



LAFCO MEETING AGENDA

October 1, 2007

4:00 P.M.

**Board Chambers, County Administration Building
1195 Third Street, Room 305
Napa, CA**

Jack Gingles, Chair
Brad Wagenknecht, Vice-Chair
Bill Dodd, Commissioner
Juliana Inman, Commissioner
Brian J. Kelly, Commissioner
Cindy Coffey, Alternate Commissioner
Mark Luce, Alternate Commissioner
Gregory Rodeno, Alternate Commissioner

Keene Simonds, Executive Officer
Jacqueline Gong, Commission Counsel
Kathy Mabry, Secretary

1. CALL TO ORDER; ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF MINUTES

Minutes of August 6, 2007 and August 20, 2007

4. PUBLIC COMMENT

In this time period, anyone may comment to the Commission regarding any subject over which the Commission has jurisdiction, or request consideration to place an item on a future Agenda. No comments will be allowed involving any subject matter that is scheduled for hearing or discussion as part of this Agenda. Individuals will be limited to a three-minute presentation. No action will be taken by the Commission as a result of any item presented at this time.

5. CONSENT CALENDAR

Staff recommends approval of all items on the consent calendar without discussion. Proposed changes of organization or reorganization appearing on the consent calendar meet the provisions of applicable sections of the California Government Code that allow the Commission to waive subsequent protest proceedings.

a) LAFCO Budget Contributions by Funding Agencies (Information)

The Commission will receive a report from staff identifying the funding percentages and amounts required of the six funding agencies for the 2007-2008 fiscal year.

b) Amendment to FY2007-2008 Budget (Action)

The Commission will consider an amendment to its 2007-2008 fiscal year budget to make payments associated with the agreement between LAFCO and Baracco and Associates.

c) Amendment to Support Services Agreement with County of Napa (Action)

The Commission will consider a proposed amendment to its support services agreement with the County of Napa. The proposed amendment makes changes relating to the provision of information technology services as well as other non-substantive updates. The proposed amendment is being presented for Commission approval.

6. PUBLIC HEARING ITEMS

a) American Canyon Fire Protection District: Sphere of Influence Review

The Commission will receive a report on its scheduled sphere of influence review of the American Canyon Fire Protection District. The Commission will consider a resolution adopting the recommendations of the report to update the sphere pursuant to Government Code §56425.

b) County Service Area No. 3: Sphere of Influence Review

The Commission will receive a report representing its scheduled sphere of influence review of County Service Area No. 3. The Commission will consider a resolution adopting the recommendation of the report to affirm the sphere pursuant to Government Code §56425.

7. COMMISSION ACTION ITEMS

a) California Government Code §56133

The Commission will receive a report evaluating two policy options addressing its role as it relates to the City of American Canyon providing water and sewer services outside its jurisdictional boundary under California Government Code §56133. The Commission will consider draft resolutions adopting one of the two policy options.

8. COMMISSION DISCUSSION ITEMS

a) Legislative Report

The Commission will receive a verbal report from staff on the current session of the California Legislature with respect to bills affecting LAFCOs.

b) Report from 2007 CALAFCO Annual Conference

The Commission will receive a verbal report on issues and topics raised at the 2007 Annual Conference of the California Association of Local Agency Formation Commissions.

9. EXECUTIVE OFFICER REPORT

The Commission will receive a verbal report from the Executive Officer regarding current staff activities, communication, studies, and special projects. This includes the following topics:

- Baracco and Associates
- Save Rural Angwin
- Villa Berryessa Pines
- Bartig, Basler & Ray

10. INFORMATION ITEMS

Information items are provided for the Commission to receive and file. The Commission may choose to discuss individual items or to receive and file the entire calendar.

a) Active Proposals

The Commission will receive a report from staff regarding active proposals.

11. CLOSED SESSION

None.

12. COMMISSIONER COMMENTS; REQUEST FOR FUTURE AGENDA ITEMS

13. ADJOURNMENT TO NEXT REGULAR SCHEDULED MEETING:

November 5, 2007

Commissioners of the Local Agency Formation Commission of Napa County are disqualified from voting on any proposals involving entitlements of use (such as annexations) if they have received campaign contributions from an interested party. The law prohibits a Commissioner from voting on any entitlement when he/she has received a campaign contribution(s) of more than \$250 within 12 months of the decision, or during the proceedings for the decision, from any interested party involved in the entitlement. An interested party includes an applicant and any person who actively supports or opposes the proposal and has a financial interest in it.

If you intend to speak on any hearing item, please indicate in your testimony if you have made campaign contributions totaling \$250 or more to any Commissioner during the past 12 months, and, if so, to which Commissioner(s) you have contributed and the amount(s). Please consult with LAFCO Counsel if you have any questions about the laws that pertain to campaign contributions or conflicts of interest. Contact LAFCO staff if you have any other questions or require special accommodations at (707) 259-8645.



Local Agency Formation Commission
LAFCO of Napa County

1700 Second Street, Suite 268
Napa, CA 94559
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October 1, 2007
Agenda Item No. 5a

September 25, 2007

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: LAFCO Budget Contributions by Funding Agencies
(Consent: Information)

The Commission will receive a report from staff identifying the funding percentages and amounts required of the six funding agencies for the 2007-2008 fiscal year

Pursuant to California Government Code §56381, LAFCO's budget is funded by six agencies, the County of Napa and the Cities of American Canyon, Calistoga, Napa, St. Helena, and the Town of Yountville. Each fiscal year, the County is responsible for 50% of the budget and the cities are collectively responsible for the remaining 50%. As allowed under law, the cities have agreed to an alternative formula to apportion their respective budget contributions. Funding percentages required of each agency for the 2007-2008 fiscal year and comparisons from the 2006-2007 fiscal year are listed below.

LAFCO Budget: Agency Funding Percentages

| Agency | 2007-2008 | 2006-2007 | Difference |
|-------------------------|------------------|------------------|-------------------|
| County of Napa | 50.00% | 50.00% | 0.0% |
| City of Napa | 32.94% | 34.26% | (1.32%) |
| City of American Canyon | 7.80% | 6.50% | 1.30% |
| City of St. Helena | 3.85% | 3.92% | (0.07%) |
| City of Calistoga | 3.03% | 3.06% | (0.03%) |
| Town of Yountville | 2.37% | 2.27% | 0.10% |

As part of the annual budget process, it is the practice of LAFCO to return its unexpended funds to the six funding agencies in the form of credits towards their subsequent fiscal year contribution. LAFCO finished the 2006-2007 fiscal year with unexpended funds totaling \$183,338, which include end-of-year operating (\$165,562) and revenue (\$17,776) balances. LAFCO also carried over from the 2005-2006 fiscal year an unexpended fund amount of \$11,301. LAFCO will proportionally credit the agencies the carryover amount from the 2005-2006 fiscal year as part of the 2007-2008 budget. Funding amounts required of each agency for the 2007-2008 fiscal year and comparisons from the 2006-2007 fiscal year are listed below.

Jack Gingles, Chair
Mayor, City of Calistoga

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County of Napa Supervisor, 1st District

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Representative of the General Public

Juliana Inman, Commissioner
Councilmember, City of Napa

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Cindy Coffey, Alternate Commissioner
Councilmember, City of American Canyon

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Keene Simonds
Executive Officer

LAFCO Budget: Agency Funding Amounts
(Net Agency Invoices:)

| Agency | 2007-2008 | 2006-2007 | Difference |
|-------------------------|------------------|------------------|-------------------|
| County of Napa | \$136,016.01 | \$155,720.41 | (\$19,704.40) |
| City of Napa | \$87,061.35 | \$106,679.39 | (\$19,618.04) |
| City of American Canyon | \$23,792.74 | \$20,542.43 | \$3,250.31 |
| City of St. Helena | \$10,349.12 | \$12,095.26 | (\$1,746.14) |
| City of Calistoga | \$8,140.48 | \$9,243.23 | (\$1,102.75) |
| Town of Yountville | \$6,672.32 | \$7,160.10 | (\$487.78) |

The calculation formula used by staff in determining agency funding percentages and amounts for the 2007-2008 fiscal year is provided in the attached spreadsheet.

Attachment: as stated

FY2007-2008 Final Allocation for Annual LAFCO Costs to County and Cities (9/15/07)
(Alternative Allocation Formula Approved by Cities)

| Step 1 | LAFCO Budget | | Final <u>FY06-07</u> | Final <u>FY07-08</u> | Difference <u>Dollar</u> | Difference <u>Percentage</u> | | | | | | | | |
|----------------|--|----|-------------------------|-------------------------|-----------------------------|---------------------------------|---------------------|--------------------|----------------------|--|--|--|--|--|
| | Total | \$ | 456,757.55 | \$ 466,671.72 | \$ 9,914.17 | 2.2% | | | | | | | | |
| Step 2 | Annual Allocation | | | | | | | | | | | | | |
| | 50% to County | \$ | 228,378.78 | \$ 233,335.86 | \$ 4,957.08 | 2.2% | | | | | | | | |
| | 50% to Cities | \$ | 228,378.78 | \$ 233,335.86 | \$ 4,957.08 | 2.2% | | | | | | | | |
| Step 3a | Cities' Share Based on Total General Taxes* | | | | | | | | | | | | | |
| | <u>General Tax Revenues</u> | | | <u>American Canyon</u> | <u>Calistoga</u> | <u>Napa</u> | <u>St. Helena</u> | <u>Yountville</u> | <u>All Cities</u> | | | | | |
| | Secured & Unsecured Property Tax | \$ | 4,545,186 | \$ 701,215 | \$ 6,145,405 | \$ 1,832,604 | \$ 356,712 | \$ 13,581,122 | | | | | | |
| | Voter Approved Indentedness Property Tax | \$ | - | \$ - | \$ - | \$ - | \$ - | \$ - | | | | | | |
| | Other Property Tax | \$ | 812,106 | \$ 280,020 | \$ 4,175,654 | \$ 322,645 | \$ 217,200 | \$ 5,807,625 | | | | | | |
| | Sales and Use Taxes | \$ | 1,141,614 | \$ 387,446 | \$ 7,296,549 | \$ 1,764,833 | \$ 333,917 | \$ 10,924,359 | | | | | | |
| | Transportation Tax | \$ | - | \$ - | \$ - | \$ - | \$ - | \$ - | | | | | | |
| | Transient Lodging Tax | \$ | 119,303 | \$ 2,257,440 | \$ 5,697,141 | \$ 1,163,367 | \$ 2,842,489 | \$ 12,079,740 | | | | | | |
| | Franchises | \$ | 305,033 | \$ 130,702 | \$ 2,243,052 | \$ 128,643 | \$ 50,602 | \$ 2,858,032 | | | | | | |
| | Business License Taxes | \$ | 141,421 | \$ 131,693 | \$ 2,351,101 | \$ 133,008 | \$ 3,767 | \$ 2,760,990 | | | | | | |
| | Real Property Transfer Taxes | \$ | 248,217 | \$ 36,734 | \$ 637,586 | \$ 57,077 | \$ 16,143 | \$ 995,757 | | | | | | |
| | Utility Users Tax | \$ | - | \$ - | \$ - | \$ - | \$ - | \$ - | | | | | | |
| | Other Non-Property Taxes | \$ | 1,666,103 | \$ 244,010 | \$ 2,375,561 | \$ 481,299 | \$ 101,189 | \$ 4,868,162 | | | | | | |
| | Total | \$ | 8,978,983 | \$ 4,169,260 | \$ 30,922,049 | \$ 5,883,476 | \$ 3,922,019 | \$ 53,875,787 | | | | | | |
| | Percentage of Total Taxes to all Cities | | 16.7% | 7.7% | 57.4% | 10.9% | 7.3% | 100% | | | | | | |
| Step 3b | Cities' Share Based on Total Population** | | | <u>American Canyon</u> | <u>Calistoga</u> | <u>Napa</u> | <u>St. Helena</u> | <u>Yountville</u> | <u>All Cities</u> | | | | | |
| | Population | | 16,031 | 5,302 | 76,997 | 5,993 | 3,290 | 107,613 | | | | | | |
| | Population Percentage | | 14.90% | 4.93% | 71.55% | 5.57% | 3.06% | 100% | | | | | | |
| Step 4 | Cities Allocation Formula | | | <u>American Canyon</u> | <u>Calistoga</u> | <u>Napa</u> | <u>St. Helena</u> | <u>Yountville</u> | <u>All Cities</u> | | | | | |
| | Cities' Share Based on Total General Taxes | | 16.7% | 7.7% | 57.4% | 10.9% | 7.3% | 100% | | | | | | |
| | Portion of LAFCO Budget | \$ | 15,555.18 | \$ 7,222.82 | \$ 53,569.32 | \$ 10,192.53 | \$ 6,794.50 | \$ 233,335.86 | 40% | | | | | |
| | Cities' Share Based on Total Population | | 14.90% | 4.93% | 71.55% | 5.57% | 3.06% | 100% | | | | | | |
| | Portion of LAFCO Budget | \$ | 20,855.88 | \$ 6,897.75 | \$ 100,170.95 | \$ 7,796.73 | \$ 4,280.20 | \$ 233,335.86 | 60% | | | | | |
| | Total Agency Allocation | \$ | 36,411.06 | \$ 14,120.57 | \$ 153,740.27 | \$ 17,989.25 | \$ 11,074.70 | \$ 233,335.86 | | | | | | |
| | Allocation Share | | 15.6046% | 6.0516% | 65.8880% | 7.7096% | 4.7462% | 100% | | | | | | |
| Step 5 | FY07-08 Invoice | | <u>County</u> | <u>American Canyon</u> | <u>Calistoga</u> | <u>Napa</u> | <u>St. Helena</u> | <u>Yountville</u> | <u>All Agencies</u> | | | | | |
| | FY07-08 Agency Share | \$ | 233,335.86 | \$ 36,411.06 | \$ 14,120.57 | \$ 153,740.27 | \$ 17,989.25 | \$ 11,074.70 | \$ 466,671.72 | | | | | |
| | Less Agency Credits*** | \$ | 91,669.18 | \$ 11,908.59 | \$ 5,611.67 | \$ 62,806.51 | \$ 7,188.08 | \$ 4,154.32 | \$ 183,338.35 | | | | | |
| | Less Agency Credits**** | \$ | 5,650.68 | \$ 709.72 | \$ 368.42 | \$ 3,872.41 | \$ 452.05 | \$ 248.06 | \$ 11,301.35 | | | | | |
| | Net Invoice | \$ | 136,016.01 | \$ 23,792.74 | \$ 8,140.48 | \$ 87,061.35 | \$ 10,349.12 | \$ 6,672.32 | \$ 272,032.02 | | | | | |

