

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # *B-2

Urgent

Routine

AGENDA DATE August 23, 2011

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of a Residential Neighborhood Infrastructure Project List Rankings Criteria, a Resolution Supporting the Annexation of Unincorporated County Residential Pockets within Adopted City Spheres of Influence, and Authorization for the Chief Executive Officer to Negotiate and Execute an Amendment to the Master Property Tax Agreement Eliminating Exceptions to the Agreement for the "North Airport Area", "Robertson Rd. Area" and "South Modesto Area"

STAFF RECOMMENDATIONS:

1. Approve the Residential Neighborhood Infrastructure Project List Rankings Criteria.
2. Adopt a Resolution supporting the annexation of unincorporated county residential pockets within adopted city spheres of influence.
3. Authorize the Chief Executive Officer to negotiate and execute an amendment to the Master Property Tax Agreement eliminating exceptions to the Agreement for the "North Airport Area", "Robertson Rd. Area" and "South Modesto Area".

FISCAL IMPACT:

There is no direct cost associated with the approval of the staff recommendations. The cost to improve all unincorporated county pockets to city standards is estimated to be well in excess of \$100 million. Funding for the majority of these improvements has yet to be identified. As funding becomes available, projects would be prioritized based upon the Residential Neighborhood Infrastructure Project List Rankings Criteria which places an emphasis on public health issues and community support.

BOARD ACTION AS FOLLOWS:

No. 2011-482

On motion of Supervisor O'Brien, Seconded by Supervisor Withrow

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of a Residential Neighborhood Infrastructure Project List Rankings Criteria, a Resolution Supporting the Annexation of Unincorporated County Residential Pockets within Adopted City Spheres of Influence, and Authorization for the Chief Executive Officer to Negotiate and Execute an Amendment to the Master Property Tax Agreement Eliminating Exceptions to the Agreement for the “North Airport Area”, “Robertson Rd. Area” and “South Modesto Area”

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DISCUSSION:

Stanislaus County has been working for a number of years on the development of strategies to address significant infrastructure needs within unincorporated pockets of the County. Infrastructure needs in some of these unincorporated residential areas was also a key point of contention in the *Committee Concerning Community Improvement, et al. v. City of Modesto, et al.* lawsuit. Stanislaus County recently entered into a Settlement Agreement with the Plaintiffs of this lawsuit. This item implements three actions required by the Settlement Agreement:

1. Approval of a Residential Neighborhood Infrastructure Project List Rankings Criteria;
2. Approval of a Resolution supporting the annexation of unincorporated county residential pockets; and
3. Authorization to work with the City of Modesto to amend the Master Property Tax Agreement.

Background

Stanislaus County has a number of unincorporated pockets that are primarily urbanized residential areas located either within a City or adjacent to it and within a city's sphere of influence. The breakdown of these pockets between cities is as follows:

- Modesto – 24 areas
- Ceres – 6 areas
- Turlock – 6 areas
- Riverbank – 3 areas

While commonly referred to as “islands”, these areas are referred to as “pockets” in this item because not all of these areas would meet the technical definition of an “island” as defined by the Local Area Formation Commission (LAFCO) and the Government Code.

The majority of homes built in these areas were constructed between the 1900s and 1970s. County development standards were not as stringent as City standards at that time. These areas provided affordable housing opportunities due to the lack of extra cost amenities such as sidewalks, curbs and gutters, storm drain, sewers and street lighting. Some areas intentionally sought an “estate residential” rural type feel. This rural nature allowed residents greater freedoms than typical urbanized areas, including the ability to raise horses, chickens, etc....

Approval of a Residential Neighborhood Infrastructure Project List Rankings Criteria, a Resolution Supporting the Annexation of Unincorporated County Residential Pockets within Adopted City Spheres of Influence, and Authorization for the Chief Executive Officer to Negotiate and Execute an Amendment to the Master Property Tax Agreement Eliminating Exceptions to the Agreement for the "North Airport Area", "Robertson Rd. Area" and "South Modesto Area"

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Growth in the cities around these formerly rural pockets began highlighting the disparities in improvement standards and gradually, the higher city standards started to become the expected norm. Septic and water systems began to fail or struggle to comply with increasing standards. In addition, increased regulatory standards for ground water quality led government agencies to focus on alternatives to the traditional septic and storm drain systems.

Stanislaus County began committing Redevelopment and Community Development Block Grant funds towards the improvement of some of these pockets (especially those with critical public health issues due to significant septic failures), but that led to a "me too" expectation among the other county pockets.

