

SHASTA LAFCO

Report to the Shasta Local Agency Formation Commission

From: Jan Lopez, Executive Officer

Meeting Date: May 1, 2014
Agenda Item #: 7.b.1)
Subject: LAFCO File #2013-04 – Deschutes Road Reorganization (Action)

Background and Issues

In the spring of 2013, the City of Anderson received a request to annex certain territory within the City's sphere of influence boundary east of I-5 and adjacent to Deschutes Road. Roseburg Forest Products, who owns 7 parcels within the area, presented the initial proposal to the City.

The City responded favorably and initiated the required rezoning action for the area, determining that 385 acres of underutilized industrial and mostly vacant land would be good for future development that could benefit the City, the landowners, and the community. When a city wishes to annex lands, that land must first be within its established Sphere of Influence, and then a city must determine what that land use and zoning will be if the annexation proposal is successful before LAFCO.

The City of Anderson's rezoning process involved development of a plan, a CEQA (environmental) review analyzing the potential impacts of the proposed zoning and land use designations, public meetings and hearings, comments from other public agencies and citizens, and ultimately approval of the proposed land use and rezoning designations by the City Council. A Negative Declaration was adopted for this project and a Notice of Determination was filed with the Shasta County Clerk-Recorder's Office. (See Exhibit 6 to review the rezoning comments.) The City then approached Shasta County regarding Property Tax Exchange negotiations (see Exhibit 5 for documents and related comments).

In November 2013 the consultants for Roseburg Forest Products approached Shasta LAFCO for a pre-application meeting to discuss what might be needed to present a complete application. A December meeting followed, with the formal application submitted to Shasta LAFCO on December 18, 2013.

During the 30 day review period that followed submission of the application, it became apparent that a number of issues needed to be resolved before the application could be declared complete and a hearing date before Shasta LAFCO could be assigned. Chief among them were (1) identification of the true applicant, (2) that the project involved a reorganization (two or more actions) rather than a simple annexation, and (3) that it was unclear who the successor fire protection agency would be. The applicant's consultant and the City were notified on January 19, 2014, of these deficiencies. (See Exhibit 1)

A meeting was held on January 21st at the LAFCO offices with staff from both the city and the applicant's consultants. The primary issues involved identifying whether the application was

being submitted by petition of a landowner or by resolution of the City. Since the City assumed Lead Agency status for the CEQA review of the rezoning action, it was determined that the City should be the applicant since that path did not require going back to start all over in order to meet the petition requirements.

The second issue was the need to provide fire protection services to the new territory. Historically, the City of Anderson --- who does not provide fire protection services --- would include with an annexation proposal a request to also annex the territory into the Anderson Fire Protection District.

As unincorporated land, most of the area is currently served by Shasta County Fire, with a small southern portion being served by the Cottonwood Fire Protection District. The territory is within the 2013 approved sphere of influence of the Anderson Fire Protection District. Shasta County Fire (County Service Area #1) provides services to unincorporated territory. Should the annexation be approved, that approval would detach the area from Shasta County Fire's service area. CSA #15 – Lighting district would also be detached, since the City provides street lighting services. During these proceedings, other agencies boundaries may also require changing as the City assumes provision of their services.

On February 7, 2014, a second meeting was held with the initial applicant and its consultants, City of Anderson staff, and Shasta LAFCO staff to discuss the issues discussed in the January 19th letter. In conclusion, it was determined that most issues could be resolved. The outstanding issue for LAFCO staff, however, remained the need for identifying and including the fire protection and emergency services agency. The goal was for the City to provide or clarify the additional information requested by LAFCO relatively quickly so that a potential hearing date could be set for April or May 2014. A revised application was subsequently received from the City of Anderson on February 24, 2014 (see Exhibit 2).

