

LAFCO

Santa Barbara Local Agency Formation Commission

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September 5, 2013 (Agenda)

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

Santa Rita Hills Community Services District – Request to Expand the Sphere of Influence and Authorize the District to construct an access road outside the District boundary but within the expanded sphere of influence from the terminus of Sweeney Road to the District and authorize the District to exercise the power of eminent domain to acquire property necessary for the construction of this access road. – Continued from June 6, 2013

Dear Members of the Commission:

RECOMMENDATION

It is recommended the Commission, following a public hearing, take the following actions:

1. Deny, without Prejudice, the Proposed Sphere of Influence Expansion, the Request to Provide Services Outside of District Boundaries, and the Request to Expand District Powers to include Eminent Domain Outside its Current Boundaries.

OPTIONS AVAILABLE TO THE COMMISSION

1. Deny, without Prejudice;
2. Deny the Proposal;
3. Request that the District to withdraw the Application;
4. Approve the Proposal, in whole or in part;
5. Continue the hearing on the matter for any appropriate reason.

Discussion.

Background: On November 6, 2008, the Commission adopted Resolution No. 03-13 approving formation of the Santa Rita Hills Community Services District (CSD). The CSD was created as

a means for the affected property owners and residents to design and construct a circulation system of roads to provide acceptable access to existing, legal parcels. The Commission conditioned approval as follows: “The district shall not have the authority to provide services outside of its boundaries, including the construction of an access road, either with or without the use of eminent domain.” In approving the CSD, it was determined that it was exempt from CEQA because it would be used as a funding mechanism and did not involve any specific project.

Memorandum of Agreement (MOA): Prior to the formation of the CSD, landowners in the Lakeview subdivision and Rancho Dos Mundos subdivision litigated for access to those tracts; a settlement adjudicated by the Superior Court was reduced to a Memorandum of Agreement. In the MOA the Rancho Santa Rita Access Association is the agency referred to build the access road across the intervening parcel from the terminus of Sweeney Road. The MOA signed by the Lakeview and Rancho Dos Mundos property owners established an easement location across the Cargasacchi property, subject to certain terms and conditions

MOA Paragraph 5 deals with allowable uses on the parcels that would be serviced by the access road if this alignment is used. Future requests to increase the use and/or overburden the easement will be decided after the access road issue is concluded.

At the time the CSD was formed in 2008 it was understood that the MOA language and alignment would be sufficient to encourage cooperation in constructing the access road. However, to date there has been no final agreement on where the access road should be located. A copy of the MOA, which contains a legal description and map, is attached to this staff report.

Possible Roads Alignments: The current application specifies three alternative access alignments: 1. The MOA easement, 2. The access road that is currently being used, and 3. An alignment that records show as a possible roadway labeled “County Easement” on the map. The proposal is to include approximately 33 acres that would include all 3 alignments in the sphere of influence, with the sphere being reduced in the future to include only the actual alignment, when that determination is made.

Sphere of Influence/Municipal Service Review: On February 3, 2011 the Commission adopted a Sphere of Influence for the CSD that is coterminous with the District boundary. The sphere of influence decision was supported by a Municipal Service Review (MSR). Although lack of sufficient access is mentioned in the MSR, there is no discussion regarding expanding the district’s sphere of influence to include the road access parcel. This determination was made approximately 2 ½ years ago.

The current application requests expansion of the CSD's sphere of influence in order to exercise eminent domain outside its boundaries for the purpose of acquiring access across the Cargasacchi parcel to the Lakeview subdivision. Services outside district boundaries require LAFCO approval pursuant to Government Code Section 56133. The section states that "the Commission may authorize a ...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 (e.g. annexation). In the regard there has been no discussion of future annexation of the Cargasacchi parcel.

Why is LAFCO Involved? This is a very good question. The Commission is involved because it approved the formation of the district in 2008. At that time the expectation was that the CSD and the property owners, including Mr. Cargasacchi, would agree to an access road that would allow the affected property owners and residents to design and construct a circulation system of roads to provide acceptable access to existing, legal parcels. Approximately 3 years after the formation of the CSD, LAFCO conducted a sphere of influence/municipal service review of the district. No changes to the district's boundaries were requested or recommended at that time. Since then, the CSD and property owners have had no success in negotiating an access road alignment with the Cargasacchi family. This is in spite of the fact that the road easement was established by a Memorandum of Agreement. The CSD is looking to LAFCO to resolve this stalemate, even though there are mechanism in place to resolve the issue without Commission involvement. Granting the power of eminent domain is an effort by the CSD to force the Cargasacchi family that owns the underlying parcel, to allow access to the Lakeview and Rancho Dos Mundos subdivisions

