



**CITY OF FORT BRAGG**

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**COUNCIL COMMITTEE ITEM SUMMARY REPORT**

**MEETING DATE:** MARCH 11, 2020  
**TO:** PUBLIC WORKS & FACILITIES COMMITTEE  
**FROM:** TOM VARGA; PUBLIC WORKS DIRECTOR  
**AGENDA ITEM TITLE:** REVIEW THE POTENTIAL EXPANSION OF THE MUNICIPAL IMPROVEMENT DISTRICT WASTEWATER FACILITIES AND CITY OF FORT BRAGG WATER FACILITIES ON THE EAST SIDE OF THE FORT BRAGG CITY LIMITS AND IMPROVEMENT DISTRICT BOUNDARY

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**BACKGROUND AND OVERVIEW:**

During the Public Comments portion of the Public Works & Facilities Committee meeting on September 11, 2019, Mr. Nathan Orsi requested the extension of the sewer system to serve properties along Cedar Street outside of, but in the vicinity of the Municipal Improvement District #1 (MID) boundary. The Committee instructed staff to return with a summary background of the circumstances surrounding the request, including: history, current issues, and future options. This matter was considered in more detail by the Committee at its October 11, 2019 meeting. Direction was given to examine the annexation of properties on the east side of Fort Bragg along the Cedar Street/Oak Street corridor into the City (for water service) and the MID (for sewer service). The area of annexation to be considered is the four annexation areas within the current Sphere of Influence. The goal is to minimize the requirements for annexation and/or connection to water and sewer systems.

**HISTORY:**

Mr. Orsi and several of his neighbors own property next to or near Cedar Street, Dennison Lane, or Nurnberger Lane. Some of these properties are vacant (as Mr. Orsi's is); several are developed. These properties are in County jurisdiction outside of the eastern city limits and MID boundary. The City limit defines the service area for municipal water service. The MID defines the boundary of sewer service. In this area, the two boundaries are the same.

Interested parties own property in the County with MID sewer facilities lying in nearby portions of Cedar Street or Dennison Lane. These pipes serve properties within the MID. However, due to the uneven MID boundary line, the sewer pipes enter and exit the MID service area while also passing through land outside of the MID. The uneven boundary line was created by a series of annexations that took place between 1983 and 1990.

The east side of town is notable for its very shallow groundwater. This makes the installation and maintenance of on-site, septic tanks/leach fields very difficult; especially on some of the smaller parcels. In addition, finding deeper, reliable groundwater for domestic water can be difficult. Historically, there has been a strong desire from owners of both vacant and developed properties to connect to the City's urban (water and wastewater) utilities.

This issue has come up periodically since 2001. In 2001, the MID Board adopted a policy prohibiting new connections to the sewer collection system outside District boundaries. The City Council adopted a similar policy regarding water service in 2000. In response to request(s) for extending sewer and/or water service beyond the City limits/MID boundary the Council and Board took up the matter again in 2003. Consequently, the MID Board passed Resolution 230-2003 (attached) stating its policy for extending sewer service outside of the MID boundary. During discussions at the time, Council expressed a willingness to extend urban utility services to the east if affordable housing was included. It was also important to Councilmembers to make any extension of services, city limits, or MID boundaries cost neutral as other infrastructure or municipal services were likewise added on. In 2006, the City Council passed Resolution 281-2006 clarifying the definition of affordable housing to use the Department of Housing and Urban Development (HUD) definition.

### **OUT OF AREA SERVICE AGREEMENTS:**

The current policy, as spelled out by Resolution 230-2002, envisions the physical extension of sewer service in conjunction with an "Out-of-Area Service Agreement" rather than an outright annexation. These agreements authorize the connection of parcels in the County to the City waste water utility. The policy is spelled out in seven points:

1. *Establish at least one unit of affordable housing and a minimum of 25% of the total number of units on the property to be served by the new connections(s).*
2. *Submit in-lieu fees for sewer inflow and infiltration repairs which would off-set the increased flow for the development on the property.*
3. *Pay for all of the costs associated with the preparation and processing of an "Out of Area Service Agreement" and environmental review.*
4. *Pay for all costs associated with extending the sewer to serve the property.*
5. *Agree to annex in the future and to pay for the costs of the annexation application.*

