (MSRs) that include evaluations of Napa’s fire and police services. The MSRs collectively note Napa’s response to high-priority emergency calls for both fire and police services average less than five minutes from dispatch to arrival, which satisfies national standards as well as City policies. The MSRs also did not identify any deficiencies regarding Napa’s ability to extend fire and police services to the surrounding area.

- **Does the special condition recommended in the December report requiring Napa reach agreement with neighboring landowners on the construction of an extended fence exceed the Commission’s authority?**

The Commission is within its statutory authority to condition approval to require Napa reach an agreement with the neighboring landowners on the construction of an extended fence under G.C. Section 56886(h). This subdivision specifically empowers LAFCOs to condition any change of organization or reorganization to include the “acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal.” The special condition recommended in the December report addresses making an improvement to the affected territory to help protect the physical and economic integrity of adjacent agricultural lands; a factor the Commission is required to consider under G.C. Section 56668(e). The special condition does not directly regulate land use, property development, or subdivision requirements as prohibited of LAFCOs under the law.

- **What is the rationale of the special condition recommending in the December report and does it undermine Napa’s planning process?**

In evaluating the proposal ahead of the December meeting, staff became concerned with the annexation and the corresponding service plan’s potential impacts on neighboring agricultural lands owned by the Browns at 2100 Big Ranch Road. The Browns assert the new parallel fence Napa has agreed to construct along the shared property line would simply match an existing fence and does not protect against wayward park visitors from going around either end points and onto their commercial vineyard, which lies in the *Agricultural Preserve*. Staff visited the site and agrees with the Browns’ premise and recommended in the December report approval be conditioned to require Napa reach an agreement with the Browns to

construct an extended fence. This special condition included a provision to allow Napa to request a waiver if good-faith negotiations are unsuccessful. The rationale underlying the special condition is for the Commission to proactively exercise its authority to term boundary changes to effectuate public policies it is charged with implementing, namely balancing municipal growth with preservation of agricultural resources.

Napa maintains the special condition undermines its planning process. In particular, Napa asserts the special condition does not recognize an existing settlement agreement between the parties, which among other things, provides the City will construct a new parallel fence along the shared property line.⁹ Staff respectfully disagrees with the latter assertion. The special condition does not ignore the agreement. The special condition represents an independent determination informed by baseline conditions relating to the existing parallel fence that an extended fence would better help protect adjacent agricultural uses.

Notwithstanding the preceding comments, and based on additional review and input from Napa, the special condition does potentially undermine the City's planning process in terms of creating uncertainty. Most notably, Napa needs to complete construction on the portion of the park project involving the affected territory no later than May 1, 2011 to be reimbursed for its expenses through two grant awards from the State. Napa states it will need to finalize its design plans, complete a bid process, and initiate construction by summer of this year to have sufficient time to finish this phase of the project before the deadline. Any delays in initiating construction tied to negotiating with the Browns could jeopardize Napa's ability to collect its awarded funding from the State. Additionally, the waiver opportunity included in the special condition may create uncertainty for Napa since it is predicated on the City demonstrating it has negotiated in "good-faith," but is still unable to reach an agreement. The uncertainty is due to the lack of measurables in quantifying a good-faith effort.

D. Summary/Conclusion

The analysis in this report supports the December recommendation to approve the proposal as modified to exclude a one-fifth acre portion of the affected territory to make it non-contiguous to Napa while detaching the annexed land from CSA No. 4. These actions are supported by staff's review of Napa's service and fiscal capacities and would be consistent with Commission policy and practice.

⁹ The settlement agreement was signed by both parties in April 2009. It responds to a suit brought by the Browns against Napa to recover damages caused by a fire originated on the City's property in May 2007. The agreement states Napa shall, among other things, plant a row of redwood trees and construct an eight-foot chain-linked fence running parallel to the shared property line in exchange for the Brown's dropping the suit against the City.

The analysis in this report, however, does not support retaining the earlier recommendation to include a special condition requiring Napa reach an agreement with the neighboring landowners at 2100 Big Ranch Road on an extended fence with a waiver opportunity if good-faith efforts are unsuccessful. Eliminating the special condition would avoid creating uncertainties with regard to Napa's ability to meet its deadline to collect grant funding from the State to develop the affected territory into a passive recreational park. Elimination would also help avoid a scenario in which Napa chooses not to fulfill the special condition – as it has stated – and proceed with the park project without finalizing annexation. This scenario is possible because as landowner Napa enjoys immunity from County land use regulations. Staff believes this is an important factor in favor of approving annexation without the special condition given LAFCO's interest in coordinating orderly service provision in support of municipal growth.

E. Recommendation

It is recommended the Commission take the following action:

1. Adopt the attached draft resolution approving the proposal with standard conditions with the following two modifications:
 - a) Exclude a one-fifth acre portion along the southern border of the proposed annexation area to make it non-contiguous to Napa.
 - b) Detach the land annexed to Napa from CSA No. 4.

Respectfully submitted,

Keene Simonds
Executive Officer

Brendon Freeman
Analyst

Attachments:

- 1) Draft Resolution of Approval
- 2) Letter from the City of Napa
- 3) Uno Fratelli Easement
- 4) Napa County Land Trust Easement
- 5) Copied Letter from Uno Fratelli

* A copy of the December report is available on the agency website, www.napa.lafco.ca.gov. Copies may also be obtained by contacting staff.