For LAFCO to begin processing any boundary change application, whether from an individual landowner or a local public agency, there are several mandatory noticing events that must occur:

- To issue a notice of application soliciting confirmation of submitted data from the County Assessor, Auditor, Surveyor, and Registrar of Voters;
- To issue a notice of application soliciting comments to affected, responsible and interested public agencies, and members of the public;
- To determine whether there are any additional CEQA issue that must be considered;
- To set a public hearing date, once the application is deemed complete and accurate by the Executive Officer;
- To publish public notice of the proposed hearing a minimum of 21 days prior to the hearing;

- To observe the initiation and conclusion of Property Tax Exchange negotiation between all agencies that will be affected by the proposed boundary change, and receive notice that the process has been concluded by all parties; and
- To prepare a report from the Executive Officer at least five days prior to the hearing.

Shasta LAFCO received comments from county departments and local and state agencies, included as Exhibits 3 and 4 respectively. The California Department of Fish and Wildlife and other agencies have requested certain considerations or conditions be attached to the approval of this reorganization request.

Although issues are still unclear about the successor fire agency issue and property tax exchange efforts between the City and Anderson Fire Protection District, a determination was made to schedule a public hearing for Thursday, May 1, 2014, before the Shasta County Local Agency Formation Commission.

Discussion

This application is a rather simple one, and is generally seen as a good project by most. It involves little protest from the landowners who will be brought into the City of Anderson if the reorganization is approved. It became somewhat complicated, however, when (1) the property tax transfer negotiations were initiated and concluded prior to submittal of the application to LAFCO.

In the normal process of LAFCO applications, once the Notice of Application is sent to the county departments, as described earlier, the Clerk to the Board takes the information provided by their departments for the proposal and negotiations begin between the county and all identified agencies, and those with interests to do so are able to participate in the process. Otherwise, the county simply acts on behalf of the special districts.

LAFCO code specifically directs the Executive Officer to notify these county departments as part of the process to set up these tax negotiation discussions. LAFCO neither participates in nor is directly involved with any aspect of this work, other than to inform applicants about the processes and who they will need to be contacting about it. Also, the applications are prohibited from proceeding until these formal negotiations are concluded. This reorganization presents a unique situation in that efforts to conclude negotiations preceded submission of the proposal to LAFCO.

The negotiations between the City and the county were conducted in good faith, but did not address all agencies that would be affected by the boundary changes. By insisting that no change in fire agencies was necessary, it was assumed by some that every service present in the unincorporated territory would just continue as presently provided after the territory was added to the City. This is a commonly heard, but incorrect, assumption since cities will pick up

a number of services previously provided by the county or other agencies. It is important to take a look at all aspects of this issue when making these decisions. Cities are municipal agencies and have the same type of powers to enact ordinances, land use planning and zoning, and other public services that counties do but special districts do not.

The City and Anderson Fire Protection District have been negotiating for several weeks to find a workable solution and permit the reorganization to conclude efficiently. Work on this issue continues between both agencies.

Anderson FPD's issues are found in Exhibit 4 – Agency Responses, as is an offer from Shasta County Fire to continue temporary coverage until negotiations are completed and an approval can be recorded and filed with the State Board of Equalization. There may be some constraints to putting Shasta County Fire's offer into effect; coming late in the process, LAFCO staff has not had the time to research the offer sufficiently to make a recommendation to the Commission on the effects of such an action. A report can be brought back to the Commission on the ability and/or methods of implementing the offer, if it so desires.

Another factor, not immediately realized by either the applicants or LAFCO at the time the proposal was submitted, was the need to complete an update of the sphere of influence for the City of Anderson prior to the Commission considering whether to approve or deny the reorganization. This requirement was strengthened in the 2000 Cortese-Knox-Herzberg Act (CKH Act), the updated law that governs most LAFCO processes.

In the new provisions this requirement prohibits changing the boundary of any local public agency under LAFCO's jurisdiction without first updating that agency's sphere of influence boundary. In order to hear a proposed update of that agency's sphere boundary LAFCO must also create a municipal services review study.

Fortunately, a consultant was hired three years ago by the City to prepare a municipal services review study for Anderson and it was adopted by the Commission in March 2011, and it will not need to be updated again until 2016.

Unfortunately, the sphere of influence for the City of Anderson was not also updated at that time. Therefore, before the Commission can hear this reorganization proposal, it is required to adopt a sphere of influence update for the City of Anderson. This project appears earlier on this meeting's agenda.