Notes:

* Amounts are drawn from the FY04-05 State Controller's Cities Annual Report and does not include functional revenues.

** Amounts are drawn from the California Department of Finance, January 2007.

*** Total credit amount from FY06-07 is \$183,355. This amount includes all unexpended operating funds, contingency reserves, and application fees and interest earnings. It is the practice of LAFCO to return all unexpended funds and revenues to the agencies in the form of credits based on their percentage share of the budget in FY06-07.

**** Reflects additional credit remaining from the FY05-06 that was not calculated as part of the FY06-07 allocations.



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October 1, 2007
Agenda Item No. 5b

September 26, 2007

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: Amendment to FY2007-2008 Budget (Consent: Action)

The Commission will consider an amendment to its 2007-2008 fiscal year budget to make payments associated with the agreement between LAFCO and Baracco and Associates.

At its August 6, 2007 meeting, the Commission authorized the Executive Officer to negotiate an agreement for consultant services to prepare municipal service reviews for the Cities of Calistoga and St. Helena and Public Cemeteries. The Commission's authorization to the Executive Officer was limited to negotiating an agreement for consultant services in an amount not-to-exceed \$30,000 and subject to the approval of legal counsel and signature by the Chair.

Drawing from the Commission's authorization, staff has entered LAFCO into an agreement with Baracco and Associates to prepare the three referenced municipal service reviews. The agreement with Baracco and Associates compensates the firm in the amount of \$90 an hour for services provided with a total not-to-exceed amount of \$18,500. The not-to-exceed amount of \$18,500 was suggested by Baracco and Associates and is its cost estimate to prepare all three municipal services reviews based on the work program prepared by staff.

In anticipation of making payments to Baracco and Associates, staff recommends the Commission authorize the Executive Officer to transfer \$18,500 from Regular Salaries (Account No. 51100000) to Professional Support Services (Account No. 52185000). This transfer will not have a negative impact on the budget due to the current and extended vacancy of the analyst position.

Jack Gingles, Chair
Mayor, City of Calistoga

Juliana Inman, Commissioner
Councilmember, City of Napa

Cindy Coffey, Alternate Commissioner
Councilmember, City of American Canyon

Brad Wagenknecht, Vice-Chair
County of Napa Supervisor, 1st District

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Brian J. Kelly, Commissioner
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

Recommendation

It is recommended for the Commission to take the following action:

- 1) Amend the 2007-2008 fiscal year budget to transfer \$18,500 from Regular Salaries (Account No. 51100000) to Professional Support Services (Account No. 52185000) to make payments associated with LAFCO's agreement with Baracco and Associates.

Respectfully submitted,

Keene Simonds
Executive Officer

Attachment:

~~1) LAFCO Professional Services Agreement No. 07-001 with Baracco and Associates~~



Local Agency Formation Commission
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October 1, 2007
Agenda Item No. 5c

September 26, 2007

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Jacqueline Gong, Commission Counsel

**SUBJECT: Amendment to Support Services Agreement with County of Napa
(Consent: Action)**

The Commission will consider a proposed amendment to its support services agreement with the County of Napa. The proposed amendment makes changes relating to the provision of information technology services as well as other non-substantive updates. The proposed amendment is being presented for Commission approval.

In June 2003, the Commission entered into a support services agreement (SSA) with the County of Napa. The SSA establishes terms and conditions for the County to provide staffing and related services necessary for the Commission to fulfill its responsibilities under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

The County has prepared a proposed amendment to the SSA to incorporate an updated billing methodology involving information technology services (ITS). The methodology has been practiced by the County in calculating LAFCO's ITS charge for the last two fiscal years. The proposed amendment would formally institute the practiced methodology and make other non-substantive updates to the descriptions of ITS services. The proposed amendment also revises the SSA to eliminate the reference of a name-specific employee to the executive officer position. This change will avoid the need to amend the SSA in the future if there are personnel changes.

Recommendation

It is recommended that the Commission take the following actions:

- 1) Approve and direct the Chair to sign the attached amendment to LAFCO's Support Services Agreement with the County of Napa (LAFCO Agreement No. 03-02); and
- 2) Direct staff to forward the approved amendment to the County for approval by the Board of Supervisors.

Jack Gingles, Chair
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Councilmember, City of American Canyon

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Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Brian J. Kelly, Commissioner
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

Respectfully submitted,

Keene Simonds
Executive Officer

Jacqueline Gong
Commission Counsel

Attachment:

~~1) Proposed Amendment to SSA with the County of Napa~~



Local Agency Formation Commission
LAFCO of Napa County

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October 1, 2007
Agenda Item No. 6a

September 19, 2007

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: American Canyon Fire Protection District: Sphere of Influence Review (Public Hearing)

The Commission will receive a report on its scheduled sphere of influence review of the American Canyon Fire Protection District. The Commission will consider a resolution adopting the recommendations of the report to update the sphere pursuant to California Government Code §56425.

In 2001, California Government Code was amended as part of the Cortese-Knox-Hertzberg (CKH) Local Government Reorganization Act of 2000. CKH requires Local Agency Formation Commissions (LAFCOs) to prepare municipal service reviews and sphere of influence reviews for each local agency by January 1, 2008 and every five years thereafter as needed. The collective purpose of these reviews is to inform and guide LAFCOs in their legislative mandate to plan and coordinate the orderly development of local agencies in a manner that meets the present and future needs of the community.

Discussion

In June 2006, LAFCO of Napa County initiated a countywide municipal service review on fire protection services. The municipal service review was prepared in two distinct phases. The first phase involved cataloging and evaluating the fire protection services of five local agencies, the American Canyon Fire Protection District, the County of Napa, and the Cities of Calistoga, Napa, and St. Helena. The second phase involved the preparation of written determinations making statements on the level and range of fire protection services provided by the affected agencies as required under law. These determinations were adopted by the Commission at its February 5, 2007 meeting.

Drawing from information collected and analyzed as part of the municipal service review, staff has prepared the attached report representing the sphere of influence review of the American Canyon Fire Protection District. The report recommends two distinct changes to the District's sphere of influence. These changes include adding 1) all lands located within American Canyon's sphere of influence and 2) lands already in the District but outside its sphere of influence. These affected areas are collectively identified in the report as Study Categories A and B. No changes are recommended with respect to Study

Jack Gingles, Chair
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Councilmember, City of American Canyon

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County of Napa Supervisor, 2nd District

Keene Simonds
Executive Officer

Category D. Additionally, as discussed at the August 6th meeting, staff has deferred evaluating the remaining two study categories, C and E, at this time.

Recommendation

It is recommended for the Commission to take the following actions:

- 1) Receive and file the attached written report representing the sphere of influence review of the American Canyon Fire Protection District; and
- 2) Approve the attached resolution with any desired changes making statements with respect to updating the sphere of influence for the American Canyon Fire Protection District pursuant to California Government Code §56425.

Respectfully submitted,

Keene Simonds
Executive Officer

Attachments:

- 1) Sphere of Influence Review
- 2) ~~Draft Resolution~~

LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

**AMERICAN CANYON FIRE PROTECTION DISTRICT
SPHERE OF INFLUENCE REVIEW**

**Final Report
October 2007**

Prepared by:

LAFCO of Napa County

Committed to serving the citizens and government agencies of its jurisdiction by encouraging the preservation of agricultural lands and open-space and coordinating the efficient delivery of municipal services.

Jack Gingles, Chair
Brad Wagenknecht, Vice-Chair
Bill Dodd, Commissioner
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Brian J. Kelly, Commissioner
Cindy Coffey, Alternate Commissioner
Mark Luce, Alternate Commissioner
Gregory Rodeno, Alternate Commissioner

Keene Simonds, Executive Officer
Jackie Gong, Commission Counsel
Kathy Mabry, Commission Secretary



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INTRODUCTION

Local Agency Formation Commissions

Local Agency Formation Commissions (LAFCOs) were established in 1963 and are responsible for administering California Government Code §56000 et seq., which is now known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. LAFCOs are delegated regulatory and planning responsibilities to encourage the orderly formation and development of local governmental agencies and services, preserve agricultural and open-space resources, and discourage urban sprawl. Duties include regulating governmental boundary changes through annexations or detachments, approving or disapproving city incorporations, and forming, consolidating, or dissolving special districts. LAFCOs are also responsible for conducting studies addressing a range of service and governance issues to inform and direct regional planning activities and objectives. LAFCOs are located in all 58 counties in California.