6. *Agree to enter into a benefit assessment district for necessary road improvements at the time of annexation to bring the County roads adjoining the property up to City standards and to cover the costs of on-going maintenance.*
7. *Pay for City Attorney costs for drafting of a Development Agreement which would be entered into prior to execution of the “Out of Area Service Agreement” requiring the establishment of affordable housing unit(s) within a specified timeframe and for specified term; payment for costs of annexation, and participation in benefit assessment district for road improvements and maintenance.*

At its last meeting, the Committee recommended that Resolution 230-2002 be modified to remove Point 1 and Point 7 to decouple housing requirements from the ability to connect to City utilities. In addition, staff recommends removing Point 5. It is inappropriate to require voters to commit to a particular choice before voting occurs. To the extent that creating a benefit assessment district as described in Point 6 involves a vote, that condition may need to be modified as well. This discussion leads to modifying the requirements for the use of Out of Service Area Agreements. At this time, Resolution 230-2003 applies only to MID authorized out of area waste water system connections. For similar water system connections, an equivalent Resolution or Ordinance from the City would be needed.

## **ANNEXATION**

Annexation into the City and the MID are alternates that do not rely on Out of Area Service Agreements. Whether annexing into the City or the MID, this process is more involved, lengthy, and costly. However, it consolidates developed areas into urbanized local agencies like cities.

### **Annexation into the City**

Specific steps vary somewhat from one annexation to the next, but typically include:

- Local Agency Formation Commission (LAFCo) Annexation Application
- Resolution of Application, if application by City
- Statement of Justification, if application by City
- Map of Subject Territory
- Geographic Description of Boundaries
- Public Notice List

- Sphere of Influence (SOI) Map
- Pre-Zoning Map
- Plan for Services
- Fiscal Impact Study
- Tax Exchange Agreement & Agreements for Cost-Sharing
- Initial Study/CEQA Environmental Checklist
- Agreement to Allocate Annexation Process Costs

Of the list above, several steps are usually more substantial to meet. Annexation is normally limited to those areas identified in the City's Sphere of Influence (SOI). This is the area outside of the City's (or MID's) limits that are suitable for annexation. An SOI boundary can be modified, but it is a process of review and approval by the Mendocino County Local Agency Formation Commission (LAFCo) beyond annexation. The current SOI extends to Monsen Lane. This is the limit for potential annexation that has been expressed by some of the property owners in the area. The SOI east of the City Limits has been broken down into four annexation areas; see Attachment 3.

Areas to be annexed into the City need to be pre-zoned to be incorporated into the City's zoning map and added to the land use designations; this has not happened yet. Pre-zoning normally triggers environmental review under the California Environmental Quality Act (CEQA). It should be noted that the City's General Plan Land Use map shows the SOI categorizing all of the East Fort Bragg annexation areas as RR1 – Rural Residential (1 unit per acre) for development purposes. See Attachment 2 for a summary of the City's General Plan Land Use provisions regarding the SOI.

A fiscal impact study is required to assess the cost impacts of an annexation. A preliminary cost summary is included below. A critical aspect of this analysis is a tax sharing agreement between the City and Mendocino County covering the area to be annexed. The County and its various Cities have undertaken long-standing discussions on how to best structure such an agreement. There are still significant differences between the two sides pending resolution. In general, the County wishes to start the post-annexation period by retaining around 50% of the property tax, Transient Occupancy Tax (TOT), and sales tax. These taxes could be tapered to zero over an approximately 10 year period. Given that a City picks up all the operational, maintenance, and capital obligations of an annexed area immediately open completion of the annexation, City's normally wish to receive all of the tax revenue immediately. In addition, the cost of processing the annexation itself can be fairly costly and an agreement of who, the City or the applicants, pays should be established.

Annexation into the MID

Annexation into the Municipal Improvement District is controlled by Municipal Code, Chapter 14.24 – Sanitary Code-Permits and Fees. Regarding annexations, the Code focuses on the costs. The most important cost is a “buy-in” to make the District whole for all taxes that would have been collected by the District since its formation (Section 14.24.330). These are the revenues that paid for the existing infrastructure benefitting newly annexed property. This amount would be paid over a three year period. Any other sewer connection or capacity fees would also be due. Capacity fees are collected to pay for future infrastructure expenses. The cost of annexation is borne by the applicant.

