

LAFCO

Santa Barbara Local Agency Formation Commission

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June 6, 2013 (Agenda)

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

**Santa Rita Hills Community Services District – Request for Sphere Expansion and
Authorization to Construct Access Road Outside of District**

Dear Members of the Commission:

RECOMMENDATION

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

1. Expand the District Sphere of Influence to include the specific areas shown on the attached map labeled Exhibit A, which identifies where an access road may be constructed to link the Community Services District roads to Sweeney Road.
2. Authorize the District to provide services outside of its boundaries within the expanded sphere area.
3. Authorize the District to exercise the power of eminent domain only within the expanded sphere area and only if necessary to construct the access road.

GENERAL ANALYSIS

Background

On November 6, 2008 the Commission adopted Resolution No. 03-13 approving formation of the Santa Rita Hills Community Services District (CSD). That resolution is attached. (Exhibit B)

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.

On February 3, 2011 the Commission adopted a CSD Sphere of Influence which is coterminous with the District boundary. That resolution of approval is attached. (Exhibit C)

Commissioners: Roger Aceves, Chair ♦ Doreen Farr ♦ Craig Geyer ♦ Jeff Moorhouse ♦ Bob Orach ♦ Bob Short
Janet Wolf ♦ John Fox ♦ Steve Lavagnino ♦ Jim Richardson ♦ Roger Welt **Executive Officer:** Bob Braitman

AGENDA ITEM NO. 12

Requests for LAFCO approval

Property owners within the CSD are hesitant to expend the significant funds required to construct roads within the District without having the assurance they can make use of their property; clearly that requires a dependable road access from Sweeney Road, the nearest public street.

The Commission has received three requests from the Santa Rita Hills CSD:

- A. Authorization to provide services outside its boundaries exclusively to construct an access road between Sweeney Road and the District boundaries.
- B. Authorization to use eminent domain exclusively to acquire access from Sweeney Road to the District boundaries.
- C. Expansion of the CSD Sphere of Influence exclusively to include portions of the Assessor Parcel between the end of Sweeney Road and the District to provide for an access road as shown on Exhibit A.

Each of these requests is discussed separately in this report.

A. Authorization to Provide Services Outside of District Boundaries

In approving the formation LAFCO limited the CSD to providing the following public services as enumerated in the CSD Law: “Acquire, construct, improve, and maintain streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks and any incidental works; convert overhead electric and communications facilities to underground locations; and install underground electric and communications facilities, with the consent of the public agency or public utility that owns the facilities pursuant to Streets and Highways Code.”

These are the only authorized types of services the District can provide

In approving the formation LAFCO also specified that

“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.”

The CSD is requesting the following wording change in that portion of the resolution:

The District shall not have the authority to provide services outside of its boundaries, except for including the construction of an access road between Sweeney Road and the District boundaries and the power to either with or without the use of eminent domain to acquire access to the District from Sweeney Road to the District boundary.

B. Authorization to Use Eminent Domain

Eminent domain is the authority of government to take private property for public use. California Constitution Article 1, Sec. 19 provides that private property may be taken for a public use only when just compensation is paid.

The District provides the following justification for this change in the enabling resolution:

Since formation of the District, an issue has arisen regarding the ability of the property owners to gain access to their property from Sweeney Road, the public right of way that is meant to serve this property. This access, and the right to gain access, is presently under restriction from the intervening property owner between Sweeney Road and the District boundary.

Despite a number of attempts to work cooperatively with this property owner, the property owner remains steadfast that he will not negotiate or recognize the CSD as having the authority to represent the property owners and residents to obtain the necessary and proper access to their properties.

By this application, the Santa Rita Hills Community Services District is requesting that the Resolution adopted forming the District be modified so that it provides limited use of the eminent domain power in order to secure access from Sweeney Road to the District.

By making this change, it will insure that the intervening property owner is appropriately compensated for the access; and that the property owners within the District will have the ability to utilize their properties to the limits allowable under present zoning and land use regulations.

