

LAFCO

Santa Barbara Local Agency Formation Commission

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June 5, 2008 (Agenda)

Local Agency Formation Commission
105 East Anapamu Street, Room 403
Santa Barbara CA 93101

Formation of Santa Rita Hills Community Services District

Dear Members of the Commission:

RECOMMENDATION

It is recommended the Commission receive public testimony, adopt this report and approve the formation of the proposed Santa Rita Hills Community Services District subject to the terms and conditions set forth below.

The recommendation is similar to that submitted to the Commission when this matter was heard on December 6, 2008 with the exception of excluding water from the list of District services.

DISCUSSION

This is a Supplemental Executive Officer Report to be considered in conjunction with the original December 6, 2007 report.

A copy of the original report is being provided to the Commission with the June 5 packet. Also being distributed with the packet is miscellaneous correspondence submitted with requests that it be distributed to the Commission.

Nothing has transpired since this matter was first heard by the Commission that has caused the staff to change our recommendation for approval of the formation of the District. We think the concerns that have been voiced have been addressed or can be addressed by proper conditions.

Based upon concerns expressed by Bruce Wales, General Manager of the Santa Ynez River Water Conservation District and the fact there are no plans for the proposed District to acquire water rights or supply water to parcels within its boundaries, the staff has concluded it is preferable to exclude the provision of water from the list of authorized District services.

Background

The formation of this Community Services District was initiated by a petition and considered by the Commission on December 6, 2007. After considering the staff report and significant public testimony regarding the proposed formation, the Commission continued the hearing to February 7 and directed the staff to:

- Convene the affected landowners in an effort to reach an agreement regarding road access,
- Contact the Agricultural Advisory Committee regarding the impact of the formation of this district on agriculture in the Santa Rita Hills,
- Explore the ability of the Commission to control the District's exercise of eminent domain, and
- Further study hydrologic impacts of increased housing and farming in the area on the water supply in the Santa Ynez River.

At the February meeting we reported that the Agricultural Advisory Committee had considered this matter and we were continuing to analyze the other issues. The Commission continued the proposal to the next Commission meeting to be held in Santa Maria, which is the June 5 meeting.

Following is our report on the topics that were discussed on February 7:

Discussion among the affected parties regarding access

The staff convened a meeting with landowners and their representatives on January 24 and again on January 28. The major topic was road access for the Lakeview Estates subdivision.

Issues discussed in relation to the access road were its location, pitch and drainage but none of the discussion dealt with "internal" access roads within the proposed District. Matters regarding the access road are not part of the application to form the District and further discussion regarding the access road is not essential to its formation.

Note: The location of an easement and design of the roadway to allow access from the terminus of Sweeney Road across the John Cargasacchi property to the Lakeview Estates subdivision is a matter of public record. The construction of this road is a matter for the affected property owners to resolve among themselves and is beyond the Commission or its staff's ability to resolve.

During these discussions it became clear there are conflicts between some of the landowners, some of which are long standing. These are beyond the Commission's ability to resolve. The formation of a District will provide a local mechanism for landowners to act collectively for the common good. No such mechanism presently exists.

It is precisely in this type of situation that a locally accountable public agency can serve to resolve conflicts. The staff cannot help but be impressed by the almost unanimous written expressions of support by landowners whose properties would be located within the District.

County Agricultural Advisory Committee

The staff attended a meeting of the County Agricultural Advisory Committee on January 9, 2008 when this matter was considered. Testimony was provided by various landowners and by representatives of the agricultural community.

Committee members are concerned about potential impacts on adjacent farming operations, with specific apprehension about possible use by the District of eminent domain power to obtain a second access road by condemning and purchasing nearby agricultural property.

The relevant portion of the minutes of the meeting is enclosed and states “. . . carried by a unanimous vote to oppose the formation of the Santa Rita Hills Community Services District, because of concern for surrounding agriculture, unless a mechanism is in place to eliminate condemnation of adjacent agricultural parcels outside the proposed CSD.”

The staff believes this concern is addressed by not permitting the District to provide services, including an access road, outside of its boundaries.

- Single Access Road is Allowed by the County

The question of the possible need for a secondary access road has been raised during these deliberations. The question is whether the County Fire Protection District will allow construction of new homes and other structures within the Lakeview Estates subdivision.

This matter is addressed in the enclosed letter from the County Fire Chief confirming our earlier understanding that a single means of access is acceptable for use of the existing lots.

- Restrict Condemnation Authority for Second Road Access

Our view, developed in consultation with Legal Counsel, is that LAFCO can probably not restrict a Community Services District from being able to exercise the powers inherent in the governing act for all such public agencies. This includes statutory authority to exercise the power of eminent domain to condemn property for public purposes.

The Commission, however, can restrict the exercise of such power to territory within the District by (1) limiting the District Sphere of Influence to its formation area and (2) not permitting the District to provide services, including construction of an access road, outside of its boundaries, pursuant to the authority in Government Code Section 56133.

This is consistent with Community Services District Law, specifically Government Code Section 61101 that states unequivocally:

“A district may provide the facilities and services authorized by Section 61100 outside its boundaries, subject to Section 56133.”

