



**Contra
Costa
County**

To: Board of Supervisors
From: David Twa, County Administrator
Date: January 12, 2016

Subject: RESOLUTION TO INITIATE LAFCO PROCEEDINGS FOR THE DETACHMENT OF THE BYRON-BETHANY IRRIGATION DISTRICT FROM THE DISCOVERY BAY COMMUNITY SVCS DISTRICT

RECOMMENDATION(S):

1. CONSIDER authorizing the submittal of proposals to the San Joaquin Local Agency Formation Commission and the Contra Costa Local Agency Formation Commission to detach the Byron-Bethany Irrigation District from the Discovery Bay Community Services District and/or amend the Byron-Bethany Irrigation District Sphere of Influence accordingly.
2. DETERMINE that the Detachment and Sphere of Influence Amendment project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, based on the finding that the project has no potential to cause any adverse effect on the environment; DIRECT the Director of Conservation and Development, or designee, to promptly file a Notice of Exemption with the County Clerk; and DIRECT the County Administrator, or designee, to arrange for payment of the \$25 handling fee to the County Clerk for filing the Notice of Exemption and the \$25 handling fee to the Department of Conservation and Development for processing costs.
3. ADOPT Resolution No. 2016/3 authorizing the submittal of the detachment proposal

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **01/12/2016** ☐ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes: See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: January 12, 2016

, County Administrator and Clerk of the Board of Supervisors

Contact: Julie DiMaggio Enea
(925) 335-1077

By: June McHuen, Deputy

and/or the sphere amendment proposal.

4. AUTHORIZE the County Administrator to request the Contra Costa Local Agency Formation Commission to seek a change in jurisdiction for the County's request from the San Joaquin Local Agency Formation Commission to the Contra Costa Local Agency Formation Commission.

RECOMMENDATION(S): (CONT'D)

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FISCAL IMPACT:

100% County General Fund, associated with costs to prepare the application and actual LAFCo and State Board of Equalization processing fees. The final cost will depend on whether the Board pursues only the detachment or both the detachment and sphere of influence (SOI) amendment. A sphere amendment request would likely necessitate, at additional cost, a Municipal Services Review of the BBID prior to consideration by the San Joaquin LAFCo.

Preparation by Public Works of Maps and Metes & Bounds Description: \$ 15,000

San Joaquin LAFCo Fees:

-Detachment @ 480 acres:	\$ 7,333
-Sphere of Influence Amendment:	\$ 1,500
Legal services deposit: \$10,000 (actual cost is charged to applicant)	\$ 10,000
Protest hearing deposit: (refunded if no protest hearing is required)	\$ 1,600
-CEQA review:	\$ 150
-State Board of Equalization	\$ 2,000
-Map and legal description	\$ 1467

Potential Contra Costa LAFCo Fees:

CCC LAFCo Detachment Proceeding = \$3,915 if no protest; \$6,530 if a protest proceeding is required.	\$ 6,530
-CCC LAFCo Sphere of Influence Revision	\$ 2,060
-State Board of Equalization	\$ 2,000

Costs incurred will be charged to Dept 0001 - Unfunded Mandates sub-organization

BACKGROUND:

The Byron-Bethany Irrigation District (BBID) is a 90-year old tri-county district providing agricultural water service to portions of Alameda, Contra Costa and San Joaquin counties. In addition, BBID provides raw untreated water to the Mountain House community and the City of Tracy. BBID's service area is approximately 30,000 acres. The current population within BBID service area and sphere of influence (SOI) is approximately 13,000. Little or no anticipated growth is projected at this time. San Joaquin is the principal county for BBID and related Local Agency Formation Commission (LAFCO) proceedings.

The Town of Discovery Bay Community Services District (TODB) service area encompasses the developed and developing unincorporated community of Discovery Bay, comprising approximately 5,760 acres. Discovery Bay was originally established in

the 1970s as a weekend and summer resort community. Today, Discovery Bay has evolved into a year-round home for over 13,500 residents. The TODB provides a variety of services including water and wastewater for the community of nine square miles.

There are several areas comprising approximately 480 acres where the TODB and BBID boundaries overlap. Both BBID and TODB are paid to provide water service to the properties in the overlap areas, either through a property tax allocation or fees. In 1993 and again in 2014, the BBID was advised by the Contra Costa County Local Agency Formation Commission (CCC LAFCO) that it would be necessary to detach portions of the TODB from BBID due to the fact that BBID has not provided, is not providing, and will likely never provide water to the TODB.

