

EXECUTIVE OFFICERS REPORT

TO:

Commissioner	Colleen Ludwig	[City member]
Commissioner	Victor Carrillo (Vice-Chairman)	[Supervisor]
Commissioner	Ed Snively (Chairman)	[Public member]
Commissioner	Wally Leimgruber	[Supervisor]
Commissioner	Lea Anne O'Malley	[City member]

ALTERNATES:

Joe Maruca	alt. Commissioner	[Supervisor]
Roxanne Stapleton	alt. Commissioner	[Public member]
John Benson	alt. Commissioner	[City member]

REPORT DATE: November 27, 2006

FROM: Jurg Heuberger, CEP, Executive Officer to LAFCo

PROJECT: Public Hearing to consider the approval of the Service Area Plan and Sphere of Influence for the PALO VERDE COUNTY WATER DISTRICT.

AGENDA ITEM NO: 10

HEARING DATE: December 14, 2006 **TIME:** 9:10 AM

HEARING LOCATION: County Administration Center **Board Room**

RECOMMENDATION(S) BY EXECUTIVE OFFICE (In summary order)

OPTION #1: Approve the Sphere of Influence and the Service Area Plan as requested, or as modified.

OPTION #2: Deny the approval of the SOI and SAP as request and provide direction.

OPTION #3: Continue the project for a period not to exceed 70 days.

REPORT:

I: Legal Requirements:

Cortese Knox Hertzberg Reorganization Act of 2000 (CHK) also referred to as Government Code 56000 et Seq. provides the legal basis for the requirement of the Sphere of Influence and the Service Area Plan being considered within the scope of this hearing.

G.C. 56425(a) states in part; *“In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency with the county *** and enact policies deigned to promote the logical and orderly development of areas within the sphere.”*

G.C. 56425 (b through i) provide the frame work within which the Commission may approve the sphere of influence and the process that needs to be followed.

G.C. 56425 (e) states in part; *“In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determination with respect to each of the following:*

- (1) The present and planned land uses in the area.*
- (2) The present and probable need for public facilities and services in the area.*
- (3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*
- (4) The existence of any social or economic communities’ of interest in the area if the commission determines that they are relevant to the agency.*

G.C. 56425 (f) is a critical new section that changed the parameters of the prior review insofar that this section now requires that; *“ Upon determination of a sphere of influence, the commission shall adopted that sphere, and shall***review and update, **as necessary**, the adopted sphere **not less than once every five years**”.*

There appears to be a misconception that the agencies will have to prepare a full new plan every five years, however the intent here is to “review” the prior plan and to amend it if necessary. If there have been significant changes or if there has been explosive growth, then certainly the amendment will be much more comprehensive.

G.C. 56428(a) provides the mechanism for anyone to file a request with the executive officer for an amendment to the sphere of influence. It states in part; *“Any person or local agency may file a written request with the executive officer requesting amendments to a sphere of influence or urban service area adopted by the commission.....”*

Again there may be some confusion in this area as there have been numerous questions about the “limitations” of the sphere and the process to amend.

It appears clear that the mandate is to review the plan at least every five years but there is no apparent restriction on the number of times that it may be amended nor is there a restriction on who can request such an amendment, there is only a process that needs to be followed. It goes without saying however that for an amendment to work it need the consensus of the city/district, the county and the commission.

Just as there are provisions for the addition of areas to a sphere of influence there are provisions for a process to remove an area from an approved sphere boundary. This is found in G.C. 56429.

In addition to the SOI process G.C. 56430(a) through (d) now addresses the requirement for the review of municipal services which in our case has been referred to for nearly a decade as the Service Area Plan (SAP).

G.C. 56430 (a) states; *“In order to prepare and to update spheres of influence in accordance with Section 56425, the Commission shall conduct a service review of the municipal services provide in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the sub region, or any other geographic area as its appropriate for an analysis of the service or service to be reviewed and shall prepare a written statement of its determination with respect to each of the following:*

- 1) *Infrastructure needs or deficiencies.*
- 2) *Growth and population projections for the affected area.*
- 3) *Financing constraints and opportunities.*
- 4) *Cost avoidance opportunities.*
- 5) *Opportunities for rate restructuring.*
- 6) *Opportunities for shared facilities*
- 7) *Governmental structure options, including advantages and disadvantages of consolidation or reorganization of service providers.*
- 8) *Evaluation of management efficiencies*
- 9) *Local accountability and governance.”*

G.C. 56430 (d) also required that the Office of Planning and Research of the State, in consultation with the commissions, and the California Association of LAFCO's and other governmental agencies, SHALL prepare a comprehensive set of guidelines for service reviews by July 1, 2001. Unfortunately there has not been a final set of guidelines adopted by the state at this time, although a very complete and “almost” final version has been distributed by the State. Since these guidelines are voluminous a full text copy is not attached to the report however there is a PDF copy on the CD rom that has been provided to each commissioner and every interested party. Furthermore, the Executive Officer has urged the various entities to utilize the “draft final” version as a guide to preparing the SOI and SAP.

II: The PLAN as submitted:

In this case, the LAFCO staff had to compile the information about the District as this is one of several small districts which generally does not have staff or has limited staff. As a consequence we compiled the data through meetings and phone calls. Essentially this district operates a very limited service and in reality does not warrant as extensive a review as other SAP's your Commission has seen in the past.

Therefore attached is the basic information about the District.