As noted earlier in this report, the CSD was created to design and construct a system of roads within the CSD to provide acceptable access to existing parcels. The CSD General Manager John Wallace, in a staff report to the CSD Board dated April 11, 2013 reports:

To date, the District has made significant design progress in the proposed alignment of the internal District Road System, which will ultimately provide access to each parcel within the District. As discussed, the next step is the formation of a Community Facilities District, to help fund the construction of these roads.

Without roads, property owners are unable to obtain necessary permits from the County to improve their individual parcels. In a meeting with County Fire on March 6th, County Fire Personnel indicated that resolution of the access road will be mandatory before internal roadways are considered. (Emphasis added)

In a subsequent this report to the CSD Board dated May 9 General Manager Wallace reported:

“Without proper access, property owners are unable to obtain necessary permits from the County to improve their individual parcels. In a meeting with County Fire on March 6th County Fire Personnel indicated that resolution of the access road for health and safety reasons will be mandatory before internal roadways or building permits are considered.”

The LAFCO staff has requested the County Fire Protection District staff to attend the Commission meeting in order to answer any questions about the issue of the access road.

It is understandable that property owners within the CSD are reluctant to expend funds to construct an internal road system without assurance they would have acceptable access from Sweeney Road to make desired and beneficial use of their property

The CSD request for ability to provide an access road outside its boundaries and exercise eminent domain to help acquire territory for the road is attached (Exhibit D)

C. Expansion of Sphere of Influence

Government Code Section 56133 provides that a city or special district may provide services outside of its jurisdictional boundaries only if it first requests and receives written approval from LAFCO and, in most instances, the area to receive the services must be within the agency's sphere of influence

It is the Commission policy that annexations are generally preferred to provide for providing public services; however, out-of-agency services can be an appropriate alternative.

While each proposal must be decided on its own merits, the Commission may favorably consider such an arrangement where the service will be provided to a small portion of a larger parcel and annexing the entire parcel would be inappropriate in terms of orderly boundaries, adopted land use plans, open space/greenbelt agreements or other relevant factors. That appears to be the case here. (Emphasis added)

The CSD request for an expanded Sphere of Influence is attached (Exhibit E)

Possible Location for Access Road

There appear to be three possible alignments for the access road leading from Sweeney Road to the District's westerly boundary. These are clearly shown on the map attached as Exhibit A.

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 (MOA). In this 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.

At the time the CSD was formed it was felt the MOA would be sufficient to compel cooperation in constructing the access road. However, we are informed the landowner has not to date recognized the CSD as the successor agency to the Rancho Santa Rita Access Association, which is not longer in existence. Hence this request from the CSD for the authority to construct the access road.

The three possible alignments are:

- Access Road that is presently being used

Presently those driving from Sweeney Road to Lakeview Estates use the route labeled "Access Road" on the map. The Access Road has been in use by the property owners and residents for numerous years.

- Access roadway per Memorandum of Agreement

This alignment of the proposed roadway is shown as “MOA” on the map. This easement was a result of the legal settlement. This alignment bisects the landowner’s crops; however, the landowner has indicated he is bound to this alignment for the access road by the MOA.

Both this alignment and the “Access Road” total about 33 acres.

- Access roadway via County easement

Apparently there are records of a possible roadway labeled “County Easement” on the map. The existence of this right of way is presently being researched by the County Surveyor’s office but no determination has been made. And the physical viability of this right of way, if it does exist, may be problematic.

The proposed Sphere expansion area includes only these three alternatives. Once the route is selected and the access road is constructed, the Sphere of Influence can be reduced to include only the selected right-of-way.

If the requested actions are approved, the CSD informs us it will negotiate with the landowner to determine an acceptable access road location from Sweeney Road to the District boundaries.

Compliance with CEQA

The formation of the CSD was exempt from CEQA as a funding mechanism pursuant to CEQA Guidelines Section 15378(b)(4). It 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.

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

“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.”

With the authorized services, detailed decisions about capital improvements, levels of service and how services will be provided will not be known until specific projects are proposed. The actual facilities will be determined by the CSD, subject to County review and approval.