BBID General Manager Rick Gilmore, during the 1993 annexation of the "Albers' Property" to the Sanitation District 19/Discovery Bay, asked for more time before a detachment was pursued, to complete a groundwater management plan to monitor well water quality for the area. If the plan was ever completed, a detachment was never initiated. Consequently, subsequent annexations in the TODB inadvertently continued this BBID boundary overlap. Both Paul Causey, formerly of Sanitation District 19, and the TODB leadership have confirmed they were unaware of the overlap area and that it is unnecessary.

The 2014 CCC LAFCO Second Round Water/Wastewater Municipal Service Review (MSR) noted that, because the two water systems have different infrastructure requirements and operate in different ways, it seems unlikely that Discovery Bay residents will use BBID water. The MSR recommended that consideration be given to detaching the overlap areas from BBID's SOI/ boundary. The MSR also noted that further study is needed to fully analyze the service and fiscal implications of such a detachment to both the residents and BBID.

On November 12, 2015, County officials, CCC LAFCO staff, BBID General Manager Rick Gilmore, TODB staff Kevin Graves and General Manager Rick Howard, Discovery Bay community residents and other stakeholders met to discuss the situation. In this meeting, both BBID and TODB officials agreed that it was improbable that BBID's water supply could ever be used by the TODB, even in a severe drought, because the water would first require treatment and a distribution system, the infrastructure for which does not currently exist. Mr. Gilmore estimated that an investment of more than \$500+ million would be required to construct a new water treatment facility before any of BBID's raw, untreated water could be made available to Discovery Bay residents for potable uses. The TODB General Manager, Rick Howard, concurred with this assessment. According to Mr. Gilmore, no plans have been developed to provide the necessary infrastructure that would enable the BBID to provide water to the TODB. As none of the *ad valorem* taxes received by the BBID from Discovery Bay residents since 1993 were ever reserved to provide that infrastructure, the tax revenue, in effect, served to subsidize BBID ratepayers while providing no opportunity for benefit to Discovery Bay residents.

On November 17, 2015, the Contra Costa County Board of Supervisors voted unanimously to pursue a detachment of overlapping boundaries (see attached Board Order). The action:

- acknowledged that only the TODB provides water services to this area even though both BBID and the Town receive payment for water service delivery;
- recognized that the 2014 Contra Costa LAFCO MSR indicates that it is unlikely that the Town will ever use BBID water and that, if detached, the nearly \$685,000 of BBID tax revenue could be reallocated to other affected taxing agency(ies) that are actually providing services; and
- directed the County Administrator prepare a resolution of application for detachment in order to initiate the detachment process; provide notice to Contra Costa LAFCO, San Joaquin LAFCO and other interested agencies; and explore allocation of the BBID property tax revenues from the overlap areas to the East Contra Costa Fire Protection District.

On December 2, 2015, the TODB Board of Directors unanimously adopted the attached Resolution No. 2015-20, supporting detachment of BBID from the TODB. Moreover, a preliminary assessment of the BBID as an alternative or secondary water supply source to the TODB, prepared by Luhdorff and Scalmanini Consulting Engineers, concluded that BBID's irrigation water supply source is not needed for meeting the TODB water demand through the full TODB build-out horizon (through 2023). TODB General Manager Rick Howard has stated that if a secondary water supply source is ever needed, other agencies such as Central California Irrigation District or East Bay Municipal Utilities District could be sources for emergency supplies, illustrating that BBID is by no means an exclusive option.

Impact of Proposal to TODB

Contra Costa County's proposal will have no negative impact to the TODB or its residents. The TODB is not a taxing jurisdiction within the specified overlap areas. TODB residents would continue to pay the same tax assessments, except that the detachment from BBID could allow a portion of that tax assessment to be reallocated to one or more of the other affected taxing agencies, which provide services to TODB residents, including: Contra Costa County; the County Library; County Service Areas P-6 and L-100; the County Flood Control District; the East Contra Costa Fire Protection District; the Contra Costa Resource Conservation District; the Contra Costa Mosquito and Vector Control District; the Byron, Brentwood, Knightsen Union Cemetery District; the Bay Area Rapid Transit District; and the Bay Area Air Quality Management District.

Impact of Proposal to BBID

There are six overlapping tax rate areas between the BBID and TODB (see attached vicinity map). If the six tax rate areas were to be detached from the BBID, the BBID's

tax receipts would decrease by an estimated \$684,250 per year, based on FY 14/15 allocations.