Spheres of Influence

A principal planning responsibility for LAFCO is the determination of a sphere of influence (“sphere”) for each city and special district under its jurisdiction.¹ California Government Code §56076 defines a sphere as “a plan for the probable physical boundaries and service area of a local agency, as determined by the commission.” LAFCO establishes, amends, and updates spheres to indicate to local agencies and property owners that, at some future date, a specific area will likely require the services provided by the subject agency. The sphere determination also indicates the agency LAFCO believes is best situated to serve the subject area. LAFCO is required to review each agency’s sphere by January 1, 2008 and every five years thereafter as needed.

In establishing, amending, or updating a city or special district’s sphere, LAFCO is required to consider and prepare written statements addressing four specific planning factors. These planning factors, which are enumerated under California Government Code §56425(e), are intended to capture the legislative intent of the sphere determination with regard to planning the logical and orderly development of each local agency. These planning factors are:

- The present and planned land uses in the area, including agricultural and open-space lands.
- The present and probable need for public facilities and services in the area.
- The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
- The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

¹ LAFCOs have been required to determine spheres for cities and special districts since 1972.

In addition, when reviewing a sphere for an existing special district, LAFCO must also do the following:

- Require the existing special district to file a written statement with the commission specifying the functions or classes of services it provides.
- Establish the nature, location, and extent of any functions or classes of services provided by the existing special district.

Beginning in 2001, to help inform the sphere review process, LAFCO is responsible for preparing a municipal service review. A municipal service review is a comprehensive evaluation of the level and range of governmental services provided by a local agency or within a defined area. The municipal service review culminates in the preparation of written determinations addressing nine specific factors enumerated under California Government Code §56430(a). These factors range from infrastructure needs or deficiencies to local governance and accountability. The municipal service review is a prerequisite to updating an agency's sphere and may also lead LAFCO to take other actions under its authority.

American Canyon Fire Protection District

In June 2006, LAFCO of Napa County, hereinafter referred to as the "Commission," initiated a countywide municipal service review on fire protection services. The municipal service review was prepared in two distinct phases. The first phase involved cataloging and evaluating the fire protection services of five local agencies, the American Canyon Fire Protection District, the County of Napa, and the Cities of Calistoga, Napa, and St. Helena. The second phase involved the preparation of written determinations making statements on the level and range of fire protection services provided by the five local agencies as required under law. These determinations were adopted by the Commission at its February 5, 2007 meeting.

This report represents the sphere review of the American Canyon Fire Protection District (ACFPD). The report draws on information collected as part of the aforementioned municipal service review evaluating fire protection services in Napa County, including services provided by ACFPD, and is incorporated by reference. The focus of the report is to consider whether changes to the sphere are warranted to plan the orderly development of ACFPD in a manner that is consistent with Commission policies and the present and future needs of the community.

OVERVIEW

ACFPD was formed as an independent special district in 1957. ACFPD's formation was engendered by local property owners to provide an elevated level of fire protection services to the unincorporated community of American Canyon. Prior to ACFPD's formation, the community received a basic level of fire protection service from the County of Napa through its contract with the California Department of Forestry (CDF).

ACFPD was initially organized as an all-volunteer agency. In 1959, ACFPD transitioned to a combination paid-volunteer agency with the hiring of a fulltime fire chief. In 1992, ACFPD was reorganized by the Commission as a subsidiary to the newly incorporated City of American Canyon.² As a result of the reorganization, the American Canyon City Council now serves *ex officio* as the Board of Directors for the ACFPD.

American Canyon Fire Protection District

| | |
|----------------------|---|
| Date Formed | 1957 |
| Enabling Legislation | Health and Safety Code 13800-13970 |
| Services Provided | Fire Protection, Rescue, and Emergency Medical |

ACFPD is currently responsible for providing fire protection, rescue, and emergency medical services within an approximate 6.0 square mile jurisdictional boundary. ACFPD's primary service area is American Canyon, which has an estimated population of 16,031.³ ACFPD's jurisdictional boundary also includes 75 unincorporated parcels that are primarily under industrial use and located adjacent to the Napa County Airport.⁴

Sphere of Influence

Establishment

ACFPD's sphere was established by the Commission in 1975. The Commission initially designated the sphere to comprise two distinct zones termed primary and secondary. The primary zone included all lands already in ACFPD along with surrounding lands that were either developed or expected to develop within the next 10 years. The secondary zone included extraterritorial lands served by ACFPD under its existing agreement with the County extending north to Soscol Ridge, west to the Napa River, and east and south to Solano County. Markedly, in adopting the sphere, the Commission emphasized the role of ACFPD as an urban service provider and correlated the extension of its services with promoting urban development.

² California Government Code §57105 specifies that at the time of formation the jurisdictional boundary of a subsidiary district must include no less than 70% of the affected city's incorporated boundary and registered voters. There are no special limitations or restrictions relating to the annexation of land to a subsidiary district following its formation.

³ Population estimate provided by the California Department of Finance.

⁴ ACFPD maintains automatic aid agreements with the County and the City of Vallejo (Solano County) to provide first-response services north to State Highway 12, west to the Napa River, east to Solano County, and south to State Highway 37.

Comprehensive Update

In 1982, the Commission made two significant changes to ACFPD's sphere as part of a comprehensive update. First, the Commission eliminated the use of primary and secondary zones by establishing a single sphere boundary for ACFPD. Second, the Commission redesignated the sphere to include only lands already in ACFPD as well as surrounding lands that were either developed or expected to develop in the next 10 years. Excluded from the sphere were lands formerly comprising the secondary zone, which were no longer being served by ACFPD following the termination of its service agreement with the County in 1978. In updating the sphere, the Commission also reemphasized ACFPD's role as an urban service provider and established a new policy requiring all annexations to the District concurrently annex to the American Canyon County Water District.⁵

Amendments

The Commission has adopted 10 amendments to ACFPD's sphere since 1982. The majority of the amendments were petitioned by private property owners to facilitate planned industrial development projects. More recently, amendments have been part of reorganizations involving concurrent annexations to ACFPD and American Canyon. A complete list of sphere amendments since 1982 is provided below.

| Proposal Name | Acreage | Date Approved |
|--|----------------|----------------------|
| Wastewater Treatment Plant Reorganization | 58 | December 9, 2004 |
| Green Island Road No. 3 Reorganization | 256 | December 9, 2004 |
| Green Island Road No. 2 Reorganization | 7 | June 10, 2004 |
| American Canyon Road – Flosden Road Area | 301 | March 5, 1998 |
| West American Canyon Road Area | 350 | June 8, 1994 |
| Green Island Road Area No. 2 | 48 | March 23, 1988 |
| Oat Hill Area | 45 | August 15, 1984 |
| Green Island Road Area | 5 | September 14, 1983 |
| Green Island Road – Leslie Salt Pond Area ¹ | 403 | August 11, 1982 |
| American Canyon Road – Interstate 80 | 156 | August 11, 1982 |

¹ Proposal involved the removal of territory from ACFPD's sphere.

Relationship to Jurisdictional Boundary

ACFPD's sphere currently encompasses 3,984 total acres and includes 5,265 parcels. Of this amount, 3,788 total acres and 5,238 parcels are located inside ACFPD's jurisdictional boundary. This differential indicates that there are approximately 196 total acres (4.9%) representing 27 parcels (0.5%) eligible for annexation.

* A map depicting ACFPD's sphere and jurisdictional boundary is provided in Attachment One-A.

⁵ ACCWD was merged into American Canyon at the time of the City's incorporation in 1992. Following the merger, the Commission's dual annexation policy was amended to require all annexations to ACFPD concurrently annex to American Canyon if the affected area is located within its sphere and is legally possible.

Land Use Factors

ACFPD operates under the land use authority of American Canyon and the County. Exactly 70% of ACFPD's jurisdictional boundary is incorporated and under the land use authority of American Canyon. The remaining 30% of ACFPD's jurisdictional boundary is unincorporated and under the land use authority of the County.⁶

- * A map depicting the current land uses in and around ACFPD is provided in Attachment One-B.
- * A map depicting the land use designations under the American Canyon General Plan is provided in Attachment One-C.
- * A map depicting the land use designations under the County General Plan is provided in Attachment One-D.

DISCUSSION

The underlying objective of this report is to identify and evaluate areas that warrant consideration for inclusion or removal from ACFPD's sphere as part of a comprehensive review. In the course of identifying areas to evaluate, staff has placed an emphasis on consistency between ACFPD's sphere and the American Canyon and County General Plans with respect to planned urban development. This approach is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the adopted policies of the Commission, which includes designating ACFPD as an urban service provider. Consideration is also given to the service capacity of ACFPD, which is drawn from information collected and analyzed as part of the Commission's recent municipal service review on fire protection services in Napa County.

As noted earlier, California Government Code §56076 defines a sphere as "the probable physical boundaries and service area of a local agency, as determined by the commission." Underscoring this definition is the tenet that the sphere plan the orderly development of the agency while protecting agricultural and open-space resources and advantageously providing for the present and future needs of the community. The Commission's "Policy Declarations" emphasizes its commitment to these concepts and includes a statement that a special district's sphere shall be response to its existing and planned service facilities and exclude lands designated as agricultural or open-space to protect against premature urban development. The Policy Determinations also state that the Commission will use the County General Plan to determine agricultural and open-space designations.

⁶ There are approximately 2,642 acres and 5,163 parcels located within ACFPD's jurisdictional boundary that are under the land use authority of American Canyon. The remaining 1,146 acres and 75 parcels located within ACFPD's jurisdictional boundary are under the land use authority of the County.

California Government Code §56425 requires the Commission to review and update each local agency's sphere by January 1, 2008 and every five years thereafter as needed. It has been the practice of this Commission to review and update each local agency's sphere in a manner that emphasizes a probable five-year service area.

Study Categories

Five study categories were developed in the course of considering areas to add or remove as part of a comprehensive sphere review of ACFPD. Study Categories "A," "B," "C," and "D" were developed by staff based on existing Commission policies and reflect specific boundary line and land use criterion. Study Category "E" was developed by ACFPD. Summaries for all five study categories are provided below.

Study Category A

This study category represents two non-contiguous areas that are located outside ACFPD's sphere, but within American Canyon's sphere. The affected areas include two unincorporated parcels totaling 152 acres.

Study Category B

This study category represents two non-contiguous areas that are located outside ACFPD's sphere, but within its jurisdictional boundary. The affected areas include three unincorporated and one incorporated parcel totaling 62 acres.

Study Category C

This study category represents two non-contiguous areas that are located outside ACFPD's sphere, but designated for an urban use by the County and/or American Canyon. The affected areas include 15 unincorporated parcels totaling 1,019 acres.

Study Category D

This study category represents one contiguous area that is located inside ACFPD's sphere, but outside its jurisdictional boundary and designated for non-urban use. The affected area includes 13 unincorporated parcels totaling 146 acres.

Study Category E

This study category represents one contiguous area that is located outside ACFPD's sphere and overlaps with Study Categories A, B, and C. The affected area is approximately 6,500 acres in size and extends outside the existing sphere north to Fagan Creek, west to the Napa River, and east and south to Solano County.

* A map depicting Study Categories A, B, C, and D is provided in Attachment One-E.

* A map depicting Study Category E is provided in Attachment One-F.

In discussing the sphere review with representatives from ACFPD, American Canyon, and the County, staff believes it is appropriate to defer consideration of Study Categories C and E at this time. Deferral supports the continuing negotiations between American Canyon and the County regarding long-term land use and service planning in south Napa County. These negotiations have raised important governance questions and are expected to generate new information to help inform the Commission is assessing the level and range of governmental service needs in Study Categories C and E.