Preliminary Cost Analysis

Annexation into the City (and the MID) bring additional obligations beside those associated with water and waste water service. A preliminary estimate of these costs has been performed. It is based on an analytic tool developed by Michael Coleman of California City Finance.

Property characteristics		City Revenue		City Expenditures	
Size (ac.)	15	Property Tax	\$ 1,860	Police	\$ 5,850
Residential Units	10	Franchise Fees	\$ 130	Fire	\$ 1,960
Residential Value per Dwelling Unit	\$ 300,000	State Subventions	\$ 890	Public Works	\$ 4,680
Assessed value	\$3,000,000			Planning	\$ 520
Local Share of 1% Property Tax	6.2%			Parks & Community Facilities	\$1,690
		<b>TOTAL ANNUAL REVENUE</b>	<b>\$ 2,880</b>	General Government	\$ 1,650
				<b>TOTAL ANNUAL EXPENSES</b>	<b>\$16,350</b>
				<b>TOTAL ANNUAL NET EXPENSE</b>	<b>\$13,470</b>
					<b>\$900/ac.</b>

A non-specific, sample area of 15 acres was analyzed assuming 10 existing residential units. Two additional parcels were assumed vacant and considered undeveloped. All the land uses were assumed to be rural residential with a density of 1 dwelling unit per acre. The sample area is an approximation of existing circumstances in East Fort Bragg. Revenue estimates reflect local conditions. Expenditure calculations are based on a typical California city and are more general. These values are not exact, but provide a general, relative comparison.

The effects of a tax sharing agreement have not been accounted for. The analysis scenario assumes the tapering period of about 10 years has passed. The first year of a tapering period would reduce annual revenue by approximately one-half and gradually increase each year until the tapering period concludes. A substantial, additional cost burden would be carried by the City during that period.

Applying these estimates to the four East Fort Bragg annexation areas (Attachment 3) produces the following comparisons:

Annexation Area	Size (ac.)	Estimated Net Annual Cost to the City
1	53	\$48,000
2	51	\$46,000
3	31	\$28,000
4	79	\$71,000
	TOTAL	\$193,000

Please note that Annexation Area 4 has a substantial portion in the Noyo River canyon, approximately two-thirds of the total annexation area was assumed to be developable.

### **OTHER ISSUES**

The current, major construction project at the MID's Waste Water Treatment Facility (WWTF) is upgrading the plant's ability to treat wastewater more efficiently and economically. It is not increasing the plant's capacity. The District's wastewater collection and treatment capacity has been designed to accommodate future growth including the GP mill site. However, it is not possible to estimate what future wastewater capacity needs will be at this time. The mill site land use planning process continues. Discussions for future growth are covering a wide

spectrum of possibilities with an equally wide range of potential wastewater treatment capacity needs.

Capacity for water service continues to be affected with the uncertainty created by the State of California's (through the Department of Fish & Wildlife) desire to modify bypass flows at all of the City's raw water sources. In recent years, concerns regarding climate change resiliency have been growing. These concerns extend to the City's raw water supply and ability to adequately manage wastewater treatment.

Recently, City Council has recognized the strong inter-relationship between streets and the storm drainage system that protects them. Council and/or the Board may wish to clarify this matter as it applies to Policy item #6.

Both Resolution 230-2003 (Out of Area Service Agreement) and the existing Municipal Code emphasize the importance of connecting to the City's water and waste water system to be cost neutral to the City and the District, respectively. If water and waste water services are extended to properties outside of the current City/District boundaries, then full cost recovery should be a high priority consideration. If either Out of Area service Agreements or full Annexation are pursued, a detailed fiscal analysis should also be undertaken to get a complete understanding of full cost recovery.

**RECOMMENDATION:**

The Committee is requested to consider the information provided, any public comment, or public testimony during the meeting and provide staff with direction as how to proceed. Several future options have been proposed to assist the Committee in its deliberations. If the current policy in place is deemed adequate, no further action is necessary. The matter can be sent back to staff for further work or research. Finally, it can be forwarded to the full City Council/Municipal District Board with recommendations for their consideration.

**NOTIFY:**

Mr. Nathan Orsi

Mr. Paul Clark

**ATTACHMENTS:**

1. Resolution 230-2003
2. Sphere of Influence – General Plan, Land Use Provisions
3. Sphere of Influence – Annexation Area Map