If that sphere of influence update is not approved prior to the appearance of this agenda item, the Commission would be required to continue this reorganization hearing until such time that the Commission found it could approve a proposed sphere of influence update for the City of Anderson.

Conclusions

The proposed reorganization of territory is seen by most parties to this proposal as a good project for the area in general and the City of Anderson and its citizens in particular.

The Anderson Fire Protection District currently provides all fire protection and emergency services to the citizens within the City of Anderson, and has done so for decades. Exclusion of this agency from the proposed reorganization was really due to a misunderstanding of both the situation and the ease in which this application could have been adjusted to accommodate including them into the project. A good deal of serious negotiations have taken place over these past weeks, and it is very likely that a little more time just might make the difference in eliminating the current issue.

Anderson FPD and Cottonwood FPD have come to a common understand about detaching Cottonwood FPD from the few parcels to the south of the project, so that annexation of the territory to Anderson FPD could be added to this reorganization by utilizing the same boundary and legal description being used by the City of Anderson. With this move, there would be no increase in State Board of Equalization fees; all remaining filing fees would be consistent as if Anderson provided fire services and simply annexed the area without any concurrent detachments. This would actually help the application's final processing move faster, not slower.

The Commission will examine the information provided to date, public comments at the hearing, requests from public agencies and/or the public for changes and/or amendments, and then make a decision to:

- Approve the proposal, either with or without conditions;
- Approve the proposal, with modifications to the boundaries to include or exclude territory of other agencies, with or without conditions;
- Continue the hearing to another date in order to garner additional information or to permit affected agencies to complete negotiations on tax transfer issues; or
- Deny the proposal without prejudice, removing the one-year restriction from reapplying with a same or similar project.

Other options may also become apparent during the public hearing, and can be accommodated by preparation of an appropriate resolution of approval.

Recommendations

Based upon the evidence examined herein and presented to the Commission in this proposal's exhibits, it is recommended that the Commission take the following actions:

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1. Affirm that a sphere of influence update for the City of Anderson has been approved.
 2. Approve application 2013-04 Deschutes Reorganization with the following conditions:
 - a. Concurrently amend the proposal to include annexation of the territory into the Anderson Fire Protection District coterminous with the City's proposed annexation boundary;
 - b. Concurrently order detachment of that portion of the territory now served by the Cottonwood Fire Protection District;
 - c. Concurrently order detachment the entire territory from County Service Area #15 – Lighting;
 - d. Detach that portion of the territory from County Service Area #1 – Shasta County Fire;
 - e. Order the Executive Officer to file approval of these boundary changes with the County Clerk in order to fix this date of approval, but to await filing of the reorganization with the State Board of Equalization until tax exchange negotiations between the City of Anderson and the Anderson Fire Protection District are concluded;
 - f. When the City of Anderson and the Anderson Fire Protection District negotiation documents are approved and provided to LAFCO staff, to direct the Executive Officer to conclude the appropriate filings with the State Board of Equalization and complete this reorganization.
 3. To additionally approve the application with those conditions requested by the California Department of Fish & Wildlife and the Central Valley Regional Water Quality Control Board; and
 4. To affirm, as Responsible Agency under the provisions of the California Environmental Quality Act, the Negative Declaration adopted by the City of Anderson for this project;

A resolution in support of this recommendation will be presented at the hearing and will address all required considerations. Should the Commission desire to add or change the recommendations proposed, another resolution can be prepared and brought back before the Commission for final approval of the project.

Attachments

- Exhibit A – Map of Territory
- Exhibit B – Geographic Description
- Exhibit 1 – Executive Officer comments: Original application
- Exhibit 2 – COA Revised Application
- Exhibit 3 – Shasta County Departments Responses to Notice of Application
- Exhibit 4 – Agency Responses to Notice of Application
- Exhibit 5 – Property Tax Exchange documents relevant to Application
- Exhibit 6 – Agency/Public comments to Pre-zoning CEQA Review (electronically: 6a & 6b)