California Environmental Quality Act (CEQA). It is the opinion of LAFCO's Legal Counsel that the CSD's application for expansion of the sphere of influence, expanding road improvement and maintenance powers outside its boundaries, and allowing the use of eminent domain to acquire one of three proposed access roads is sufficiently focused on building an access road such that a CEQA exemption is not appropriate. The CSD claims the application creates a "funding mechanism" that is exempt under CEQA Guidelines section 15378(b) (4) and provided no environmental document at the time the application was submitted. In addition, there may be other alternative road alignments that have not been considered other than the Cargasacchi property.

Agricultural Advisory Committee (AAC). The County of Santa Barbara Agricultural Advisory Committee reviewed the Santa Rita Hills CSD's proposal on July 31, 2013. The AAC is concerned about the impact of the proposal on agricultural resources. The Committee is recommending that the sphere of influence be limited to the MOA roadway access, that services by district be limited to the expanded SOI, and that the power of eminent domain not be exercised.

Conclusion: This Commission's 2008 approval created the Santa Rita Hills CSD with the expectation that with the MOA in place, access to the Lakeview and Rancho Dos Mundos subdivisions would be assured. Three years later in 2011, when the district's sphere of influence/municipal service was reviewed by LAFCO, no expansion of the sphere of influence to include the Cargascacchi property was requested by the district or the property owners.

The District's current application requests authorization from LAFCO to use eminent domain outside its boundaries to build an access road using one of three alignments across the Cargascacchi property. Use of eminent domain outside the districts' boundaries was restricted by a LAFCO condition of district formation in 2008.

The MOA already establishes an alignment across the property and was signed by Mr. Cargascacchi and all of the landowner in the Lakeview and Rancho Dos Mundos subdivisions. Mr. Cargascacchi has been reluctant to grant access to the district and hence the district is asking LAFCO to grant the power to use eminent domain outside its boundaries to construct and maintain the access road.

In terms of Environmental Review, 3 access road alignments have been proposed. Because it is viewed as a funding mechanism and not a project, a CEQA exemption was used to form the district in 2008 and is proposed in the district's current request. It is assumed that if the proposal is approved, the District will conduct an environmental review prior to approving construction of the access road. Because CEQA requires environmental review at the earliest possible time that a project is defined, there is no reason why this review cannot occur before LAFCO considers the District's application. It is the determination of LAFCO Legal Counsel that the decision to use one of three proposed access roads is sufficiently focused on building an access road such that a CEQA exemption is not appropriate.

As discussed above, there are a number of issues that point toward denying the application:

1. The 2011 sphere of influence/municipal service review did not identify the need to include the Cargascacchi property in the district's sphere of influence.
2. The MOA that was signed by Mr. Cargascacchi and all landowners already defines an access road alignment that if all parties agree can be used to access the Lakeview and Rancho Dos Mundos subdivisions, and
3. The use of eminent domain to acquire one of three proposed access roads is sufficiently focused on building an access road such that a CEQA exemption is not appropriate.

Therefore, based on the above, it is recommended that the Commission Deny the Proposal, without Prejudice. Government Code Section 56884(2) states that if a proposal is denied, no similar proposal involving the same or substantially the same territory shall be initiated for one year...Denial without prejudice would allow the initiation at any time.

The other options available to the Commission in addition to Denial, without Prejudice, are:

1. Deny the Proposal;
2. Request the District to withdraw the Application;
3. Approve the Proposal, in whole or in part.
4. Continue the hearing on the matter for any appropriate reason.

Please contact the LAFCO office if you have any questions.

Sincerely,



PAUL HOOD
Executive Officer

- Exhibit A. Map of Requested Santa Rota Hills CSD Sphere of Influence Expansion Area
- Exhibit B. Staff Responses to Commissioner Questions/Comments at the June 6, 2013 SBLAFCO Meeting on the Santa Rita Hills CSD's Application
- Exhibit C. Memorandum of Agreement and Easement Document for Lakeview Properties and Rancho Dos Mundos
- Exhibit D. Correspondence from the Santa Rita Hills CSD to Santa Barbara LAFCO Commissioners
- Exhibit E. Agricultural Advisory Committee Letter on the Proposal
- Exhibit F. Letter from E. Patrick Morris to Mike Seitz
- Exhibit G. Letter from Mike Seitz to E. Patrick Morris
- Exhibit H. Letter from Christa and Russell Crane