



AGENCY:	City Council
MEETING DATE:	October 9, 2018
DEPARTMENT:	CDD
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AGENDA ITEM SUMMARY

TITLE:

Receive Report and Community Development Committee Recommendation Regarding Possible Noyo Harbor Annexation

ISSUE:

The Community Development Department has primary responsibility for implementation of the City's Economic Development Strategy (which is focused on jobs, tourism, arts and quality of life). The City Council adopted the Economic Development Strategy in 2014, which contains priorities and strategies over a five-year planning horizon. At the Community Development Committee's (CDC) September 4, 2018 meeting, the Committee and staff discussed Strategy 2.5, titled *Capitalize on the Noyo Harbor and Consider Annexation*. The discussion summarized the annexation process, and considered the benefits and risks of pursuing annexation. The CDC recommends the City Council direct staff to proceed with further research and work on Economic Development Strategy 2.5, annexation of Noyo Harbor.

ANALYSIS:

The City benefits from its adjacency to the Noyo Harbor, which sustains an active fishing industry alongside a small number of restaurants, shops and other uses. In addition to its role as a hub for the Mendocino Coast's fishing industry, the Noyo Harbor attracts tourists looking to dine, kayak and fish. The majority of the harbor is not in the City limits, and is in unincorporated Mendocino County. See **Attachment 1** for a map of the boundaries.

Noyo Harbor is bustling, especially during peak tourism months and on weekends. New and planned businesses like Noyo Harbor Inn, Princess Seafood and Schnaubelt Distillery show the capacity for future sustained growth in the harbor, while existing businesses continue to provide services to locals and tourists alike (Silver's at the Wharf, Sea Pal Cove, Django's Rough Bar). The harbor also has a number of vacant buildings, notably the former Carine's Fish Grotto and Cap'n Flints among other properties in need of repair and maintenance.

The businesses listed above work in concert with a productive fishing and marine industry to create a vital economic hub. Charter fishing boats, sport fishing boats, kayak rentals and shore fishing from the jetty attract recreational marine users. The harbor also supports commercial fishing, with some specialized groups and others participating in multiple fisheries. Receivers, processors, refrigeration services and fish markets operate in the harbor in support of the commercial fishing industry.

The success of the newly-opened businesses and the overall increases in local tourism (which should increase more with Visit Fort Bragg) has highlighted some of the needs of the harbor, such as pedestrian improvements and parking. And although the fishing

industry is still active and acts as an employment generator for the region, the harbor lacks key services such as a fuel dock, and deferred maintenance is becoming a larger and larger problem.

Annexation Consideration – Planning

The harbor is in the California Coastal Zone and currently within the permitting jurisdiction of Mendocino County. The harbor's present zoning designation is Fishing Village (FV) and is "intended to ensure that the limited available space on the flats at Noyo....is reserved for industries that must be on or near the water." The zoning designation is quite restrictive, and allows only coastal-dependent industrial and passive recreation uses. Existing residential, retail, and visitor-serving (restaurants and hotels) uses are "grandfathered" and are otherwise not allowed under the existing zoning.

Staff has reached out to various stakeholders in the Harbor and the community to understand the readiness of the harbor for annexation and rezoning. These early conversations generally resulted in positive feedback regarding both initiatives. Some believe that restricting all development in the harbor to coastal-dependent activities is not the best way to support and protect coastal-dependent uses. Many harbor businesses integrate coastal-dependent uses with other commercial uses, such as Sea Pal combining charter fishing, fish emulsion and a restaurant. As with most other successful micro-economies, a mix of uses that complement and support one another is often more successful than redundant uses.

In a phone conversation with the Coastal Commission, senior staff indicated support for scaling back the restrictions on non-coastal-dependent uses if it can be demonstrated that less Fishing Village (FV) land is necessary to meet the projected needs for industries that must be on or near the water.

While it is possible for the County to submit a Local Coastal Program amendment to rezone and re-plan the harbor, a project of that scope has not been a priority for the County and seems unlikely to be a priority in the near future. Having the City actively plan for the future growth of Noyo Harbor could have a positive impact on the harbor by simplifying the permit process for development projects, work with property owners to plan for future needs and growth, and ultimately generate revenue for the City if it were within its boundaries.

Annexation Consideration – Economic Development

Noyo Harbor is intimately tied to the City's economy. Participation increases in the commercial or sport fishing industries generate jobs for our local economy, and bring visitors from around the region. These visitors shop in our stores, eat in our restaurants and stay in our hotels. If the harbor were within the City's boundaries and the City could take a more active role in the planning and economic development of the harbor, these gains could contribute to additional jobs and increased City tax revenue.

