



Local Agency Formation Commission
LAFCO of Napa County

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February 4, 2008
Agenda Item No. 7b

January 28, 2008

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: Reorganization Proceedings: Napa River Reclamation District No. 2109
The Commission will receive a report from staff estimating the timeline and cost to reorganize the Napa River Reclamation District No. 2109 into a community services district. The Commission will consider taking actions to initiate reorganization proceedings for approval at future meeting.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 delegates regulatory powers to Local Agency Formation Commissions (LAFCOs) to coordinate the orderly formation and development of local governmental agencies and services. The majority of LAFCOs' regulatory powers are restricted to approving or disapproving change of organization or reorganization proposals that are initiated by local agencies, property owners, or registered voters, such as annexations, detachments, and incorporations. However, beginning July 1, 1994, LAFCOs have been authorized to initiate proposals to consolidate, dissolve, or merge districts if it is consistent with the conclusion or recommendation of an earlier study. This authority was recently expanded to also authorize LAFCOs to initiate proposals to form new districts beginning January 1, 2008.

Background

At its December 3, 2007 meeting, the Commission received a report from staff revisiting the conclusions of its earlier governance study on the Napa River Reclamation District No. 2109 (NRRD). The report noted that the governance study examined several alternatives and concluded that reorganizing NRRD into a community services district (CSD) is the preferred option in meeting the present and future need of the community. Specifically, reorganization would enable the community to continue to receive sewer service while addressing an existing disconnect drawn from NRRD not having sufficient constituent support to establish and provide reclamation in a manner that is consistent with the law. All other CSD powers, such as flood control, would become latent and could be activated by the new district upon Commission approval at a future date.

The December report highlighted the recent enactment of Senate Bill 819 (Hollingsworth) expanding LAFCOs' authority to initiate proposals to form new districts allows the Commission to take the lead role in reorganizing NRRD. At the conclusion of its discussion, the Commission directed staff to prepare a second report estimating the timeline and cost to process the reorganization for review at its next regular meeting.

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Representative of the General Public

Keene Simonds
Executive Officer

Discussion

Reorganizing NRRD into a CSD would require the Commission to initiate and process two separate and concurrent proposals pursuant to California Government Code (G.C.) §56375(a). First, the Commission would need to initiate proceedings to dissolve NRRD. Second, the Commission would need to initiate proceedings to form a new CSD. Markedly, the new CSD would be designated by the Commission as successor to NRRD and would succeed to all rights, duties, and assets of the dissolved district.

Reorganization Timeline

Step One: Public Hearings

Staff anticipates it would take approximately six months to evaluate and prepare reports on both the dissolution and formation proceedings underlying the reorganization of NRRD into a CSD. Each report would address the factors the Commission is required to consider anytime it makes a determination on a change of organization or reorganization proposal under G.C. §56668. In addition to recommendations, each report would outline potential terms and conditions for approval. This would include conditioning approval for each proposal on the approval of the other. The Commission would consider the recommendations of each report as part of separate public hearings. The public hearings would be scheduled for the same meeting with notices mailed 21 days in advance to all registered voters and landowners within 300 feet of the affected territory.

Step Two: Protest Hearings

If dissolution and formation proceedings are both approved, the Commission would need to conduct additional hearings to receive protests. In accordance with Commission policies, the Executive Officer would be responsible for scheduling, noticing, and conducting protest hearings for both proceedings. The protest hearings would be held within 95 days from the date of Commission approvals.¹ Notices would be mailed to all registered voters and landowners within the affected territory.

At the conclusion of the protest hearings, the Executive Officer would work with the County Assessor and Registrar of Voters to determine the value of written protests filed against the dissolution and formation proceedings. LAFCO would take one of three actions based on the results of the protest hearings.

Alternative One: Abandon Change of Organizations

The Commission would abandon both dissolution and formation proceedings if it determines that written protests filed prior to the close of the protest hearings meet *either* of the following requirements:

¹ LAFCO would be required to schedule both protest hearings within 35 days of approval by the Commission. The date of the hearings shall not be less than 21 days or more than 60 days after the date of the notice. The hearings would be held within the affected territory. (G.C. §57002)

- 1) If protest against dissolution represents 50% or more of the voting power of those entitled to vote as a result of owning land in the affected territory (G.C. §57078(c)).
- 2) If protest against formation represents 50% or more of the registered voters in the affected territory (G.C. §57078(b)).

Alternative Two: Order the Change of Organization(s) without Election

The Commission would adopt a resolution ordering the dissolution and formation proceedings without election if it determines that there are insufficient protests for *either* proposal at the close of the protest hearings. The Executive Officer would execute a certificate of completion and complete the necessary documentation for filing with the State Board of Equalization (SBE).

Alternative Three: Order the Change of Organization(s) with Election

The Commission would adopt a resolution calling for an election to approve either or both the dissolution and formation proceedings if it receives a petition prior to the close of the protest hearings that have been signed by one of the following:

- 1) At least 25% of the number of landowners in the affected territory that own at least 25% of the assessed value within the same territory.
 - 2) At least 25% of the voters entitled to vote as a result of residing within, or owning land within the affected territory.
- * Assumes that there are less than 300 landowners and 300 registered voters in the affected territory (G.C. §57113).