ANALYSIS

As discussed in the preceding section, staff has identified three study categories for evaluation as part of this comprehensive sphere review for ACFPD. Study Categories A and B represent areas that are located outside the existing sphere and are evaluated to consider the merits of their addition. Study Category D represents an area located inside the existing sphere and is evaluated to consider the merits of its removal.

The evaluation of each study category is organized to address the four planning factors the Commission is required to consider anytime it makes a sphere determination under California Government Code §56425(e). These planning factors are 1) present and planned land uses; 2) present and probable need for public facilities and services; 3) present adequacy and capacity of public services; and 4) existence of any social or economic communities of interest.

Study Category A

This study category represents two non-contiguous areas that are located outside ACFPD's sphere and jurisdictional boundary, but within American Canyon's sphere. The affected areas are identified as "A-1" and "A-2" and include two unincorporated parcels totaling 151.9 acres.

Present and Planned Land Uses

Area A-1 includes one unincorporated parcel that is adjacent to the northeast intersection of Newell Drive and American Canyon Road. The area is approximately 45.3 acres in size and is undeveloped. As land use authority, the County designates the area *Agriculture, Watershed, and Open Space* with a zoning standard of *Agricultural Watershed*, which requires a minimum parcel size of 160 acres. In contrast, American Canyon designates the area as *Residential Estate*, which requires a minimum and maximum parcel size of one and two units per acre, respectively. American Canyon has not rezoned the area.

Area A-2 includes one unincorporated parcel that is adjacent and north of the intersection of Eucalyptus Drive and Wetlands Edge Road. The area is approximately 106.6 acres in size and is substantially undeveloped with the exception of a single-family residence. As land use authority, the County designates the area *Agriculture, Watershed, and Open Space* with a combination zoning standard of *Agricultural Watershed: Airport Compatibility*, which requires a minimum parcel size of 160 acres. In contrast, American Canyon has designated the area *Commercial Recreational*, which specifies that parcel densities be determined on an individual basis. American Canyon has not rezoned the area.

Present and Probable Need for Public Facilities and Services

Areas A-1 and A-2 are currently provided a basic level of fire protection and emergency medical services from the County through its service contract with CDF. Area A-1 was recently purchased by the Napa Valley Unified School District and is earmarked as the site of a new high school. Area A-2 is slated for development as part of the Oat Hill Master Plan, a proposed mix residential and commercial project involving approximately 370 acres in northwest American Canyon. It is anticipated that Areas A-1 and A-2 will develop in the next five years necessitating the need for an elevated level of fire protection and emergency medical services.

Present Capacity of Public Facilities and Adequacy of Public Services

The Commission's recent municipal service review involving ACFPD indicates that the District has established adequate capacities and controls to extend fire protection and emergency medical services to Areas A-1 and A-2. A key factor attesting the overall adequacy and capacity of ACFPD includes its current rating of 3-9 from the Insurance Service Office (ISO). This rating, which is calculated based on dispatch, operations, and water availability assessments, is a favorable score and provides for lower insurance premiums for property owners within 1,000 feet of a fire hydrant. Another factor attesting the overall adequacy and capacity of ACFPD relates to its average response time for service calls, which in the year evaluated as part of the municipal service review was four minutes and forty-eight seconds. This average time meets ACFPD's adopted response standard of five minutes as well as the six minute standard recommended by National Fire Protection Association. The municipal service review indicates ACFPD is capable of extending services to the affected areas within its five minute standard without diminishing current service levels.

Existence of Social or Economic Communities of Interest

Areas A-1 and A-2 are located within American Canyon's sphere and designated by the City for urban development. Inclusion of the affected areas into ACFPD's sphere would strengthen the social and economic interdependencies existing between American Canyon and the District in coordinating public safety services.

Recommendation: It is recommended that the Commission modify ACFPD’s sphere to include the affected areas comprising Study Category A as part of this comprehensive review. Inclusion would facilitate the logical extension of elevated fire protection and emergency medical services to the affected areas in a manner that is consistent with its planned urban uses.

Study Category B

This study category represents two non-contiguous areas that are located outside ACFPD’s sphere, but within its jurisdictional boundary. The affected areas are identified as “B-1” and “B-2” and include three unincorporated and one incorporated parcel totaling 62 acres.

Present and Planned Land Uses

Area B-1 includes three unincorporated parcels that are directly south of the western terminus of Green Island Road near the Napa River. The area is approximately 57.8 acres in size and includes an office building and auxiliary structures that were formerly used by Cargill as part of their salt harvesting operations. As land use authority, the County designates the area *Agriculture, Watershed, and Open Space* with a combination zoning standard of *Agricultural Watershed: Airport Compatibility*, which requires a minimum parcel size of 160 acres. American Canyon has not designated or rezoned the area.⁷

Area B-2 includes one incorporated parcel and a right-of-way portion of Newell Drive northwest of its intersection with American Canyon Road. The area is approximately 4.4 acres in size and includes a public park that is part of the adjacent Vintage Ranch Subdivision. As land use authority, American Canyon designates and zones the area *Public*. These assignments do not specify parcel densities. Similarly, the County designates the area *Urban Residential* with no rezoning standard.⁸

⁷ Commission records indicate that Area B-1 has been part of ACFPD since its formation in 1957. The Commission removed the area from the sphere in 1982 as part of a larger revision to remove all lands associated with Cargill’s salt harvesting operations. In recommending removal of the Cargill area from the sphere, the Executive Officer noted that the portion already in ACFPD (i.e., B-1) would be unaffected and would continue to receive service from the District.

⁸ Area B-2 was annexed to ACFPD in 2002 as part of a reorganization proposal involving American Canyon. In processing the proposal, staff incorrectly identified that the affected area was already in ACFPD’s sphere. As a result, the affected area was annexed to ACFPD while remaining outside its sphere.

Present and Probable Need for Public Facilities and Services

Areas B-1 and B-2 are currently provided an elevated level of fire protection and emergency medical services from ACFPD. Area B-1 has been recently purchased by the California Department of Fish and Game (DFG) as part of its restoration project involving the San Pablo Bay. DFG has expressed interest in utilizing the former Cargill office building to coordinate its regional restoration activities. Area B-2 includes a public park and a right-of-way portion of Newell Drive that serves as a central access point for ACFPD's new fire station on Donaldson Way. The present and planned uses within the affected areas underlie the continued need for elevated fire protection and emergency medical services.

Present Capacity of Public Facilities and Adequacy of Public Services

The Commission's recent municipal service review involving ACFPD indicates that the District has established adequate capacities and controls to continue to provide fire protection and emergency medical services to Areas B-1 and B-2. A key factor attesting the overall adequacy and capacity of ACFPD includes its current ISO rating of 3-9. This rating, which is calculated based on dispatch, operations, and water availability assessments, is considered a favorable score and provides for lower insurance premiums for property owners within 1,000 feet of a fire hydrant. Another factor attesting the overall adequacy and capacity of ACFPD relates to its average response time for service calls, which in the year evaluated as part of the municipal service review was four minutes and forty-eight seconds. This average time meets ACFPD's adopted response standard of five minutes as well as the six minute standard recommended by National Fire Protection Association. ACFPD's response times for Area B-2 are within its five minute standard. ACFPD's response times for Area B-1 currently exceed six minutes. It is anticipated that the construction of a second ACFPD fire station in the northwest section of American Canyon in the next five years will help ensure adequate coverage to the area.

Existence of Social or Economic Communities of Interest

Areas B-1 and B-2 are currently in ACFPD and have established social and economic interdependencies with the District. The inclusion of the affected areas into ACFPD's sphere would recognize and formalize these existing interdependencies.

Recommendation: It is recommended that the Commission modify ACFPD's sphere to include both affected areas comprising Study Category B as part of this comprehensive review. Inclusion would recognize the current provision of elevated fire protection and emergency medical services to the affected areas and promote the logical development of ACFPD by modifying the sphere to become congruent with its jurisdictional boundary. Inclusion would also be consistent with recent amendments to California Government Code emphasizing that governmental services should be limited to areas located within the affected agency's sphere.

Study Category D

This study category represents one contiguous area that is located inside ACFPD's sphere, but outside its jurisdictional boundary and designated for non-urban use. The study category includes 13 unincorporated parcels totaling 146 acres.

Present and Planned Land Uses

The affected area is located east of American Canyon along the southern side of American Canyon Road. The area is approximately 146 acres in size and primarily consists of rural single-family residences. As the land use authority, the County designates the area *Agriculture, Watershed, and Open Space* with a zoning standard of *Agricultural Watershed*, which requires a minimum parcel size of 160 acres. American Canyon has not designated or rezoned the area.⁹

Present and Probable Need for Public Facilities and Services

The affected area includes several rural single-family residences. The area is provided a basic level of fire protection and emergency medical services from the County through a service contract with CDF. ACFPD recently installed a fire hydrant in the area and reports that several local property owners have expressed interest in annexing their properties to the District in the immediate future.

Present Capacity of Public Facilities and Adequacy of Public Services

The Commission's recent municipal service review involving ACFPD indicates that the District has established adequate capacities and controls to provide fire protection and emergency medical services to the area comprising Study Category D. A key factor attesting the overall adequacy and capacity of ACFPD includes its current ISO rating of 3-9. This rating, which is calculated based on dispatch, operations, and water availability assessments, is considered a favorable score and provides for lower insurance premiums for property owners within 1,000 feet of a fire hydrant. Another factor attesting the overall adequacy and capacity of ACFPD relates to its average response time for service calls, which in the year evaluated as part of the municipal service review was four minutes and forty-eight seconds. This average time meets ACFPD's adopted response standard of five minutes as well as the six minute standard recommended by National Fire Protection Association. The municipal service review indicates ACFPD is capable of extending services to the affected area within its five minute standard without diminishing current service levels.

⁹ The Commission added the area to ACFPD's sphere at the request of the District in 1982. At the time, affected property owners had expressed interest in annexing their lands to ACFPD for the purpose of receiving elevated fire protection and emergency medical services. An annexation proposal was subsequently submitted to LAFCO, however it subsequently withdrawn by property owners due to concerns involving processing costs with the State Board of Equalization.

Existence of Social or Economic Communities of Interest

The area comprising Study Category D has been part of ACFPD's sphere for the past 25 years and has developed a social community of interest with the District. This social community of interest has been fostered through the standing designation by the Commission that ACFPD is the appropriate service provider for the area.

Recommendation: It is recommended that the Commission retain the affected area comprising Study Category D into ACFPD's sphere as part of this comprehensive review. Retention would affirm the Commission's current policy statement that the existing residential uses within the affected area warrants elevated fire protection and emergency medical services and ACFPD is the appropriate service provider.