Annexations require a tax sharing settlement between the City and the County. For example, a settlement agreement could result in the County continuing to receive sales tax revenue for the next ten years equal to the amounts it has received over the last few years on average. Under such a settlement, the City could retain the incremental additional revenue for the first ten years, and then all of the tax revenue after ten years. Annexation

would generate increasing revenues for the City as time goes on. If the City sped up economic growth in the harbor through rezoning, grant-funded infrastructure investments and TOT-supported marketing, the City could realize revenue gains sooner.

The costs of annexation versus future revenue gains is presently unknown, particularly without understanding the parameters of a potential tax sharing agreement between the City and County. If Council directs staff to further explore annexations, this research would be integral in moving the project forward.

Annexation Consideration – Fundraising

Portions of the harbor suffer from deferred maintenance, and the Harbor District has infrastructure improvements it wishes to make, notably installation of a fuel dock, pedestrian improvements and parking facilities. The Harbor District has commissioned a planning firm to draft a Community Sustainability Plan (CSP) for the harbor. The CSP will include a working waterfront conditions assessment, which will inventory and assess the conditions of docks, piers, mooring and offloading facilities, boat building and repair, parking, and other harbor infrastructure considerations. Additionally, the CSP will address economic indicators such as overall landings and earnings, performance by species, price per pound, and other economic conditions and performance factors. The project economist will identify potential opportunities for enhancing visitor-serving waterfront infrastructure and marine-related recreation and tourism uses. The CSP will conclude with recommendations based on the Harbor District's most critical needs.

Identification of the needs and opportunities for the harbor is crucial, but capital projects to address the needs and respond to the opportunities will be costly and could prove difficult to fund. The City's grant program has shown success in identifying, applying for and securing grants for capital projects citywide, and has proven to be more reliable than the County's grants program. A few examples of recent grant funded projects include the reservoir, water tank, transportation improvements, the Coastal Trail and the wastewater treatment plant upgrade project. Presently, the City cannot support the harbor through our grants program since the projects are outside the City limits. Annexation would allow the City to pursue grants to implement the projects the CSP identifies as priority needs.

Annexation Consideration – Infrastructure

An annexation requires the City to produce a plan for providing services as part of the application to LAFCO. North Harbor Drive and parts of South Harbor Drive are within the City's Municipal Service Area (MSA) and Sphere of Influence. The City currently provides water and sewer service to customers within the MSA of the harbor. **Attachment 1** shows the MSA boundaries, and **Attachment 2** shows the location of City water and sewer infrastructure already in the harbor.

As **Attachment 2** shows, much of the harbor is already served by City water and sewer, or has the potential to hook up. If the harbor were annexed, the City could require properties that are not connected to connect when new development is approved on the property.

The infrastructure-related costs of harbor annexation are currently unknown, but would be a key consideration in moving the project forward. If Council were to direct staff to further explore annexation, considerable research into existing and future infrastructure would be required.

Process

There are numerous State laws that govern the annexation process in California. The primary annexation law is the Cortese-Knox-Herzberg Local Government Reorganization Act, which sets forth the powers and procedures for establishing and changing government boundaries. City annexations are reviewed by the Mendocino County Local Agency Formation Commission (LAFCO), which is comprised of local officials from the County and local cities. LAFCO works within a set of state-mandated parameters encouraging “planned, well-ordered, efficient urban development patterns,” the preservation of open-space lands, and the discouragement of urban sprawl. The following outline represents a summary of the annexation process.

1. Early consultation with LAFCO executive officer on:
 - a. Local LAFCO policies and procedures
 - b. Application requirements
 - c. Sphere of Influence
 - d. Initial CEQA review
 - e. Other project-specific issues
2. Resolution of application by City
3. LAFCO application review, Certificate of Filing, Notice of Hearing:
 - a. Map and legal description
 - b. Plan for providing services
 - c. Rezoning review
 - i. LAFCO would review the proposed City zoning for the annexation area. Since the harbor is in the California Coastal Zone, the Coastal Commission would have jurisdiction over Coastal Development Permits in the annexed area, until such time that the City applies for and receives approval of an LCP amendment through the Coastal Commission.
 - d. CEQA review
 - i. The City would be the “lead agency” for CEQA, meaning the City would be responsible for preparing the necessary CEQA document.
 - e. Property tax exchange agreement with Mendocino County and Harbor Commission
 - i. Affected jurisdictions (City of Fort Bragg and Mendocino County) and special districts (Harbor District) are required to negotiate the allocation of property tax revenues during a 60-day mandatory negotiation period, unless extended to 90 days. If an agreement is not reached, the Revenue and Taxation Code Section 99(e)(1) outlines an alternative negotiation, mediation and arbitration process that is required by statute.
4. LAFCO hearing/meeting
5. LAFCO decision, with 30-day reconsideration period
6. Protest hearing (unless waived)
 - a. Protest by less than 25% approves the annexation
 - b. Protest by more than 25% but less than 50% approves the annexation subject to an election
 - c. Protest by 50% or more terminates the proceedings

