



Local Agency Formation Commission LAFCO of Napa County

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Agenda Item No. 8a (Discussion)

January 28, 2009

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: Montecito Boulevard: Concurrent Request for an Outside Service Agreement and Sphere of Influence Amendment from the City of Napa

The Commission will receive a report on the current review of the City of Napa's requests seeking concurrent approval of an outside service agreement and sphere of influence amendment involving land located at the eastern terminus of Montecito Boulevard. The report includes staff's initial analysis and is being presented to the Commission for discussion.

On December 18, 2008, the Local Agency Formation Commission of Napa County ("Commission") received two written requests from the City of Napa ("City"). These requests seek the Commission's concurrent approval of an (a) outside service agreement and (b) sphere of influence amendment involving Shawn and Connie Guttersen's unincorporated and undeveloped property located at the eastern terminus of Montecito Boulevard. This report summarizes the key aspects associated with the requests and outlines staff's initial analysis. Staff anticipates completing its analysis and presenting the requests to the Commission as early as the next regular meeting scheduled for Monday, April 6, 2009.

A. Discussion

The City is requesting the concurrent approval of an outside service agreement and sphere of influence amendment to provide water service to the Guttersen's property to facilitate the development of a single-family residence, although no specific plans exist at this time. The property is approximately 44 acres in size and designated and zoned by the County as "Agricultural Watershed and Open Space" and "Agriculture Watershed," respectively. These land use assignments prohibit the future division of the property by requiring a minimum parcel size of 160 acres. These land use assignments also restrict the future development of the property for residential purposes to one single-family residence along with a second attached or detached unit if specific conditions are met. The City General Plan designates the property as "Greenbelt" to memorialize its expectation the development of the land be limited to unincorporated agricultural or rural residential uses.

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Keene Simonds
Executive Officer

The City's concurrent requests are drawn from its interest in accommodating what it believes is the reasonable extension of its water services in a manner consistent with the provisions of California Government Code (G.C.) Section 56133. This statute specifies cities and special districts must receive commission approval before providing new or extended services outside their jurisdictions by contract or agreement. The statute also specifies a commission may approve outside service agreements beyond an agency's sphere of influence only if it believes it is responding to an existing or impending threat to public health or safety. The City's application materials state it does not believe the proposed outside service agreement addresses a public health or safety threat and therefore it is seeking the concurrent sphere of influence amendment.

It is important to note the City's request for the approval of an outside service agreement is the first such application submitted to the Commission. Markedly, as previously discussed, it had been the practice of the Commission not to require cities or special districts to receive approval before providing new or extended outside services.¹ This practice, however, ended in November 2008 when the Commission adopted a policy addressing its role in administering outside service under G.C. Section 56133, including prescribing the form, review, and consideration of agency requests.

B. Initial Analysis

The City's concurrent requests for the approval of an outside service agreement and sphere of influence amendment involving the Guttersen's property highlights several important policy considerations for the Commission. Most notably, the sphere of influence amendment request appears inconsistent with the Commission's adopted policy to exclude all lands designated for an agricultural or open-space use from a city's sphere for purposes of urban development (Policy Determination II.C.(c)). The stated intent of the sphere of influence amendment is to facilitate an outside service agreement to accommodate the development of a single-family residence. This stated intent seemingly qualifies as a form of urban development and therefore conflicts with the referenced Commission policy. The sphere of influence amendment request also appears inconsistent with the policy of the Commission to use city spheres as guides for future annexations (Policy Determinations II.C.(e)). In particular, not only do the Commission's own policies discourage annexation given the County agricultural land designation, but the City General Plan does not contemplate the annexation of the property.

¹ The Commission's previous practice of not requiring cities or special districts to receive approval before providing new or extended outside services stemmed from an initial reading of G.C. Section 56133, which originally included a broad exemption involving contracts between two or more public agencies. The Commission relied on this broad exemption in concluding the City as well as other local agencies did not require approval to provide new or extended outside services based on their water supply agreements with the Napa County Flood Control and Water Conservation District (NCFCWCD). Markedly, these agreements define extensive outside service areas for each of NCFCWCD's contracting agencies. The exemption the Commission relied on in developing its practice, however, was amended in 2001 to become more restricted and no longer applicable to the referenced agreement.

Staff recognizes the majority of the Commission's policies, including those referenced above, were adopted prior to the enactment of G.C. Section 56133. As a result, the Commission's policies are oriented to focus spheres of influence to designate the probable future jurisdictional boundaries of local agencies and not necessarily reflect their existing or eventual service areas. This orientation is further embedded by the standing practice of the Commission to limit the planning horizon for spheres of influence to five years. These factors considerably raise the threshold for justifying sphere of influence amendments and help to explain why spheres are relatively confined in Napa County.

Based on the considerations outlined above, there does not appear to be sufficient justification for the Commission to approve the City's requests based on existing policies – and in particular the amendment to the sphere of influence. Staff appreciates the Commission has previously expressed interest in exploring the possibility of allowing an exception given the property is located next to the City's transmission line and two adjacent properties are already receiving outside water service. Towards this end, staff's final analysis will consider the merits and demerits of an exception to help fully inform the Commission in its decision making process.

C. Commission Review

The Commission is invited to discuss staff's initial analysis on the City's concurrent requests and provide input on specific areas of interest or concern. As mentioned, staff anticipates completing its analysis and presenting the concurrent requests to the Commission for consideration as early as the next regular meeting scheduled for Monday, April 6, 2009.

Attachments:

- 1) Commission Policy Determinations
- 2) City of Napa's Application Materials