As the Commission is aware, Section 56133 is the statute that allows local agencies to provide services outside their boundaries only with the Commission’s approval.

Hydrologic impacts of increased housing and farming on the Santa Ynez River.

Questions have arisen regarding the effect of forming the District on water rights and allocations of water from the Santa Ynez River. We have discussed this matter with Bruce Wales, General Manager of the Santa Ynez River Water Conservation District.

The existing allocation of water rights from the Santa Ynez River will not be affected by the formation of the District. The CSD will not own any water rights but might be able to transfer water owned or allocated to property owners within its boundaries.

To avoid any potential complications, confusion or false expectations with respect to allocation or apportionment of water from the Santa Ynez River, it is recommended that water supply and distribution be excluded from authorized District services.

Lakeview Estates Requires CSD in Comparison to More Recent Subdivisions

As noted in our initial staff report the “Lakeview Estates” subdivision was created in 1968 by the recordation of a survey map, a process no longer used. All of the lots are legal though nonconforming parcels, meaning the parcels are smaller than the overlying zoning. This signifies that no additional parcels can be created absent a general plan amendment and rezoning.

When the lots were created no provisions were made for common improvements such as roads. No CC&Rs were recorded to create a property owners association with financial resources and binding authority to undertake and maintain such improvements. For subdivisions created today, terms and conditions imposed at the time of recordation ensure such services and improvements.

Since it is too late to impose CC&Rs, the creation of a Community Services District has been proposed and, as testimony indicates, is supported by a large majority of the landowners.

The Rancho Santa Rita Access Association is the agency referred to in the MOA to build the access road across the Cargasacchi Ranch from the terminus of Sweeney Road. This is outside of the proposed CSD. The CSD is intended to build and improve infrastructure within the subdivision. The “stick” proponents have to compel participation and cooperation in constructing the access road is the settlement adjudicated by the Superior Court which resulted in the MOA.

Compliance with CEQA

Some public comments were heard in December that an EIR is needed to create the CSD. The staff disagrees. Our initial staff report states that forming the CSD as a funding mechanism is exempt from CEQA pursuant to CEQA Guidelines Section 15378(b)(4), which provides:

The creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

In reference to “Environmental Considerations” the November 21, 2007 memorandum from the County Department of Planning & Development, Office of Long Range Planning, states:

“No specific physical changes are proposed at this time. Therefore, establishment of the District as a potential funding mechanism to plan and install a roadway or other infrastructure improvements is categorically exempt from the definition of a CEQA ‘project’ under §15378(b)(4) of the CEQA Guidelines.”

This is borne out by the proposed conditions for the formation. The special tax proposed to finance CSD operations is not sufficient to construct necessary improvements. Any significant capital improvements will be financed by benefit assessments not yet presented to or approved by the landowners within the District.

RECOMMENDATION

In consideration of the foregoing it is recommended that the Commission:

- A. Determine the formation of the Santa Rita Hills Community Services District to be exempt from CEQA pursuant to CEQA Guidelines section 15378(b)(4).
- B. Adopt this report and approve the formation of the proposed Community Services District subject to the following terms and conditions:

1. The name is Santa Rita Hills Community Services District.
 2. The District shall be governed by a five member Board of Directors elected at large. Terms of office of the District directors shall be four years. Of the first elected board, the terms of the three members with the largest popular votes shall be four years. Of the first elected legislative body, the term of the two members with the smallest popular vote shall be two years. In the case of a tie, the election will be decided by lot.
 3. The District shall have those powers and responsibilities set forth in the enabling act, which is Chapter 28 (commencing with Section 5896.1) of Part 3 of Division 7 of the Streets and Highways Code. It shall not be authorized to provide water supply or distribution.
 4. The District shall not provide services outside of its boundaries, including the construction of an access road, either with or without the use of eminent domain.
 5. Any significant capital improvements related to infrastructure will be financed by benefit assessments approved by the landowners within the District
 6. Approval by the voters within the District of a special tax as follows:
 - (a). The maximum annual special tax authorized for the District shall be Three Million Dollars (\$3,000,000) for the fiscal year 2008-2009 and shall increase automatically each fiscal year thereafter by the percentage change in the Consumer Price Index (CPI) for the Los Angeles/Long Beach area for the prior 12 months. .
 - (b). The actual tax to be levied for any fiscal year shall be determined by a majority vote of the board of directors of the District on the basis of the actual revenues estimated to be required by the District to pay its reasonable and necessary expenses for such year.
 - (c). The tax shall be applied equally to each legal lot within the District; the amount of the tax levied shall be the same for each lot.
 7. The effective date shall be the date that the formation is recorded.
- C. Direct the staff to initiate and conduct subsequent proceedings in compliance with the decisions of the Commission.

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As noted in December, other options available to the Commission are to deny the formation or to continue consideration to a future meeting to obtain additional information.

Please contact the LAFCO office if you have any questions.

Very truly yours,

BOB BRAITMAN
Executive Officer