7. Certificate of Completion or Certificate of Termination
8. City applies for LCP Amendment through Coastal Commission

Annexation Costs

It is difficult to predict annexation costs at this stage of the process. In conversations with planners at the County and those working on the harbor's Community Sustainability Plan, estimates were as high as \$500,000. The City's Economic Development Strategy lists the project cost as \$200,000+. Key factors leading to the costs are the prices of studies necessary for CEQA review for the annexation and for the LCP amendment.

Some of the staff time at the early stages in the process could be covered by the open 2016 CDBG Economic Development Strategy Implementation Planning grant, but funding is limited and covers the other economic development activities CDD is presently pursuing. There are likely other funding sources available for an annexation project, but they have not yet been identified.

The Coastal Commission offers annual Local Assistance Grants for LCP amendments, which the City was awarded for the Mill Site LCP amendment. This year, \$750,000 in funding is available, and the application deadline was September 14, 2018. Since the LCP amendment would follow annexation, that funding might be a target for the City in future years.

The discussion of revenue earlier in this report would need to offset the costs of annexation, an LCP amendment, and the costs of additional services the City would need to provide to harbor property owners in order for the project to be revenue neutral. Projecting future revenue and the costs of future services should also consider the overall citywide benefit of a growing harbor on the existing businesses elsewhere in the City.

Frequently Asked Questions

➤ How come previous annexation attempts were not successful?

City staff has discussed this question with stakeholders and reviewed documents from past attempts. Previous annexations have failed for the following reasons, somewhat dependent on who is telling the story:

1. Individual landowners who controlled over 50% of harbor parcels were opposed to annexation, and could/would vote against the project.
2. The City's politics and policies did not align with those of the harbor.
3. The City and County could not agree on a tax sharing agreement.
4. Applications expired, and timeframes for further action ran out.

Despite the failed attempts in the past, current harbor business owners, County planning staff, and former City officials have expressed to staff that the time may be right for a new attempt, since many harbor property owners are frustrated by the lack of progress and growth in the harbor. Further outreach will be required to determine if this is truly the case.

➤ How long is the annexation process?

Depending on the studies necessary for CEQA review of the annexation, the process could take about a year to complete. An LCP amendment would follow the annexation, which would be different than the current LCP amendment on the Mill Site in that the land is not

vacant and is mostly built out. However, the Coastal Commission will require analysis of important factors like protection of coastal-dependent uses and sea level rise, which may prove difficult. An LCP amendment would likely take another year or two following annexation.

➤ *Who pays for the annexation process?*

The City would have to pay for most of the annexation process, but would pursue grant funding to offset costs.

➤ *Will property taxes change, or be reassessed?*

Property taxes would not change and no reassessment of property values would occur as part of the annexation.

➤ *What about sales tax?*

Sales tax in the City is 8.875% (6% for the California, 0.25% for Mendocino County, 1% for Fort Bragg and 1.625% for special taxes). Mendocino County sales tax is 7.875%; therefore, sales tax for goods and services in the harbor would increase 1%.

➤ *How will annexation affect property values?*

Generally, most real estate professionals agree that being annexed to the City would add to the market value of a property due to the increase in services available; however, since the harbor is already served by a good deal of City infrastructure, the effect may be lessened. Hopefully, advanced planning and economic development of the harbor by the City would increase land values.

➤ *Will the police and fire protection change for the harbor?*

The Fort Bragg Volunteer Fire Department would continue to provide fire protection services in the harbor. The primary police service would be provided by the City of Fort Bragg instead of the Mendocino County Sheriff.

➤ *What if someone does not want their property to be annexed?*

Individuals can request their property to be removed from the annexation boundary at the LAFCO annexation hearing. However, if the property is surrounded by other properties that support the annexation, it is unlikely that the property would be excluded so as to maintain a logical and orderly city boundary.

RECOMMENDED ACTION:

Receive report and Community Development Committee recommendation and provide direction to staff regarding allocation of staff time to further explore harbor annexation.

FISCAL IMPACT:

Moving forward with the project would incur costs of staff time, although some staff time may be offset by the currently open CDBG Economic Development Strategy and Planning Grant. Staff would actively pursue funding opportunities to offset the cost of the effort.

ATTACHMENTS:

1. Boundary Map
2. Utilities Map

NOTIFICATION:

1. Noyo Harbor Commission