

May 19, 2004

To: Local Agency Formation Commission

Re: LAFCO #03-10: Nicolaus Cemetery District Municipal Service Review and Sphere of Influence Update

I. STAFF'S RECOMMENDED ACTION

Adopt the attached resolution making determinations and approving the municipal service review for Nicolaus Cemetery District and updating the district's sphere of influence.

II. STATUTORY REQUIREMENT

As your Commission is aware, on September 26, 2000, the Governor signed into law AB 2838 (Chapter 761, Statutes of 2000), authored by Assembly Speaker Robert M. Hertzberg. This legislation, titled the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) and codified as California Government Code §56000 et seq, marked the most significant reform to local government reorganization law since the 1963 statute that created Local Agency Formation Commissions (LAFCOs) in each county.

Development of the legislation resulted from the recommendations of the Commission on Local Governance for the 21st Century. The Commission, established through statute in 1997, published its recommendations in a final report, *Growth within Bounds*, issued on January 20, 2000.

Prior to the 2000 amendments, the law already permitted LAFCOs to conduct municipal service review studies. These LAFCO service studies generally provided evaluation tools to support future LAFCO actions or were part of a reorganization committee effort.

The law now requires that, in order to prepare and update a sphere of influence (SOI), LAFCOs are required to first conduct a municipal service review (MSR) for the service(s) provided by the particular district.

The term “municipal services” generally refers to the full range of services that a public agency provides or is authorized to provide. The definition is somewhat modified under the CKH Act, however, because LAFCO is only required to review services provided by agencies that have a SOI. Therefore, general county government services, such as courts and social services, are not required to be reviewed.

As part of conducting municipal service reviews, the statute requires LAFCO to 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. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
8. Evaluation of management efficiencies; and
9. Local accountability and governance.

In addition, any SOI adopted prior to December 31, 2000 must be updated, as necessary, but at least by January 1, 2006. Some updates may simply involve an affirmation of the existing SOI boundaries or some modifications to the SOI to achieve consistency with the CKH Act. Government Code Section 56430 states that municipal service reviews must be conducted prior to, or concurrent with, those updates. Therefore all municipal service reviews must be completed by January 1, 2006.

III. MUNICIPAL SERVICE REVIEW PROCESS

On May 22, 2003, LAFCO initiated municipal service reviews and sphere of influence updates (Resolution 2003-10) for all cemetery districts. Staff then prepared and distributed questionnaires to each cemetery district to gather necessary information. After distributing the questionnaire, staff then held meetings with each cemetery district in order to assist them in completing the forms. The districts then proceeded to finalize their answers and returned them to LAFCO.

IV. ENVIRONMENTAL

If the municipal service review is subject to the California Environmental Quality Act (CEQA), LAFCO would be the lead agency. However, after reviewing the study, staff has determined that the

municipal service review is not a project under CEQA. To the extent it may be considered a project, two exemptions apply which remove it from the aegis of CEQA.

First, staff believes the proposal is covered by the general rule of CEQA, Section 15061b(3) of the CEQA Guidelines that states that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Cemetery district's municipal service review evaluates the district's current operations and does not propose any changes of organization or reorganization. In addition, the district's sphere of influence is proposed to remain unchanged. As a result, the MSR and SOI will not have any impact upon the environment and is therefore not subject to CEQA.

In addition, this proposal is considered Categorical Exempt from CEQA pursuant to section 15306 of the CEQA guidelines which exempt basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. This type of exemption may be used strictly for information gathering purposes, or as part of a study leading to an action which a public agency (LAFCO) has not yet approved, adopted or funded. The information gathered for the municipal service review will not have an effect upon an environmental resource. The sphere of influence update will validate the boundaries of an existing sphere and no changes to that sphere of influence are proposed. Therefore, no environmental impacts will result.

Staff is recommending your Commission consider the proposal and direct staff to file a Notice of Exemption consistent with Section 15306 of the CEQA Guidelines. The proposed resolution, included with this report, includes language providing staff with this direction.

V. DISTRICT INFORMATION

Nicolaus Cemetery District was formed around 1934 as an independent district to provide for the maintenance and care of cemetery grounds and to provide necessary burial services. The boundaries of the district are shown on the map attached as Exhibit A.

The district includes the community of Nicolaus; however the majority of the districts territory is utilized agriculturally with scattered residences throughout.

The district operates and maintains one cemetery located adjacent to the NACO West recreational facility approximately 1.25 miles west of State Highway 70 along Marcum Road.

Attachment C provides the Commission with the questions asked of the district for their municipal service review along with their response. The questions posed to the district were taken from the State's Guidelines for conducting municipal service reviews published by the Governor's Office of Planning and Research. Applicable questions asked of each district are presented in the attachment as normal text and the district's responses are provided in italics.

VI. MUNICIPAL SERVICE REVIEW DETERMINATIONS

Below are the nine proposed determinations LAFCO staff are recommending for adoption to the Commission based upon information provided in the questionnaire submitted by the district (Exhibit C) and the interview staff conducted with the district.