Stanislaus County and its cities have struggled for years with how to go about improving these unincorporated pockets. In addition to the unincorporated pockets, many other areas of the County, including unincorporated communities such as Keyes, Empire and Hickman, lack many of these amenities as well. Combined, the cost for upgrading improvements is enormous and exceeds the current capacity of redevelopment and block grant funding, even if decades of funding were committed.

Residential Neighborhood Infrastructure Project List Rankings Criteria

In order to assist in the prioritization of limited redevelopment and block grant funding as it becomes available, in September 2010 County staff from the Chief Executive Office, Environmental Resources, Parks, Planning and Public Works met to develop a proposed project list rankings criteria. Staff discussed the need to focus future funding towards addressing public health issues related to septic systems and water supply. Funding for areas such as storm drain, sidewalks, curb, gutter and street lighting would not be a priority unless special grants were received that could only be used for those dedicated purposes.

A general description of the proposed Project Listing Ranking Criteria was included in the Stanislaus County's Redevelopment Agency's 2011-2014 Implementation Plan which was approved by the Redevelopment Agency on October 19, 2010. Specifically, the Implementation Plan language as approved by the Agency included the following:

"The implementation of this Plan is contingent on the availability of adequate funding. In order to consider projects for funding a number of factors need to be taken into consideration. These factors include, but may not be limited to, the following:

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- a. Health and safety needs of the program/project and how those needs compare with the needs of other programs/projects. (i.e., high per capita septic system failures).
- b. The willingness and ability of the local community to assess themselves for purposes of contributing towards project costs and costs of ongoing maintenance and operation of improvements inclusive of support of the program/project by the area's Municipal Advisory Council (MAC) or an organized community group (if no MAC exists to represent the area).
- c. Identified and available funding sources for the specific program/project (the ability to leverage local agency dollars with outside funding sources are critical to ensuring a successful program/project).
- d. For public infrastructure improvement projects:
 - 1) A working partnership between for service provider(s), the local community, and the Agency,
 - 2) The availability of engineered designs and a cost analysis for the project,
 - 3) The willingness/ability of the service provider(s) to consider annexation of the improvements to be made."

Over the past year, County staff has been working closely with County Counsel, the California Rural Legal Assistance (CRLA) and Attorneys associated with the "*The Committee Concerning Community Improvement, et al. vs. City of Modesto, et al*" litigation, to further fine tune the rankings criteria. The proposed "Residential Neighborhood Infrastructure Project List Rankings Criteria" (Exhibit A) reflects the final work product recommended by that group, and is largely consistent with the factors approved by the Redevelopment Agency in October 2010.

Resolution supporting the annexation of unincorporated county residential pockets within adopted city spheres of influence

Also included in this item is a resolution supporting the annexation of unincorporated county residential pockets within adopted city spheres of influence. This resolution is intended to be a formal acknowledgement that incorporated cities are best situated to provide important urban residential services such as sewer, water, storm drain, fire

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protection, etc...and to encourage regional policymakers to embrace the future annexation of existing unincorporated residential pockets.

In May 1999, a team comprised of city and county government officials, local business leaders and educators, wrapped up two years of discussions with a work product called "Visioning Project 1999". This work product developed draft vision statements for the Stanislaus County region. One of the vision statement actions encouraged the cities and County of Stanislaus to adopt general plans, policies and agreements that, among other things, would achieve the "Expansion of city limits to include urbanized unincorporated areas that are substantially surrounded by a city."

Stanislaus County's General Plan contains several policies that indirectly infer and support the annexation of unincorporated county pockets. For example, the Sphere of Influence Policy recognizes that in the past when the County permitted some urban development within the County, there was no incentive for the property owner to annex, and that this often prevented annexation. The Policy further recognizes that when the Local Agency Formation Commission (LAFCO) adopted spheres of influence for each city, that these spheres are areas that the City intends to annex at sometime in the foreseeable future.

Additionally, the Planned Industrial Designation includes the following:

"Annexation. Areas designated Planned Industrial on the General Plan and rezoned for development which are located within the adopted sphere of influence of a city shall include the requirement that an agreement be signed in a form satisfactory to the city attorney of the affected city and Stanislaus County Counsel guaranteeing that the property on which the planned industrial designation is applicable will be annexed to the affected city upon demand by the city and with the approval of the Stanislaus County Board of Supervisors."