It was always anticipated that capital improvements will be financed by revenues from landowner-approved special benefit assessments and indebtedness. This was borne out by the conditions for the formation since the existing special tax to finance CSD operations is insufficient to construct necessary improvements. Any significant capital improvements will be financed by benefit assessments that are yet approved by the landowners within the District.

The same factual situation and logic apply to the request to expand the Sphere of Influence and amend the resolution approving the formation. Hence the staff recommends, as it did for the formation, that this change is exempt from CEQA for the same reasons.

When the CSD decides how to proceed with design and construction of the access road and internal roads, compliance with CEQA would be required as part of that construction project.

Attached LAFCO Staff Reports and Minutes – December 7, 2007 and June 5, 2008

The formation of the Santa Rita Hills Community Services District was approved by LAFCO on June 3, 2008. Following a successful election, the District was created on June 5, 2009.

Only two individuals from 2008 are still on the Commission, Bob Orach and Janet Wolf. The others who participated are no longer Commissioners, namely Joe Centeno, Dick DeWees, Marty Mariscal, Cathy Schlottmann and Larry Wilson.

To provide new members of the Commission with background for this matter, we are attaching the Executive Officer Reports and Commission Minutes for December 6, 2007 (Exhibits F and G) and June 5, 2008 (Exhibits H and I). Also enclosed are the minutes of the July 3, 2008 meeting (Exhibit J).

Inasmuch as these documents are enclosed we will not summarize them in this report.

Conclusion

When LAFCO approved the formation of the Santa Rita Hills CSD it was felt that cooperation, or at least an acceptable agreement, would be forthcoming to resolve the issue of an acceptable access road from Sweeney Road to the CSD. Therefore in forming the District the Commission limited the CSD's authority to built roads to territory within its boundaries.

It appears that despite the efforts that have been invested in this issue by the affected parties, such an agreement to allow the access road to proceed has not been reached. Even if the landowner and CSD reach agreement on an alignment, the Commission still needs to remove the restriction that prevents the CSD from constructing or improving any facilities outside its boundary.

The County Fire Protection District, which has jurisdiction, has taken a position that construction of permitted uses, including habitable structures, within the Santa Rita Hills CSD cannot be allowed until such time as an adequate access road is constructed.

The request by the CSD – to be authorized to provide its services in a limited area outside of its boundaries and to be able to utilize the power of eminent domain within that very limited area – appear to be a reasonable request if the landowners in the Lakeview Estates subdivision are to be able to utilize their property as intended.

The LAFCO staff recommends that the Commission (1) expand the Sphere of Influence as shown in Exhibit A, (2) allow the CSD to provide its authorized services within this expanded sphere area and (3) allow the CSD use the power of eminent domain, if needed, only within this limited Sphere expansion area.

Please contact the LAFCO office if you have any questions.

Sincerely,



BOB BRAITMAN
Executive Officer

- Exhibit A. Map of Requested Santa Rita Hills CSD Sphere of Influence Expansion Area
- Exhibit B. Resolution No. 03-13 approving formation of the Santa Rita Hills CSD
- Exhibit C. Resolution adopting Santa Rita Hills CSD Sphere of Influence
- Exhibit D. Santa Rita Hills CSD Request to Modify Formation Resolution
- Exhibit E. Santa Rita Hills CSD Application to Amend its Sphere of Influence
- Exhibit F. Executive Officer Report dated December 6, 2007
- Exhibit G. Minutes of December 6, 2007 meeting
- Exhibit H. Supplemental Executive Officer Report dated June 5, 2008
- Exhibit I. Minutes of June 5, 2008 meeting
- Exhibit J. Minutes of July 3, 2008 meeting
- Exhibit K. Resolution Expanding District Sphere of Influence

- Exhibit L Resolution Authorizing the District to Provide Services Outside its Boundary and to Exercise Eminent Domain in this Limited Area
- Exhibit M Letter from Santa Rita Hills Community Services District dated May 28, 2013