

# SUTTER COUNTY

LOCAL AGENCY FORMATION COMMISSION

P.O. BOX 1555, YUBA CITY, CA 95992 (530) 822-7400 FAX (530) 822-7109



May 28, 2009

To: Local Agency Formation Commission

Re: **LAFCO #08-03: Nicolaus Cemetery Municipal Service Review and Sphere of Influence Update**

## **Recommendation**

Adopt attached Resolution 2009-05 making determinations and approving the Municipal Service Review for the Nicolaus Cemetery District and updating the District's Sphere of Influence.

## **Background**

### **Statutory Requirement**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO to review and update, as necessary, special district Spheres of Influence (SOIs) before January 1, 2008, and every five years thereafter. Prior to, or in conjunction with an agency's SOI Update, LAFCO is required to conduct a Municipal Service Review (MSR) for each agency.

On May 22, 2008, via Resolution 2008-03, the Commission authorized staff to begin updating the initial MSR/SOI reports for all cemetery districts in Sutter County; which were originally adopted in 2003-2004. The attached MSR/SOI Update has been prepared for the Nicolaus Cemetery District.

MSRs provide a comprehensive review of the services provided by a city or district and present recommendations with regard to the condition and adequacy of these services and whether or not modifications to a city or district's SOI are necessary. MSRs can be used as informational tools by LAFCO and local agencies in evaluating the efficiencies of current district operations and may suggest changes in order to better serve the public.

SOI Updates may involve an affirmation of the existing SOI boundaries or recommending modifications to the SOI boundaries. LAFCO is not required to initiate changes to an SOI based on findings and recommendations of the service review, although it does have the power to do so.

State law requires that the Commission adopt written MSR determinations for each of the following criteria:

- Growth and population projections for the affected area;
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies;
- Financing ability of agencies to provide services;
- Status of and, opportunities for, shared facilities;
- Accountability for community service needs, including governmental structure and operational efficiencies;
- Any other matter related to effective or efficient service delivery, as required by Commission policy.

As part of an SOI Update, or adopting an SOI, the Commission is required to consider the following four criteria and make appropriate determinations in relationship to each of the following:

- The present and planned land uses in the area, including agricultural and open-space lands.
- The present and probable need for public facilities and services in the area.
- The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
- The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

The original MSR/SOI Update completed for the Nicolaus Cemetery District was adopted by the Commission (Resolution 2004-15) on May 27, 2004.

### **Municipal Service Review Process**

On May 22, 2008, LAFCO initiated MSR/SOI Updates (Resolution 2008-03) for all cemetery districts. Staff then prepared and distributed the previously adopted MSR/SOI Updates for review and modification by district staff. Staff received these modifications and updated the MSR/SOI Updates and submitted the revised document to the District for review. No District changes were received by LAFCO staff.

### **Environmental Determination**

LAFCO is the lead agency for this proposal under the California Environmental Quality Act (CEQA). After reviewing this document, staff has determined that the Municipal Service Review and Sphere of Influence Update for Nicolaus Cemetery District is exempt from the provisions of CEQA. Staff has determined two possibilities in which this Municipal Service Review and Sphere of Influence Update qualify for exemptions.

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/SOI Update will not have any impact upon the environment and is, therefore, not subject to CEQA.

Second, this proposal is considered Categorically 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.

### **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 District's coterminous boundary and sphere of influence is shown in **Attachment A** of the staff report.

The District includes the community of Nicolaus; however the majority of the District's 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.

The District's coterminous boundary and Sphere of Influence is shown in **Attachment A** of the staff report.

### **Municipal Service Review Determinations**

Pursuant to the Cortese-Knox-Hertzberg Act, determinations must be made based on analysis of information provided by District staff, agency documents, meetings with agency staff, and Internet research. Accordingly, staff recommends that the Commission adopt the determinations that follow.

- A. Growth and population projections for the affected area-** 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 70 years based on the historic burial rate of four per year.
- B. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies-** 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. The District has estimated that it has capacity in its existing cemetery to serve the area for another 70 years based on the historic burial rate of four per year.
- C. Financial ability of the agency to provide services-** 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.

- D. Status of and opportunities for shared facilities-** Nicolaus Cemetery District, like all cemetery districts in the County, owns and maintains its cemetery facilities and utilizes its own equipment or contracts with private parties for use of equipment. Limited opportunities exist for sharing facilities.
- E. Accountability for community service needs, including governmental structure and operational efficiencies-** 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. All District meetings are conducted in public in accordance with the Brown Act.
- F. Any other matter related to effective or efficient service delivery, as required by commission policy-** There are no further matters regarding the Nicolaus Cemetery District that have not been discussed in this Municipal Service Review.

### **Sphere of Influence Update**

A Sphere of Influence comprises the growth boundaries for an agency and provides opportunities for the District to expand, should they choose to seek such an expansion. State law requires that Spheres of Influence be updated every five years. As part of updating a Sphere of Influence, State law requires LAFCO to prepare written statements with regard to the following four areas of attention:

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

Within the boundaries of the Nicolaus Cemetery District one will find mostly agricultural activities occurring along with scattered residential, industrial and commercial uses. The majority of the District is comprised of a rural landscape used for growing orchard crops, row crops and rice; however, the rural community of Nicolaus is located within the District's boundaries. Scattered residential uses are also located throughout the area. The planned land uses in the District can be determined by reviewing the County's General Plan; however, the planned land uses closely match what exists in the area today.

- B. The present and probable need for public facilities and services in the area.**

Burial services and cemetery operation and maintenance services will be required as long as the human population continues to exist.

- C. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.**

The Nicolaus Cemetery District estimates that their cemetery has approximately 70 additional years of capacity based upon past usage rate of four burials per year.

**D. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.**

There are no known social and economic communities of interest (pertaining to cemetery districts) located within the boundaries of the Nicolaus Cemetery District.

Respectfully submitted,

LARRY T. COMBS  
EXECUTIVE OFFICER

Sydney Vergis  
Senior Planner

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**Attachments:**

- A – District Boundaries Map
- B – Proposed Municipal Service Review and Sphere of Influence Update
- C – Proposed Resolution Approving the Municipal Service Review and Updating the District's Sphere of Influence

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**ATTACHMENT A**  
District Boundaries Map

**ATTACHMENT B**  
Proposed Municipal Service Review  
and Sphere of Influence Update

## **ATTACHMENT C**

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