Another example is contained within Policy 2.12 of Goal 2 of the Agricultural Elements which states:

"In recognition that unincorporated land within spheres of influence of cities or community service districts and sanitary districts serving unincorporated communities ultimately will be urbanized, the County shall cooperate with cities and unincorporated communities in managing development in sphere of influence areas."

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The proposed resolution does not have a binding effect on the cities or the Local Area Formation Commission (LAFCO) and simply reflects the Board of Supervisors' support for orderly incorporation of these county pocket areas.

Amendment to the Master Property Tax Agreement

One of the terms of the Settlement Agreement requires Stanislaus County to request that the City of Modesto amend the Master Tax Sharing Agreement (MPTA) to eliminate the exceptions for Bret Harte, Hatch-Midway, Robertson Road and North Airport areas, and for the County to enter into such an amended agreement if the City also agrees.

On August 1, 2011, the County submitted a formal request to the City Manager of the City of Modesto requesting an amendment to the MPTA to eliminate the exceptions described above. This item requests authorization for the Chief Executive Officer to negotiate and execute an amendment to the agreement effectuating those changes.

POLICY ISSUES:

The most notable policy issue or question contained in this report is whether the Board of Supervisors determines that as a general rule, incorporated cities are best situated to provide urban services to residential development and whether to encourage the annexation of existing unincorporated residential pockets within a city's adopted sphere of influence. Staff believes the recommendations contained in this report are consistent with the Board's priorities of a "Well Planned Infrastructure" and the "Efficient Delivery of Public Services".

STAFFING IMPACTS:

There are no staffing impacts associated with this item.

CONTACT:

Stan Risen, Chief Executive Office, 342-1731

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
STATE OF CALIFORNIA

Date: August 23, 2011

No. 2011-482

On motion of Supervisor O'Brien Seconded by Supervisor Withrow
and approved by the following vote,
Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

THE FOLLOWING RESOLUTION WAS ADOPTED:

Item # *B-2

**RESOLUTION SUPPORTING THE ANNEXATION OF UNINCORPORATED COUNTY
RESIDENTIAL POCKETS WITHIN AN ADOPTED CITY SPHERE OF INFLUENCE**

WHEREAS, Stanislaus County has a number of unincorporated pockets that are primarily urbanized residential areas located either within a City or adjacent to it and within a city's sphere of influence, and

WHEREAS, the majority of homes built in these areas were constructed between the 1900s and 1970s as affordable housing opportunities and lack extra cost amenities such as sidewalks, curbs and gutters, storm drain, sewers and street lighting, and

WHEREAS, Stanislaus County acknowledges that incorporated cities are best situated to provide important urban residential services such as sewer, water, storm drain, and fire protection, and

WHEREAS, Stanislaus County was named in the Committee Concerning Community Improvement, et al. v. City of Modesto, et al. lawsuit, and

WHEREAS, on June 28, 2011, Stanislaus County entered into a Settlement Agreement with the Plaintiffs of Committee Concerning Community Improvement, et al. v. City of Modesto, et al., and

WHEREAS, as part of the Settlement Agreement, Stanislaus County agreed to adopt a resolution affirmatively supporting the annexation of the Plaintiffs' Neighborhoods, and that such resolution could include other county islands as well,

THEREFORE, the Stanislaus County Board of Supervisors declares their support of the annexation by incorporated cities of unincorporated county residential pockets within their adopted spheres of influence.

ATTEST: **CHRISTINE FERRARO TALLMAN, Clerk**
Stanislaus County Board of Supervisors,
State of California

Christine Ferraro

File No.

EXHIBIT A

RESIDENTIAL NEIGHBORHOOD INFRASTRUCTURE PROJECT LIST RANKINGS CRITERIA

Stanislaus County and the Stanislaus County Redevelopment Agency (collectively "County") have few sources of funding available to construct major infrastructure projects in the unincorporated areas of the County. Currently, through the life of the Redevelopment Agency there are not, nor will there be, adequate funds to plan for or pay for all sewer, storm drainage, sidewalk, curb, gutter, street improvement or lighting projects that the communities may desire.

Redevelopment Agency funds may only be spent in the Redevelopment areas. The Redevelopment Project Area includes 15 separate subareas, all of which were originally selected because of existing blight. Most, if not all, of the Redevelopment Project subareas include residential neighborhoods that can be classified as "lower income" or 80% of the Annual Median Income or less. Community Development Block Grant (CDBG) funds can only be used pursuant to stringent federal guidelines and must be spent within 2 1/2 years of funding. Projects that use CDBG funds are limited to those that will serve a population whose income is similarly classified at 80% of the AMI or less. As such, both RDA and CDBG funded infrastructure projects will primarily serve "lower income" communities.