EXHIBIT - B

III District Approvals:

(Pending & to be required upon adoption by the LAFCO)

IV: CEQA:

It is argued and it is the Executive Officers opinion that the SOI and SAP fit within one or more “exemptions” under the provisions of CEQA not the least of which is the possible determination that this process is “not a project”.

V: Analysis by the Executive Officer/determinations by the COMMISSION:

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- (1) The present and planned land uses in the area.*
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- (3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.*
- (4) The existence of any social or economic communities’ of interest in the area if the commission determines that they are relevant to the agency.*

Proposed findings by the Commission:

- 1) The present land use within the boundaries of the proposed SOI and SAP are generally “Rural and unincorporated” under the County of Imperial’s 1993 and 1996 General Plan. Hence the land uses intended for these areas were planned by the County to be rural within the framework of the County’s land use regulations, and where development was proposed in the county it would and was required to meet the county standards.**
- 2) The present services available to the areas within the proposed boundaries are limited to roads, fire and police by the County. As the County has no infrastructure, any development in the area would need to provide either its own service or secure it form another agency.**
- 3) The SAP as compiled by staff is basic. It will need to be review on a more annual basis or at least on a biannual basis.**
- 4) There are no known social or economic communities of interest in the areas.**

VI: Public Notice:

Public notice for the proposed project hearing before the Imperial County Local Agency Formation Commission has been given, according to Section 56427. Notice was issued in the form of a publication in the Imperial Valley Press at least twenty (15) days prior or said hearing, and posted on the Web. In

addition, direct mail notices were at least sent to all affected agencies, and anyone who filed a written request.

VII: Report:

In accordance with Section 56665, the Executive Officer has prepared a report, and presented said report to your Commission and to any public member requesting such report. In addition, a copy of said report has been issued to the County of Imperial, County Counsel, County Executive Office, Imperial Irrigation District.

VIII: Conflict of Interest Statement:

To date (at the writing of this report, November 16, 2006) no Commissioner has indicated that there is any conflict of interest with regard to this project, nor has any Commissioner reported any communications with the Applicant, Proponent or Opponent. The commissioners will be asked to declare that during and prior to the public hearing.

The Executive Officer does not have any type of known conflict of interest or financial gain as a result of this project and owns no property in the vicinity.

EXECUTIVE OFFICERS RECOMMENDATION

RECOMMENDATION:

It is the recommendation of the Executive Officer that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, (assuming no significant public input warrants to the contrary), that LAFCO take into consideration the information provided and determine whether or not to approve the plan as provided and subject to the following:

- 1: Certify that the SOI/SAP is exempt from CEQA,
- 2: Make the finding that this SOI/SAP is in substantial compliance with the provisions of the Cortese/Knox/Hertzberg Reorganization Act of 2000 and the Imperial County LAFCO Policy, and Procedures.
- 3: Make the findings pursuant to Gov. Code Section 56425 et seq. that:
 - a) The Sphere of Influence as requested is in substantial compliance with the provisions of this section.
 - b) The Sphere of Influence has been reviewed and revised by the Executive Officer and the Commission along with the Service Area Plan or Municipal Service Review and the District has the capacity and ability to provide the services within the area described..
 - c) The Sphere of Influence is a logical boundary of the District.
 - d) The Sphere of Influence will provide for logical and orderly development for the District
- 4: The Commission finds that, the present land use within the boundaries of the proposed SOI and SAP are generally "Rural" under the County of Imperial's 1993 and 1996 General Plan. Hence the land uses intended for these areas were planned by the County to be Rural within the framework of the County's land use regulations, and where development was proposed in the county it would and was required to meet the County and if applicable the city's standards or if necessary first be annexed to the City.

The Commission finds that, the present services available to the areas within the proposed boundaries are limited to those identified in the attached.

The Commission finds that, the SAP as provided by the staff as part of its review of the District indicates that the District has the ability to provide services within its current city limits and the document provided indicates that the District has a "plan" and a "program" whereby it can provide these services.

The Commission finds that, there are no known social or economic communities of interest in the areas.

- 5: Since there have been no protests received the Commission adopts and approves the revised Sphere of Influence along with the Service Area Plan.

- 6: Pursuant to the requirements of G.C. 56430 (a) the Commission finds that each of the nine items listed have been adequately addressed in the report (Plan) provided by the staff and said report is herewith made part of the record.
- 7: The next SOI and SAP review for the District shall be due no later than June 1, 2008.

LAFCO Policy:

The proposed Sphere of Influence and Service Area Plan appears to be consistent with the Cortese/Knox/Hertzberg Reorganization Act of 2000, the Imperial LAFCO Policies and Procedures and the County of Imperial General Plan (Chapter IV. B. of LAFCO's Policies, Standards and Procedures). Furthermore, the District has (according to the Service Area Plan) the ability to supply the necessary public service, and has assured LAFCO that it has the capacity to service the areas.

NOTE: All "cc" submittals are the Executive Officers Report only. Attachments are to voluminous and are only supplied upon request. LAFCO has created a "CD-rom" version of the project and copies area also available upon request.

CC: County Board of Supervisors
 County Executive Officer
 Auditor – Controller
 Sheriff
 Fire/OES
 Ralph Cordova, County Counsel
 County Public Works Director County
 EC SOI SAP Report

Assessor
 Imperial Irrigation District, Jesse Silva
 Steve Birdsall, APCD
 Joanne Yeager, LAFCO County Counsel
 Assist. Planning Director, Darrell Gardner

ATTACHMENTS:

EXHIBIT A Current SOI
 EXHIBIT B SAP Service Review Update

S:\LAFCO\Special district/Palo Verde County Water District EO report 11 27 06