Step Three: Elections

As mentioned, an election would only be necessary to approve either or both the dissolution and formation proceedings if sufficient protest has been filed with the Commission. Registered voters residing in the affected territory would be eligible to vote in an election to approve the formation of a new CSD. State law provides that the election may be processed by mailed ballot and conducted by County Elections. County Elections estimates that it would take up to four months to prepare, conduct, and canvass a registered-voter election by mail-ballot.

In contrast, owners of land in the affected territory would be eligible to vote in an election to approve the dissolution of the NRRD. Each landowner would receive one vote for each dollar his or her property is currently assessed. Due to multiple cross-references, it is unclear under state law whether County Elections would be responsible for conducting a landowner-voter election. However, assuming that it would agree to assist, it is reasonable to assume that it would take County Elections up to six months to prepare, conduct, and canvass a landowner-voter election by mail-ballot.

LAFCO would take of the two following actions based on the results of the elections.

Alternative One: Termination

Within 30 days of the canvass, the Executive Officer would execute a certificate of termination if it is determined that a majority of eligible voters cast ballots against either or both the dissolution or formation proceedings (G.C. §57179).

Alternative Two: Order the Change of Organization

Within 30 days of the canvass, the Executive Officer would execute a certificate of completion if it is determined that the majority of eligible voters cast ballots in favor of either or both the dissolution or formation proceedings (G.C. §57176).

Reorganization Costs

Staff Costs

Staff anticipates that it would take approximately 60 hours to evaluate and prepare reports on both the dissolution and formation proceedings underlying the reorganization. If both proceedings are approved, it is anticipated that an additional 25 hours of staff time would be needed to notice, schedule, and conduct protest hearings. An election for one or both of the proceedings would likely require an additional 10 hours of staff time. Based on the current hourly rate of \$90, it is estimated that the staff costs to the Commission to initiate and process reorganization would be approximately \$8,550.

Legal Costs

Staff anticipates that it would take approximately 20 hours for Commission Counsel to evaluate and prepare draft resolutions on both the dissolution and formation proceedings underlying the reorganization. If both proceedings are approved, it is anticipated that an additional 10 hours will be required of Commission Counsel before and after protest hearings. An election for one or both of the proceedings would likely require an additional five hours from Commission Counsel. Based on Commission Counsel's current hourly rate of \$149, it is estimated that the legal costs to the Commission to initiate and process reorganization would be approximately \$5,215.

Election Costs

The Commission would be responsible for all election costs associated with the reorganization. County Elections estimates the cost to conduct a registered-voter election by mailed-ballot to approve the formation of a new CSD would be approximately \$3,000.² County Elections was not able to provide an estimate to conduct a landowner-voter election by mailed-ballot to approve dissolution of the NRRD due to the lack of related experience. However, for planning purposes, it is reasonable to assume that conducting a landowner-voter election would cost approximately \$6,000, or double the cost of a registered-voter election.

² The estimate is based on a recent registered-voter mailed-ballot election involving the Lake Berryessa Resort Improvement District.

Filing Costs

The Commission would be responsible for all costs to file necessary documents with the County-Clerk Recorder and SBE associated with the reorganization. The filing fees for the Clerk-Recorder's Officer would total \$100 and allow LAFCO to record notices of exemption for both proceedings within five working days of Commission approval as required under California Environmental Quality Act. The filing fee for SBE would total \$300 and allow the reorganization to be recorded in the State's tax database system.

Noticing Costs

The Commission would be responsible for the costs to provide all required public notices associated with the reorganization. This would include providing up to six mailed written notices to registered voters and landowners within the affected territory as well as publishing up to three notices in the Napa Valley Register. Staff estimates the total cost for providing all notices at approximately \$1,000.

Summary

Initiating and processing the reorganization of NRRD into a new CSD would be a significant investment in staff and budget resources for the Commission. It is estimated that it would take up to 16 months to carryout the reorganization at a cost of up to \$25,000. Demands on staff resources are manageable, but would likely delay the start and completion of the Commission's municipal service reviews and sphere of influence reviews scheduled over the next year and a half. Demands on budget resources would be more significant and would likely need to be passed on to the Commission's six funding agencies by incorporating the external costs (i.e., election and noticing expenses) into the upcoming fiscal year budget.

Recommendation

If it is the preference of the Commission to initiate reorganization proceedings at this time, staff recommends the following actions:

- 1) Adopt by motion a proposal to initiate the dissolution of NRRD as authorized under G.C. §56375(a); and
- 2) Adopt by motion a proposal to initiate the formation of a new CSD to serve as successor agency to NRRD pursuant to G.C. §56375(a).

No actions are necessary if it is the preference of the Commission not to initiate reorganization proceedings at this time.

Respectfully submitted,

Keene Simonds
Executive Officer

Attachments:

- ~~1) Correspondence~~
- ~~2) Staff Report, Dated December 3, 2007~~