ADDITIONAL ANALYSIS

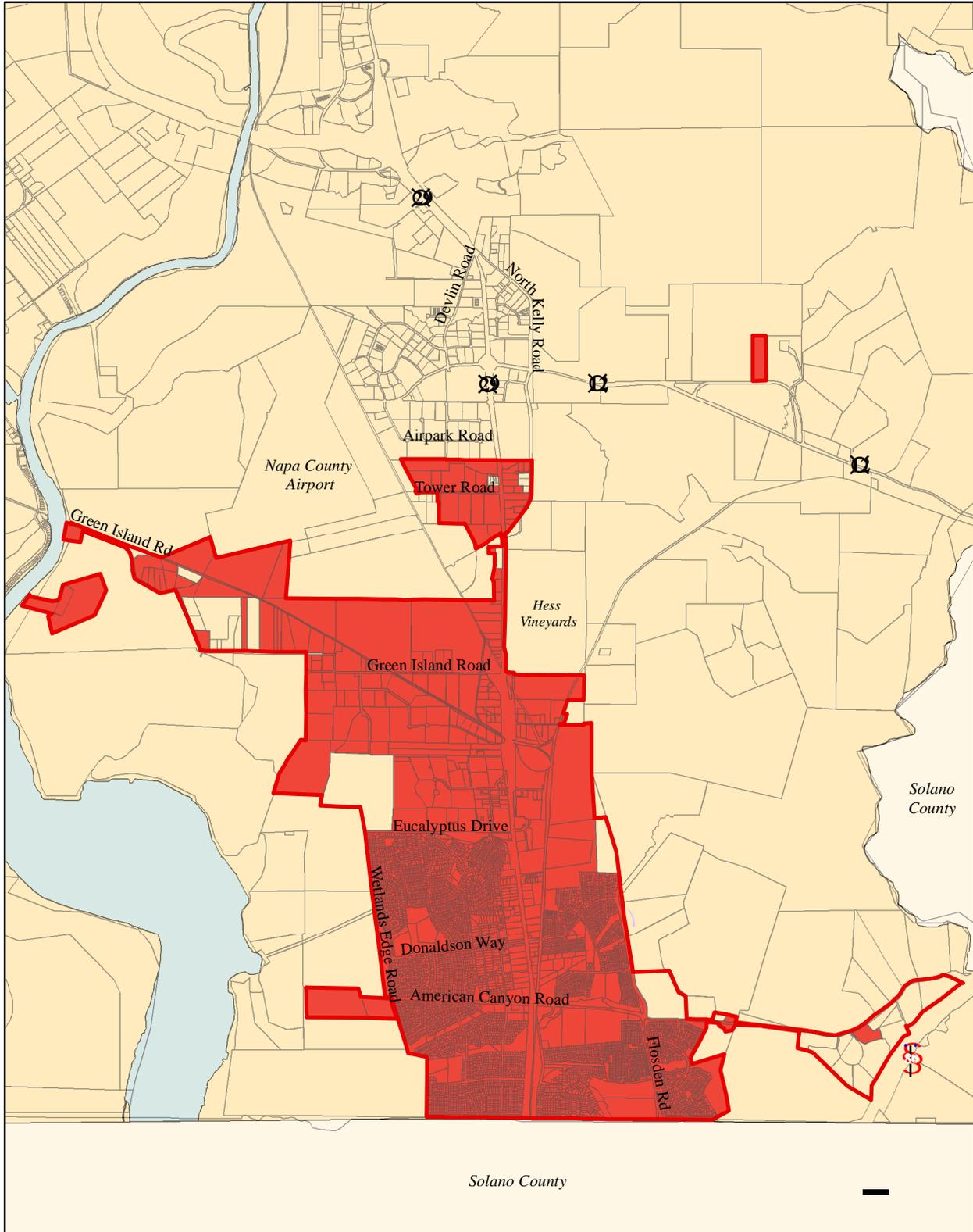
In March 2007, LAFCO circulated a letter to ACFPD, American Canyon, and the County inviting comments on the proposed sphere review of the District. In July 2007, as a supplement to earlier comments, the County made a request for the Commission to consider adopting a new policy in conjunction with retaining the area comprising Study Category D in ACFPD's sphere. The request is for the Commission to adopt a policy specifying that the retention of the affected area in ACFPD's sphere "does not ensure inclusion of those parcels in American Canyon's sphere or the eventual annexation of those parcels into the City."¹⁰

The request from the County is drawn from its concerns involving the Commission's existing policy requiring annexations to ACFPD concurrently annex to American Canyon if the territory is in the City's sphere. The County believes that the concurrent annexation policy suggests that the inclusion of lands in ACFPD's sphere will ultimately lead to a similar expansion of the City's sphere. The County designates the area in Study Category D as *Agricultural Watershed and Open Space* and objects to its inclusion into American Canyon's sphere.

The 1992 reorganization of ACFPD as a subsidiary of American Canyon has established an explicit governance relationship between the two agencies. Reorganization has also established an implicit service relationship between ACFPD and American Canyon. This latter relationship provides the rationale underlying the Commission's concurrent annexation policy to encourage the coordinated extension of governmental services within each agency's respective jurisdiction. However, as mentioned, the concurrent annexation policy applies only to lands that are already in each agency's sphere. This distinction highlights the significance of the sphere determination in planning the development of each agency in a manner that is responsive to Commission policies and community needs. Staff believes that this distinction provides adequate assurances that retaining the area in Study

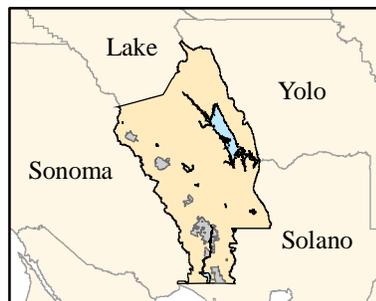
¹⁰ See July 25, 2007 letter from Nancy Watt, County Executive Officer.

American Canyon Fire Protection District



Legend

-  American Canyon Fire Protection District
-  American Canyon Fire Protection District Proposed Sphere of Influence



*Not to Scale
April 2007
Prepared by KS*



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October 1, 2007
Agenda Item No. 6b

September 25, 2007

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: County Service Area No. 3: Sphere of Influence Review (Hearing)

The Commission will receive a report representing its scheduled sphere of influence review of County Service Area No. 3. The Commission will consider a resolution adopting the recommendation of the report to affirm the sphere pursuant to California Government Code §56425.

In 2001, California Government Code was amended as part of the Cortese-Knox-Hertzberg (CKH) Local Government Reorganization Act of 2000. CKH requires Local Agency Formation Commissions (LAFCOs) to prepare municipal service reviews and sphere of influence reviews for each local agency by January 1, 2008 and every five years thereafter as needed. The collective purpose of these reviews is to inform and guide LAFCOs in their legislative mandate to plan and coordinate the orderly development of local agencies in a manner that meets the present and future needs of the community.

Discussion

In August 2006, LAFCO of Napa County completed a municipal service review of County Service Area No. 3 as part of the *Comprehensive Study of Landscaping and Lighting Districts*. The municipal service review included an evaluation of the level and range of services provided by the District and included written determinations addressing the nine factors required for consideration under California Government Code §56430.

Drawing on the information collected in the municipal service review, staff has prepared the attached written report representing the sphere review of County Service Area No. 3. The report concludes that the existing sphere designates an appropriate service area for the District and that no changes are needed at this time.

A draft resolution codifying the recommendation of the written report to affirm County Service Area No. 3's existing sphere is attached and presented for Commission consideration. The resolution includes statements addressing the four planning factors the Commission is required to consider anytime it makes a sphere determination. The adoption of the resolution would fulfill the Commission's sphere review requirement for the District under California Government Code §56425

Jack Gingles, Chair
Mayor, City of Calistoga

Juliana Inman, Commissioner
Councilmember, City of Napa

Cindy Coffey, Alternate Commissioner
Councilmember, City of American Canyon

Brad Wagenknecht, Vice-Chair
County of Napa Supervisor, 1st District

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Brian J. Kelly, Commissioner
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

Recommendation

It is recommended for the Commission to take the following actions:

- 1) Receive and file the attached written report representing the sphere of influence review of County Service Area No. 3; and
- 2) Approve the form for the attached draft resolution with any desired changes that make statements with respect to affirming the sphere of influence for County Service Area No. 3 pursuant to California Government Code §56425.

Respectfully submitted,

Keene Simonds
Executive Officer

Attachments:

- 1) Sphere of Influence Report
- ~~2) Draft Resolution~~

LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

**COUNTY SERVICE AREA NO. 3
SPHERE OF INFLUENCE REVIEW**

**Final Report
October 2007**

Prepared by:

LAFCO of Napa County

Committed to serving the citizens and government agencies of its jurisdiction by encouraging the preservation of agricultural lands and open-space and coordinating the efficient delivery of municipal services.

Jack Gingles, Chair, City Member
Brad Wagenknecht, Vice-Chair, County Member
Bill Dodd, Commissioner, County Member
Juliana Inman, Commissioner, City Member
Brian J. Kelly, Commissioner, Public Member
Cindy Coffey, Alternate Commissioner, City Member
Mark Luce, Alternate Commissioner, County Member
Gregory Rodeno, Alternate Commissioner, Public Member

Keene Simonds, Executive Officer
Jackie Gong, Commission Counsel
Kathy Mabry, Commission Secretary



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INTRODUCTION

Local Agency Formation Commissions

Local Agency Formation Commissions (LAFCOs) were established in 1963 and are responsible for administering California Government Code §56000 et seq., which is now known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. LAFCOs are delegated regulatory and planning responsibilities to encourage the orderly formation and development of local governmental agencies and services, preserve agricultural and open-space resources, and discourage urban sprawl. Duties include regulating governmental boundary changes through annexations or detachments, approving or disapproving city incorporations, and forming, consolidating, or dissolving special districts. LAFCOs are also responsible for conducting studies addressing a range of service and governance issues to inform and direct regional planning activities and objectives. LAFCOs are located in all 58 counties in California.

Spheres of Influence

A principal planning responsibility for LAFCO is the determination of a sphere of influence (“sphere”) for each city and special district under its jurisdiction.¹ California Government Code §56076 defines a sphere as “a plan for the probable physical boundaries and service area of a local agency, as determined by the commission.” LAFCO establishes, amends, and updates spheres to indicate to local agencies and property owners that, at some future date, a specific area will likely require the services provided by the subject agency. The sphere determination also indicates the agency LAFCO believes is best situated to serve the subject area. LAFCO is required to review each agency’s sphere by January 1, 2008 and every five years thereafter as needed.

In establishing, amending, or updating a city or special district’s sphere, LAFCO is required to consider and prepare written statements addressing four specific planning factors. These planning factors, which are enumerated under California Government Code §56425(e), are intended to capture the legislative intent of the sphere determination with regard to planning the logical and orderly development of each local agency. These planning factors are:

- The present and planned land uses in the area, including agricultural and open-space lands.
- The present and probable need for public facilities and services in the area.
- The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
- The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

¹ LAFCOs have been required to determine spheres for cities and special districts since 1972.

In addition, when reviewing a sphere for an existing special district, LAFCO must also do the following:

- Require the existing special district to file a written statement with the commission specifying the functions or classes of services it provides.
- Establish the nature, location, and extent of any functions or classes of services provided by the existing special district.

Beginning in 2001, to help inform the sphere review process, LAFCO is responsible for preparing a municipal service review. A municipal service review is a comprehensive evaluation of the level and range of governmental services provided by a local agency or within a defined area. The municipal service review culminates in the preparation of written determinations addressing nine specific factors enumerated under California Government Code §56430(a). These factors range from infrastructure needs or deficiencies to local governance and accountability. The municipal service review is a prerequisite to updating an agency's sphere and may also lead LAFCO to take other actions under its authority.

County Service Area No. 3

In August 2006, LAFCO of Napa County completed a municipal service review of County Service Area (CSA) No. 3 as part of the *Comprehensive Study of Landscaping and Lighting Districts*. The municipal service review included an evaluation of the level and range of services provided by CSA No. 3 along with the development of written determinations addressing the nine factors required for consideration under law.²

This report represents the sphere review of CSA No. 3. The report draws on information collected as part of the aforementioned municipal service review and is incorporated by reference. The focus of the report is to consider whether changes to the sphere are warranted to plan the logical and orderly development of CSA No. 3 in a manner that supports the provisions of California Government Code and the policies of the Commission.