The following criteria will be used by the County of Stanislaus and the Stanislaus County Redevelopment Agency for determining the priority of future infrastructure spending projects beyond those that have already been programmed in either the adopted CDBG Consolidated Action Plan or the adopted 2010-2014 Redevelopment Agency Implementation Plan .

1. PUBLIC HEALTH

- o Public health and safety needs will be the primary criteria for selecting projects. The County and the Agency will evaluate programs/projects and how those needs compare with the needs of other programs/projects, (i.e., high per capita septic system failures). Installation of sewer mainlines and potable water systems will be the first priority. Storm drainage can be considered a second priority in areas subject to persistent standing water problems.
- o In areas currently served by individual septic systems, prior to initiation of a sewer infrastructure project one or more of the following criteria apply:
 - There is a relatively high occurrence of septic system failures per capita or in relation to total number of parcels in a neighborhood

- Septic system alternatives will not work or are not cost effective (Engineered Systems)
 - Soil Types preclude engineered systems
 - Population Density is consistent with County or City residential zoning district densities.
 - Parcel Sizes are considered to small for standard septic systems
- o Water Supply projects will only be considered in areas where the existing infrastructure or water quality is inadequate to serve the existing population. The first priority for water supply projects will be for those areas where:
- Drinking water does not meet Primary Water Standards as defined by the California Department of Public Health.

2. COMMUNITY SUPPORT

For all projects considered for funding by the County, the willingness of the local community to assess themselves for purposes of contributing towards project costs and costs of ongoing maintenance and operation of improvements is very important. No specific financial threshold of Community participation is required, but rather, each project will be evaluated on a case-by-case basis as to what level of financial cooperation is required from the Community. There must be adequate community support for the project. As a part of assessing community support:

- a. The County will pursue the formation of an assessment district, including necessary engineering studies, if it is presented with a petition signed by 51 % of the property owners in the affected community.
- b. The County will investigate formation of an assessment district if it is presented with a petition signed by 10% of the residents of the affected community. The County will conduct a survey designed to assess the likelihood of a successful vote on the formation of an assessment district. County will pursue formation of an assessment district, including any necessary engineering or CEQA studies, if the survey indicates that an eventual vote on the formation of an assessment district would be likely to succeed.
- c. County will continue to work with residents and local stakeholders (advocacy organizations, MACs, etc.) to conduct outreach and education

3. FUNDING.

- o Projects may be afforded priority if there is an additional opportunity to leverage Private and/or Public Grant Funding or other funds to assist in capital improvement costs
- o Projects may be afforded priority if there are opportunities to use Property Tax / Sales Tax dollars to assist in capital improvement costs
- o The County will work with the Community and the service provider(s) to evaluate potentials for outside grant and loan funding, and apply for funding if appropriate.

4. GEOGRAPHIC AND FISCAL EQUITY

- o Projects should be located equitably throughout the various communities, and serve the most number of income-qualified residents.
- o Projects may be afforded priority if they show a low cost per capita.
- o Sewer projects may be afforded priority if they are located proximal to an existing public sewer line.

ADDITIONAL REQUIREMENTS

1. The County is not a provider of water or sewer services, therefore, there must be a utility provider /purveyor who supports the project and can and will serve the project area. If required for service, the provider must show the willingness and ability to annex the project area into its service area boundary. The County will request that each potential provider confirm its compliance with Government Code section 65589.7(a) in that it grants a priority for the provision of services to proposed developments that include housing units affordable to lower income households and that it has complied with Government Code section 65589.7(b) in that it has adopted policies and procedures consistent with the section. The County also will request a copy of the policies and procedures.
2. Underground improvements such as sewer are installed first. Sidewalks and pedestrian facilities are installed only after all underground infrastructure is installed (water, sewer, storm drain)
3. Nothing in this list will preclude the County or the Redevelopment Agency from allocating, programming, and spending funds for other non-infrastructure programs and projects as defined in approved Action Plans or Implementation Plans.

4. Adequate funding must be available to plan, engineer and construct the project, and the project has been programmed, if necessary, in the appropriate Consolidated Action Plan or Implementation Plan of the funding agency.