<u>TRA</u>	<u>FUND</u>	<u>DESCRIPTION</u>	<u>INCREMENT</u>	<u>BASE TAX \$ (FY 14/15)</u>
60043	418100	BBID	13.03049%	\$ 128,838.24
60047	418100	BBID	13.02890%	\$ 39,568.79
60048	418100	BBID	13.03049%	\$ 3,036.49
60050	418100	BBID	14.97784%	\$ 597.81
60055	418100	BBID	14.97784%	\$ 253,863.14
60056	418100	BBID	14.97784%	<u>\$ 258,341.43</u>
				\$ 684,245.90

The BBID's 2014 Financial Statement reflects that operating income, excluding property tax revenue, exceeded expenses (see attached) by \$541,849. After non-operating income like property taxes were included, BBID had an operating surplus of nearly \$4.8 million dollars and reserves of \$10 million, of which nearly \$2 million was undesignated.

Options for LAFCO Application

Several options are available for application to the San Joaquin LAFCo according to San Joaquin LAFCo Executive Director James Glaser:

1. Submit Only the Application for Detachment: An application for the detachment of BBID from the Town of Discovery Bay (or vice versa) can be submitted to the San Joaquin LAFCo for its consideration or along with an additional request to change jurisdiction for the proposal to the Contra Costa LAFCo. The San Joaquin LAFCo charges no fee for a change in jurisdiction.
2. Submit Applications for Both Detachment and Sphere of Influence Amendment Simultaneously: San Joaquin LAFCo Executive Director James Glaser advises that any request to amend BBID's sphere of influence would necessitate the preparation of a Municipal Services Review (MSR), which has never been conducted by the San Joaquin LAFCo for BBID. Preparation of the MSR would likely take months and result in additional cost to the County, as the applicant. Mr. Glaser also advised that it was unlikely that the San Joaquin LAFCo would consider a change in jurisdiction to the Contra Costa LAFCo for an SOI amendment.
3. Submit the Application for Detachment Now and Consider Submitting an Application for Sphere of Influence Amendment at a Future Date (Recommended): The County can submit an application for detachment to the San Joaquin LAFCo and request that jurisdiction be change to the Contra Costa LAFCo. If detachment is approved, the County can then pursue an SOI amendment with the San Joaquin LAFCo. It seems probable that a sphere amendment would likely be approved if the BBID and TODB are already detached from one another.

CONSEQUENCE OF NEGATIVE ACTION:

Should the Board elect to not submit an application to LAFCo, Discovery Bay residents of the overlap areas would continue to subsidize BBID ratepayers while receiving no opportunity for BBID services, and the opportunity to reallocate the BBID share of *ad valorem* property tax generated within the overlap area would be foregone.

CLERK'S ADDENDUM

DETERMINED that the Detachment and Sphere of Influence Amendment project is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, based on the finding that the project has no potential to cause any adverse effect on the environment;

AUTHORIZED the County Administrator to request the Contra Costa Local Agency Formation Commission to seek a change in jurisdiction for the County's request from the San Joaquin Local Agency Formation Commission to the Contra Costa Local Agency Formation Commission.

AUTHORIZED the submittal of proposals to the San Joaquin Local Agency Formation Commission (LAFCo) and the Contra Costa Local Agency Formation Commission to detach the Byron-Bethany Irrigation District from the Discovery Bay Community Services District;

DIRECTED staff to plan to submit an application for amendment to the Sphere of Influence upon a successful detachment and keep the Board of Supervisors updated on progress toward this effort;

REQUESTED staff prepare and submit communication to the San Joaquin LAFCo to pursue the completion of the Municipal Service Review of the Byron-Bethany Irrigation District at no cost to Contra Costa County;

ADOPTED Resolution No. 2016/3 authorizing the submittal of the detachment proposal and/or the sphere amendment proposal;

DIRECTED the Director of Conservation and Development, or designee, to promptly file a Notice of Exemption with the County Clerk; and DIRECTED the County Administrator, or designee, to arrange for payment of the \$25 handling fee to the County Clerk for filing the Notice of Exemption and the \$25 handling fee to the Department of Conservation and Development for processing costs.

ATTACHMENTS

Resolution No. 2016/3

Exhibit A to Resolution No. 2016/3 - BBID Detachment Map