² LAFCO Resolution No. 06-13

OVERVIEW

CSA No. 3 was formed in 1979 to provide water and sewer services to unincorporated properties near the Napa County Airport. At the time of formation, the majority of properties in CSA No. 3 were undeveloped. The few developed properties in CSA No. 3 were receiving outside water and sewer services from the American Canyon County Water District (ACCWD) and the Napa Sanitation District (NSD), respectively.

| County Service Area No. 3 | |
|---------------------------|--|
| Formation Year | 1979 |
| Enabling Legislation | Government Code §25210.1-25338 |
| Services Provided | Street Lighting Street Sweeping Landscaping Fire Protection |

CSA No. 3’s formation was intended to coordinate water and sewer services and establish a multi-purpose special district capable of eventually providing a range of governmental services to accommodate planned industrial development in the airport area. It was envisioned that CSA No. 3 would not exercise its powers directly, but would instead contract for services from willing providers. However, such contracts did not emerge, and ACCWD and NSD continued to extend water and sewer services directly to the area following CSA No. 3’s formation.³

CSA No. 3 remained dormant until 1994 when the County of Napa Board of Supervisors restructured and authorized the District to provide elevated fire protection, street lighting, street sweeping, and landscaping services. CSA No. 3’s previous authority to provide water and sewer was deactivated. Following its restructuring, CSA No. 3 established a voter-approved assessment district consisting of three overlapping benefits zones.⁴ Assessment revenues provide street lighting, street sweeping, and landscaping services through contracts with private companies. Assessment revenues also fund the operation of a fire station in CSA No. 3, which is staffed by the County Fire Department.

CSA No. 3 is a dependent special district governed by the Board of Supervisors. Administrative oversight of CSA No. 3 is provided by the County Public Works Department, which charges the District an hourly staff rate for services provided.

Sphere of Influence

Establishment

CSA No. 3’s sphere was established by the Commission in 1985. Markedly, the Commission designated a “zero” sphere for CSA No. 3 and recommended that the District be dissolved due to its inactivity.

³ ACCWD was merged into the City of American Canyon at the time of incorporation in 1992.

⁴ “Zone One” receives landscaping services and includes all of CSA No. 3 with the exception of properties located east of State Highway 29, west of Devlin Road, and south of Tower Road. “Zone Two” receives fire protection services and includes all of CSA No. 3 with the exception of properties located west of Devlin Road and south of Tower Road, the latter area being part of the American Canyon Fire Protection District (ACFPD). “Zone Three” is the largest of the three zones and receives street sweeping and street lighting services and includes all of CSA No. 3 with the exception of properties west of Devlin Road.

Amendment

In 2002, the Commission amended CSA No. 3's sphere to become coterminous with its jurisdictional boundary as well as adding approximately 290 acres of adjacent undeveloped land to the north as part of an application submitted by the County. There have been no other amendments to the sphere since its establishment in 1985.⁵

Relationship to Jurisdictional Boundary

CSA No. 3's sphere currently encompasses 262 unincorporated parcels totaling 1,742 acres. The sphere is coterminous with CSA No. 3's jurisdictional boundary.

- * A map depicting CSA No. 3's sphere and jurisdictional boundary is provided in Attachment One.

Land Use Factors

CSA No. 3 operates under the land use authority of the County. The County designates properties in CSA No. 3 for urban use as either *Industrial* or *Public-Institutional*. The principal zoning standard for properties located in CSA No. 3 is *Industrial Park*. All properties in CSA No. 3 are assigned an overlay zoning standard of *Airport Compatibility*. This overlay ties these properties to the specifications of the County's Airport Industrial Area Specific Plan (AIASP). The AIASP provides detailed restrictions for development as it relates to the flight paths of the airport.

- * An aerial map depicting current land uses within and adjacent to CSA No. 3's sphere is provided in Attachment Two.
- * A map depicting the land use designations under the County General Plan is provided in Attachment Three.

DISCUSSION

Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the objective of this report is to identify and evaluate areas that warrant consideration for inclusion or removal from CSA No. 3's sphere as part of a comprehensive review. Underlying this effort is to designate the sphere in a manner that promotes the orderly development of CSA No. 3 in a manner that supports the provisions of California Government Code and the policies of the Commission.

⁵ In processing the 2002 amendment, staff interpreted the zero designation established by the Commission in 1985 to signify that the sphere was coterminous with CSA No. 3's jurisdictional boundary. As part of this review, staff has concluded that the earlier interpretation was incorrect and the zero designation was intended to exclude all lands from the sphere. Regardless, in adopting the 2002 amendment, the Commission revised the sphere to include CSA No. 3's entire jurisdictional boundary.

As noted earlier, California Government Code §56076 defines a sphere as “the probable physical boundaries and service area of a local agency, as determined by the commission.” Underscoring this definition is the tenet that the sphere plan the logical development of the agency while protecting agricultural and open-space resources and advantageously providing for the present and future needs of the community. The Commission’s “Policy Declarations” emphasizes its commitment to these concepts and includes a statement that a special district’s sphere shall be response to its existing and planned service facilities and exclude lands designated as agricultural or open-space to protect against premature urban development. The Policy Determinations also state that the Commission will use the County General Plan to determine agricultural and open-space designations.

California Government Code §56425 requires the Commission to review and update each local agency’s sphere by January 1, 2008 and every five years thereafter as needed. It has been the practice of this Commission to review and update each local agency’s sphere in a manner that emphasizes a probable five-year service area.

Study Category

Staff has developed one study category in the course of considering areas to add or remove as part of a comprehensive sphere review of CSA No. 3. Study Category “A” represents one contiguous area located outside and south of the existing sphere. It includes seven unincorporated properties totaling 360 acres and has been designated by the County for urban use. No other local agency’s sphere includes the affected area. It is anticipated that development of the affected area will occur within the next five to ten years. Accordingly, based on proximity, it is reasonable for the Commission to consider whether CSA No. 3 is an appropriate service provider for the affected area.

In discussing this sphere review with representatives from CSA No. 3, County, American Canyon, and ACFPD, staff believes it is appropriate to defer consideration of Study Category A at this time. This deferral supports the continuing negotiations between American Canyon and the County regarding long-term land use and service planning in south Napa County. These negotiations have raised important governance questions and are expected to generate new information to help inform the Commission is assessing the level and range of governmental service needs in the affected area.

* A map depicting Study Category A is provided in Attachment Four.

ANALYSIS

As mentioned, California Government Code §56425(e) requires the Commission to consider four planning factors in making a sphere determination. These factors include the 1) present and planned lands uses, 2) present and probable need for public facilities and services, 3) present capacity and adequacy of public facilities, and 4) existence of any relevant social or economic communities of interest. A review of each of these factors as it relates to making a sphere determination for CSA No. 3 is provided below.

Present and Planned Land Uses

All properties within CSA No. 3's existing sphere are unincorporated and under the land use authority of the County. The present land uses within the sphere are predominately urban and are consistent with the planned land uses contemplated under the County General Plan. No agricultural designated lands are included in the sphere.

Present and Probable Need for Public Facilities and Services

CSA No. 3 provides street sweeping, street lighting, landscaping, and fire protection services. These governmental services support the present and planned urban uses within the existing sphere as contemplated under the County General Plan. Affected property owners have confirmed their desire and need for these governmental services by approving a special assessment.

Present Capacity and Adequacy of Public Facilities

The Commission's recent municipal service review of CSA No. 3 determined that the District has developed adequate controls and funding streams to provide an appropriate level of street sweeping, street lighting, landscaping, and fire protection services within its existing sphere. CSA No. 3 does not provide extraterritorial services.

Social or Economic Communities of Interest

CSA No. 3 fosters social and economic interdependencies within its existing sphere by providing governmental services in support of the planned development of its jurisdictional boundary.

CONCLUSION

CSA No. 3's existing sphere designates an appropriate service area for the District in a manner that supports the provisions of California Government Code and the policies of the Commission. The existing sphere is responsive to CSA No. 3's current and planned service capacities and continues to foster social and economic interdependences within its jurisdiction that are distinct from neighboring areas.

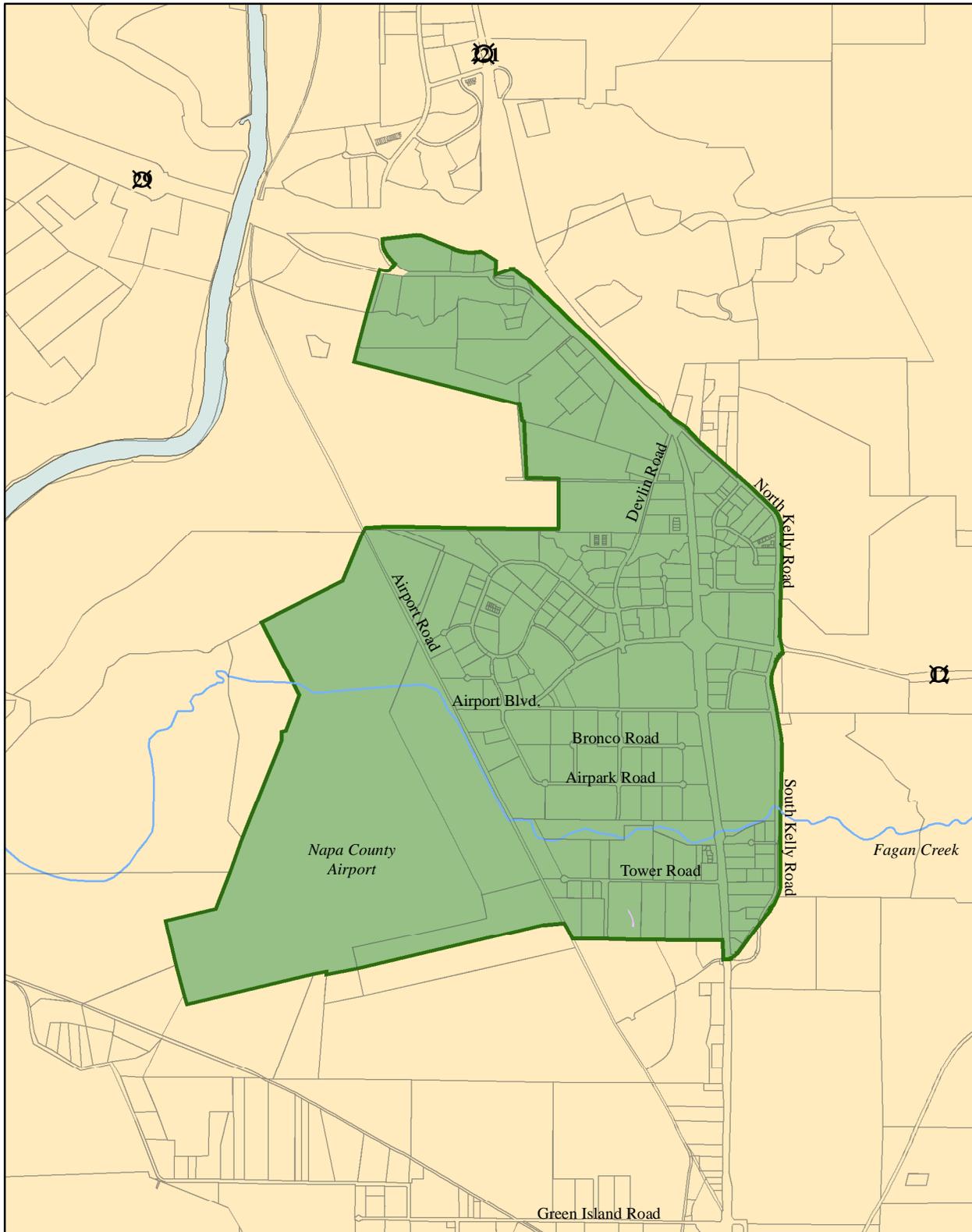
RECOMMENDATION

It is recommended that the Commission affirm CSA No. 3's existing sphere.