1. **Infrastructure needs or deficiencies determination** – Nicolaus Cemetery District’s infrastructure is adequate to serve its area. The district does not appear to have any deficiencies that would prevent it from providing burial services to its service area.
2. **Growth and population projections for the affected area determination** - The district’s service needs are forecast based upon using census data, past burial rates and the sale of pre-need grave sites. The district has estimated that it has capacity in its existing cemetery to serve the area for another 35 years based on the historic burial rate of four per year.
3. **Financing constraints and opportunities determination** – Nicolaus Cemetery District’s revenues are adequate to provide burial services for their service area. There were no financing constraints identified in conducting the district’s municipal service review and there were no revenue opportunities discovered for the district through the conduct of the municipal service review. The district recently created an endowment fund where a fee is paid at the time a burial occurs that will go toward the long term maintenance of the district’s cemetery facilities. The principle in the endowment fund cannot be used. Only accrued interest may be utilized for maintenance purposes.
4. **Cost avoidance opportunities determination** - Nicolaus Cemetery District had a financial audit completed for fiscal years 2000, 2001 and 2002. The audit was conducted by Smith and Newell Certified Public Accountants in Yuba City. The audit concluded that the district does not maintain a complete listing of all property and plant. It was the recommendation by the auditor that a complete listing of all fixed assets, including property and plant be developed so that the financial statements can be presented in accordance with generally accepted accounting principles.
5. **Opportunities for rate restructuring determination** - Nicolaus Cemetery District is funded by a combination of property taxes, interest received from accounts, pre-need service sales and burial fees. Due to the district being a public cemetery district, there are no variances in rates, fees or taxes that are collected. The district earns interest from its cash accounts that are managed by the County Treasury, however; the district does not participate in any other investments. There were no opportunities for rate restructuring identified while conducting the municipal service review.
6. **Opportunities for shared facilities determination** – Nicolaus Cemetery District, like all cemetery districts in the County, own and maintain their individual cemetery facilities and utilize their own equipment or contract with private parties for use of equipment. Nicolaus Cemetery District retains the service of Reclamation District 1001 for grave digging services. Sutter LAFCO encourages all districts to share equipment, when possible, as a mechanism to facilitate reducing costs amongst all entities.

7. **Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers determination** - The structure of Nicolaus Cemetery District's Board appears to function properly for the district. The County Board of Supervisors appoints the Cemetery District's three person Board of Trustees. There has been no interest expressed by Nicolaus Cemetery District to merge with any other cemetery district or alter the governmental structure currently in affect.
8. **Evaluation of management efficiencies determination** - - Nicolaus Cemetery District had a financial audit completed for fiscal years 2000, 2001 and 2002. The audit was conducted by Smith and Newell Certified Public Accountants in Yuba City. The audit concluded that the district does not maintain a complete listing of all property and plant. It was the recommendation by the auditor that a complete listing of all fixed assets, including property and plant be developed so that the financial statements can be presented in accordance with generally accepted accounting principles.
9. **Local accountability and governance determination** – The board members of the Nicolaus Cemetery District are appointed by the County Board of Supervisors and are therefore held accountable by the County Board and the citizens of the district. All district meeting are conducted in public in accordance with the Brown Act. A general inquiry by the Grand Jury was made to all cemetery districts in the late 1990s as to their operations. It was the Grand Jury's determination in June of 2001 that the district's operations were occurring consistent with law.

VII. SPHERE OF INFLUENCE UPDATE

The boundaries of the Nicolaus Cemetery District sphere of influence match that of the district. As the Commission is aware, a sphere of influence comprises the growth boundaries for an agency and provides opportunities for the district to expand, should they choose. State law requires that spheres of influence be updated every 5 years. As part of updating a sphere of influence, State law requires LAFCO to prepare written statements with regard to the following four statements:

1. The present and planned land uses in the area, including agricultural and open space lands.
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.

LAFCO's written statements to these items is based on information gathered as part of the municipal service review combined with the interview LAFCO staff held with the district. These statements are attached as Exhibit D. Answers provided by the district did not indicate that the district had any interest in altering its current sphere of influence. LAFCO staff does not currently see any merit in altering the district's sphere from what presently exists. The proposed resolution, attached as Exhibit E, validates the existing sphere boundaries currently in effect.

Respectfully submitted,

LARRY T. COMBS
EXECUTIVE OFFICER

Doug Libby, AICP
Senior Planner

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Attachments: Exhibit A – District Boundaries Map
Exhibit B – District Organizational Chart
Exhibit C – Municipal Service Review Questionnaire and District Responses
Exhibit D – Sphere of Influence Questionnaire and District Responses
Exhibit E – Proposed Resolution Approving the Municipal Service Review and Updating
the District's Sphere of Influence

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EXHIBIT A
District Boundaries Map

EXHIBIT B
District Organizational Chart

EXHIBIT C
Municipal Service Review Questionnaire and District Responses

EXHIBIT D
Sphere of Influence Questionnaire and District Responses

EXHIBIT E
Proposed Resolution Approving the Municipal Service Review
and Updating the District's Sphere of Influence