Attachments:

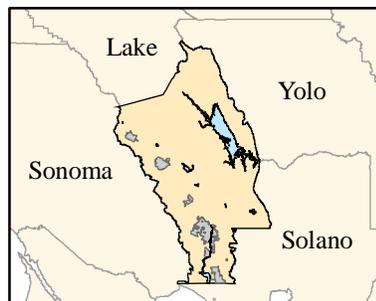
- 1) Map depicting CSA No. 3's current sphere and jurisdictional boundary
- 2) ~~Map depicting current land uses in and around CSA No. 3~~
- 3) ~~Map depicting the land use designations under the County General Plan~~
- 4) Map depicting Study Category A

County Service Area No. 3



Legend

-  County Service Area No. 3
-  County Service Area No. 3 Sphere of Influence

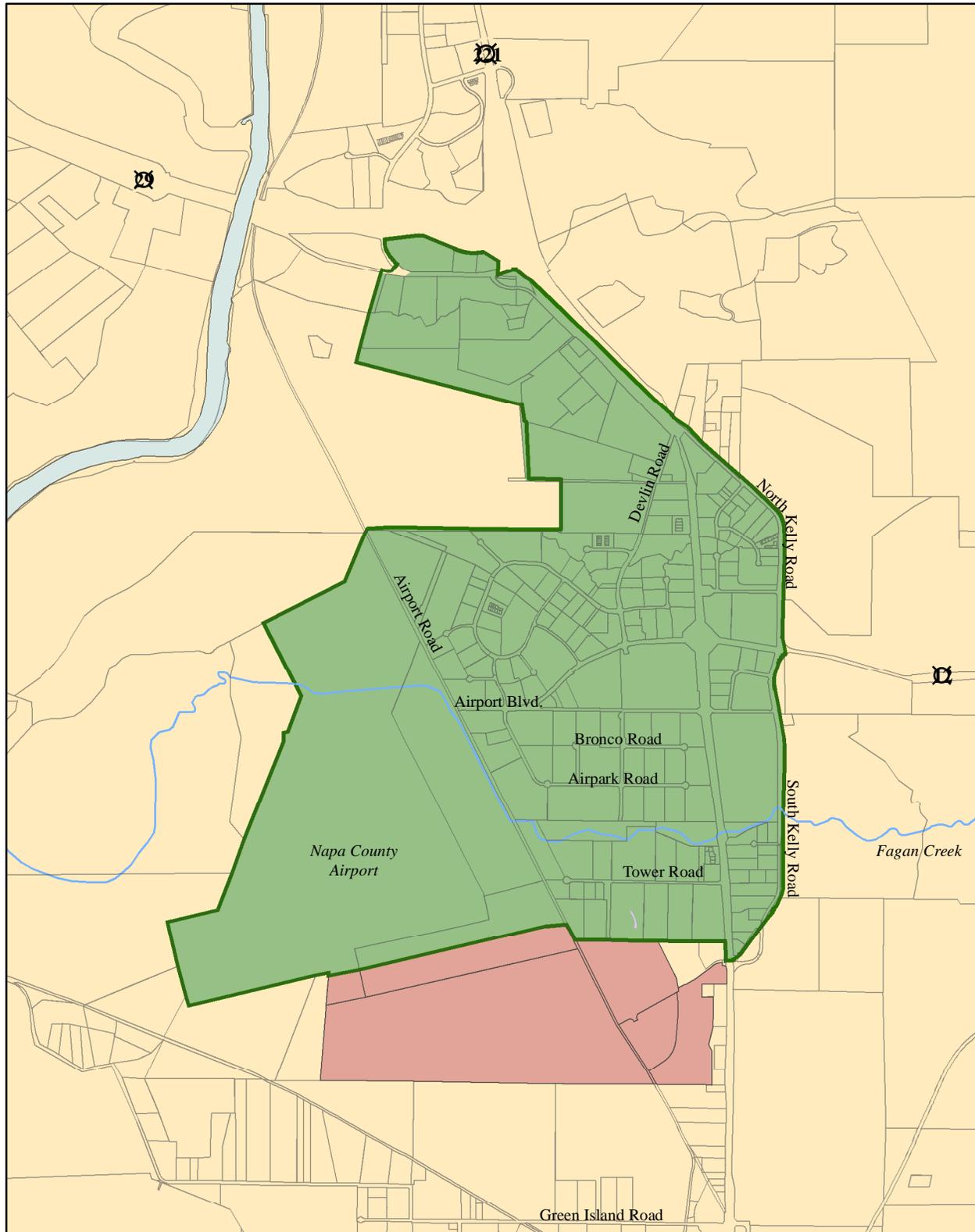


*Not to Scale
September 2007
Prepared by KS*



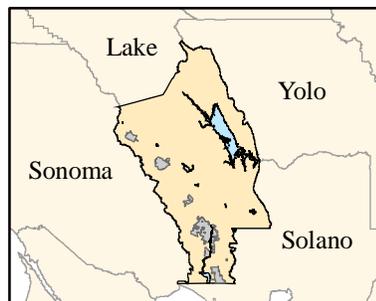
LAFCO of Napa County
1700 Second Street, Suite 268
Napa, CA 94559
(707) 259-8645

County Service Area No. 3



Legend

-  County Service Area No. 3
-  County Service Area No. 3 Sphere of Influence
-  Study Category A
Area represents unincorporated parcels that are designated for an urban use by the County of Napa and are outside the spheres of all local agencies.



*Not to Scale
September 2007
Prepared by KS*



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Local Agency Formation Commission
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October 1, 2007
Agenda Item No. 7a

September 19, 2007

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Jacqueline Gong, Commission Counsel

SUBJECT: California Government Code §56133 (Action)

The Commission will receive a report evaluating two policy options addressing its role as it relates to the City of American Canyon providing water and sewer services outside its jurisdictional boundary under California Government Code §56133. The Commission will consider draft resolutions adopting one of the two policy options.

California Government Code (G.C.) §56133 directs cities and special districts to receive written approval from Local Agency Formation Commissions (LAFCOs) to provide new or extended services by contract or agreement outside their jurisdictional boundaries. G.C. §56133 was enacted by the Legislature in 1993 in response to cities and special districts circumventing LAFCO by contractually extending services outside their jurisdictions to property owners instead of annexing the affected lands. LAFCOs are restricted to approving agency requests to extend services outside their spheres of influence only to address threats to public health and safety. In 2003, the Legislature grandfathered the effective date of G.C. §56133 to January 1, 2001.

The intent of G.C. §56133 is to strengthen the ability of LAFCOs to fulfill their mandate to plan the orderly formation and development of local governmental agencies in a manner that protects agricultural and open-space resources and discourages urban sprawl. G.C. §56133 also reflects the desire of the Legislature that LAFCOs participate in the decision-making process with respect to the extension of governmental services in unincorporated areas. Administering G.C. §56133, however, remains challenging because the statute as currently written limits the discretion of LAFCOs in approving otherwise logical extension of services that are appropriate given local conditions.

This report evaluates two separate policy options aimed at addressing the role of the Commission under G.C. §56133 as it relates to the City of American Canyon entering into contracts or agreements to provide water and sewer services outside its jurisdiction, hereinafter referred to as “outside services.” These options were outlined and briefly reviewed as part of an earlier report presented at the March 5, 2007 meeting. Staff has expanded its outline and review of both options and offers a recommendation for Commission consideration.

Jack Gingles, Chair
Mayor, City of Calistoga

Brad Wagenknecht, Vice-Chair
County of Napa Supervisor, 1st District

Brian J. Kelly, Commissioner
Representative of the General Public

Juliana Inman, Commissioner
Councilmember, City of Napa

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Cindy Coffey, Alternate Commissioner
Councilmember, City of American Canyon

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Keene Simonds
Executive Officer

Background

At the March 5, 2007 meeting, staff presented a report to the Commission regarding an inconsistency between the provisions of G.C. §56133 and the current practices underlying outside water and sewer services in unincorporated south Napa County. The inconsistency, which was initially highlighted in two recent municipal service reviews, is generated by American Canyon providing what appears to constitute new and extended outside services without Commission approval. The source of the inconsistency is drawn from American Canyon serving as successor agency to the American Canyon County Water District (ACCWD). Specifically, as successor agency, American Canyon has inherited agreements defining water and sewer service areas for the City that extend beyond its jurisdiction and sphere.

The March report noted the established practice of the Commission is not to require American Canyon to receive approval in providing new or extended outside water and sewer services based on an initial reading of G.C. §56133. Markedly, at the time enacted, G.C. §56133 included a broad exemption involving contracts or agreements involving two or more public agencies under subsection (e). Drawing on this original text, the Commission concluded that American Canyon could continue to provide new or extended outside water and sewer services based on the agreements it inherited with Napa County Flood Control and Water Conservation District (NCFWCWD) and the Napa Sanitation District (NSD).¹ These agreements establish “agency-defined” water and sewer service areas for American Canyon that extend north of its jurisdiction and sphere to Soscol Ridge and Fagan Creek, respectively, and include properties located in the Napa County Airport Industrial Area Specific Plan.²

In 2001, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 was enacted and made substantial changes to LAFCO law. This included amending G.C. §56133 to restrict the exemption under subsection (e) to instances where “the services to be provided are an alternative or substitute for services that are already being provided.” Substantively, the amendment precludes the Commission from continuing its established practice because several properties in American Canyon’s agency-defined service areas remain without water or sewer service.

¹ At its February 9, 1994 meeting, the Commission received a report from staff regarding the changes in LAFCO law resulting from the implementation of Assembly Bill 1335, including the enactment of G.C. §56133. The staff report was presented for information and did not make any specific comments or recommendations regarding the application of G.C. §56133 in Napa County. On February 23, 2007, staff contacted former LAFCO Executive Officer Charles Wilson to discuss the Commission’s initial review of G.C. §56133. Mr. Wilson stated that the Commission did discuss and conclude that the agreement American Canyon inherited with the NCFWCWD authorized the City to continue to provide extraterritorial water service north to Soscol Ridge without LAFCO approval under G.C. §56133 based on the exemption involving agreements between two or more public agencies. Although he did not recall any specific discussions regarding sewer provision, Mr. Wilson believes that the Commission did discuss and conclude that the agreement between American Canyon and NSD also authorized the City to continue to provide extraterritorial sewer service north to Fagan Creek without LAFCO approval.

² American Canyon’s agreement with NSD designating Fagan Creek as the boundary line between their respective sewer service areas was established in practice in the 1960s. In 1983, ACCWD and NSD adopted similar resolutions requesting the Commission designate each agency’s sphere to reflect Fagan Creek as the dividing line between their sewer service areas. In 1994, as part of a dissolution agreement involving the Napa-American Canyon Wastewater Management Authority, American Canyon and NSD further formalized and expanded the above-referenced agreement by specifying that Fagan Creek serve as the dividing line between each agency’s sewer and recycled water service areas.

With the goal of initiating discussion and identifying preferences, the March report outlined five broad options for the Commission in addressing its role as it relates to American Canyon providing outside water and sewer services under G.C. §56133. Options outlined in March ranged from strict enforcement of G.C. §56133 to adopting a policy to exempt American Canyon from requiring Commission approval. All five options were briefly analyzed in terms of advantages and disadvantages as well as possible policy outcomes. At the conclusion of its discussion, the Commission directed staff to further develop and evaluate the two options proposing local policies, identified as Options “D” and “E.”

Discussion

Options D and E represent distinct policy alternatives that provide measurably different roles for the Commission in administering G.C. §56133. Options D and E would both incorporate local conditions recognizing American Canyon as the primary water and sewer service provider in unincorporated south Napa County.³ However, Option D establishes a role for the Commission in authorizing American Canyon to continue to provide new or extended outside services. Option D also provides controls against the extension of outside services in agricultural and open-space designated lands. In contrast, Option E determines that American Canyon does not require Commission approval to continue to provide outside services within the service areas defined in its agreements with NCFCWCD and NSD because they are not considered new or extended under G.C. §56133. Expanded summaries of both options follow.

Option D

The Commission would establish a policy allowing American Canyon to continue to provide new or extended outside water and sewer services based upon LAFCO review and approval. Approval would be granted either through a comprehensive (area-wide) or incremental (individual application) approach. Specific components comprising Option D are outlined below.

- The Commission would adopt a water service area for American Canyon. The water service area would be distinct from American Canyon’s sphere and generally reflect its agreement with NCFCWCD, but exclude lands designated for non-urban use under the current County General Plan.
- The Commission would adopt a sewer service area for American Canyon. The sewer service area would be distinct from American Canyon’s sphere and generally reflect its agreement with NSD, but exclude lands designated for non-urban use under the current County General Plan.

³ NSD provides sewer service in south unincorporated Napa County north of Fagan Creek. NSD’s sewer services in south unincorporated Napa County are contained within its jurisdictional boundary.

- American Canyon would be restricted from providing new or extended outside water and sewer services beyond its service areas defined by LAFCO. Individual exemptions would be considered by the Commission in response to special circumstances.
- The Commission would recognize and designate American Canyon as the appropriate public water and sewer service provider within its service areas defined by LAFCO. The Commission would also recognize that American Canyon may establish terms and conditions relating to the provision of new or extended outside services within its service areas.
- The Commission would determine that the provision of new or extended outside water and sewer services by American Canyon within its service areas defined by LAFCO abates potential threats to public health and safety.
- If a comprehensive approach is preferred, as part of an area-wide approval, the Commission would authorize American Canyon to provide new or extended outside water and sewer services within its service areas defined by LAFCO. Approval would be based upon information analyzed and determinations adopted by the Commission as part of the *Comprehensive Water Service Study* (2004) and *Comprehensive Study of Sanitation and Wastewater Treatment Providers* (2006). These determinations collectively state that American Canyon has established adequate service capacities and administrative controls to provide an adequate level of water and sewer within its service areas.
- If an incremental approach is preferred, the Commission would authorize American Canyon to provide new or extended outside water and sewer services within its service areas defined by LAFCO on an application-by-application basis. The applicant would pay the costs of processing the application as specified in the Commission's Schedule of Fees and Deposits. The Executive Officer would prepare a report on the application with a recommendation for Commission consideration at a public meeting. LAFCO would use the following definitions for new and extended services:

“New” services would be triggered with the extension of water or sewer to previously unserved land.

“Extended” services would be triggered with the intensification of water or sewer uses to previously served land as a result of redesignation or rezoning by the affected land use authority.

Option E

The Commission would establish a policy determining that American Canyon does not require approval under G.C. §56133 to continue to provide outside water or sewer services within the service areas defined in its agreements with NCFWCWD and NSD. This policy would be premised on the Commission determining that American Canyon's agreements with NCFWCWD and NSD adequately provides for the provision of water and sewer within its agency-defined service areas, and is therefore not considered new or extended under G.C. §56133.

- * Staff has expanded the scope of Option E from the original outline presented to the Commission in March. Specifically, the March report outlined a policy determining that American Canyon does not require Commission approval to provide outside water services based on the City's agreement with NCFWCWD. In preparing this report, staff has expanded the scope of Option E to further exempt American Canyon from Commission approval with respect to providing outside sewer services based on the City's agreement with NSD defining Fagan Creek as the dividing line between their respective sewer service areas. This addition reflects staff's determination that both agreements are similar in terms of equally contemplating that American Canyon, as successor agency to ACCWD, will provide future water and sewer within its agency-defined service areas.

Analysis

As mentioned, Options D and E reflect separate policy alternatives for the Commission to clarify its role in addressing the inconsistencies between the provisions of G.C. §56133 and the current practices of American Canyon in providing outside water and sewer services. The key components as well as advantages and disadvantages underlying these options, including distinguishing between comprehensive or incremental approval under Option D, are summarized below.

Option D (Comprehensive Approval)

The Commission establishes water and sewer service areas for American Canyon that are distinct from its sphere and exclude lands designated for non-urban use under the current County General Plan. The Commission authorizes American Canyon to provide new or extended outside water and sewer services within these service areas without further review by determining the City has adequate service capacities and administrative controls.

Advantages

- Reconciles the provisions of G.C. §56133 with local conditions and circumstances underlying outside water and sewer service arrangements inherited by American Canyon at the time of its incorporation in 1992.
- Establishes water and sewer service areas for American Canyon that are generally consistent with its agreements with NCFWCWD and NSD.

- Is compatible with the County's expectation as the affected land use authority that American Canyon is the designated public water and sewer provider for unincorporated lands north to Soscol Ridge and Fagan Creek, respectively.
- Provides effective controls for the Commission to fulfill its mandate to discourage the expansion of governmental services to agricultural and open-space designated lands.
- Is consistent with written determinations adopted as part of the Commission's *Comprehensive Water Service Study* and *Comprehensive Study of Sanitation/Wastewater Treatment Providers*.
- Is consistent with an underlying tenet of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that the Commission consider local conditions and circumstances in planning the orderly formation and development of governmental agencies and services.

Disadvantages

- Eliminates opportunities for the Commission to individually examine capacities and controls for American Canyon relating to the timing of new or extended water and sewer services within its service areas defined by LAFCO.
- Creates uncertainties with respect to potential conflicts with Article 11, Section 9 of the California Constitution by establishing restrictions on the ability of American Canyon to provide water service outside its jurisdiction.⁴

Option D (Incremental Approval)

The Commission establishes water and sewer service areas for American Canyon that are distinct from its sphere and exclude lands designated for non-urban use under the current County General Plan. The Commission authorizes American Canyon to provide new or extended services within these service areas on an application-by-application basis.

Advantages

- Along with the advantages listed under comprehensive approval, the incremental approach allows the Commission to individually examine American Canyon's capacities and controls in providing new or extended outside water or sewer services to lands within its service areas defined by LAFCO. This would provide greater controls for the Commission in determining whether the timing of new or extended services is appropriate.

⁴ Article 11, Section 9 of the California Constitution states that a "municipal corporation" may establish and provide light, water, power, heat, and transportation services outside its boundaries. There is no case law addressing the potential conflict between this constitution provision and G.C. §56133.

Disadvantages

- Along with the disadvantage listed under the comprehensive approval relating to potential conflict with the constitutional authority of the City to provide services, the incremental approach requires the Commission expend considerable resources to administer. Incremental approval also requires the Commission establish evaluation standards in reviewing application requests under G.C. §56133.

Option E

The Commission determines that American Canyon does not require approval under G.C. §56133 in providing outside water or sewer within its service areas defined in its agreements with NCFWCWCD and NSD. The Commission determines that these agreements adequately provide for American Canyon to deliver outside water and sewer services within its agency-defined service areas and are not considered new or extended under G.C. §56133.

Advantages

- Effectively formalizes the established practice of the Commission not to require American Canyon to receive LAFCO approval to provide outside water and sewer services within its agency-defined service areas.
- Eliminates the need to dedicate Commission resources to administer.
- Is responsive to local conditions and circumstances underlying outside water and sewer service arrangements inherited by American Canyon at the time of its incorporation in 1992.

Disadvantages

- Diminishes the intent of G.C. §56133 for the Commission to participate in the decision-making process involving the extension of outside water and sewer services by American Canyon in unincorporated south Napa County.
- Precludes the Commission from establishing controls to protect against the extension of outside water and sewer services by American Canyon in surrounding agricultural and open-space designated lands.
- Establishes a policy precedent with respect to deferring to similar local service agreements in administering G.C. §56133 with unknown outcomes.

Conclusion

Options D and E are measured policy alternatives for the Commission to address its role under G.C. §56133 as it relates to American Canyon. Both alternatives are reasonable attempts to clarify the Commission's responsibilities in a manner that is responsive to local conditions and circumstances. Staff believes that Option D is the more effective of the two alternatives with respect to fulfilling the legislative intent of G.C. §56133. Notably, Option D reconciles the responsibilities of the Commission while recognizing existing service arrangements and provides controls against the extension of urban services into agricultural and open-space designated lands.

Option D could be implemented by authorizing American Canyon to continue to provide new or extended outside water or sewer services within its service areas defined by LAFCO in a comprehensive or incremental approach. Staff believes that a comprehensive approach to Option D is preferable because it achieves the Commission's interests in meeting the legislative intent of G.C. §56133 without creating additional administrative processes in approving the logical extension of services within urban designated lands.

Alternatives for Commission Action

After consideration of this report, the Commission should consider approving one of the following alternatives:

Alternative One: Approve Option D, comprehensive approach. This would include taking the following action:

- 1) Adopt the attached draft resolution identified as "Attachment Five-A."

Alternative Two: Approve Option D, incremental approach. This would include taking the following action:

- 1) Adopt the attached draft resolution identified as "Attachment Five-B."

Alternative Three: Approve Option E. This would include taking the following action:

- 1) Adopt the attached draft resolution identified as "Attachment Five-C."

Alternative Four: If the Commission requires more discussion or information, continue this matter to a future meeting.

Recommendation

Staff recommends Alternative One. This alternative approves the comprehensive approach in implementing Option D.

Respectfully submitted,

Keene Simonds
Executive Officer

Jacqueline Gong
Commission Counsel

Attachments:

1. California Government Code §56133
2. Maps
 - a) ~~American Canyon (depicting inherited water and sewer service areas)~~
 - b) ~~American Canyon County Water District (at the time of its merger into American Canyon)~~
 - c) ~~American Canyon (metered outside water and sewer service connections)~~
 - d) ~~County of Napa Airport Industrial Area Specific Plan Boundary~~
 - e) ~~Proposed Outside Water and Sewer Service Areas for American Canyon under Option D~~
3. Agreements
 - a) ~~Napa County Flood Control and Water Conservation District: Water Supply (1966)~~
 - b) ~~Napa-American Canyon Wastewater Management Authority: Dissolution (1994)~~
4. Written Comments
 - a) ~~Letter from Robert Westmeyer, County Counsel, County of Napa, dated February 26, 2007~~
 - b) ~~Letter from William Ross, City Attorney, American Canyon, dated March 5, 2007~~
 - c) ~~Letter from Iris Yang on behalf of American Canyon, dated June 4, 2007~~
 - d) ~~Letter from Alan Lilly on behalf of the County of Napa, dated July 23, 2007~~
5. Draft LAFCO Resolutions
 - a) ~~Alternative One: Option D (comprehensive approval)~~
 - b) ~~Alternative Two: Option D (incremental approval)~~
 - c) ~~Alternative Three: Option E~~

California Government Code Section 56133

(a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

- (1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.
- (2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.