

**MEMORANDUM  
LOCAL AGENCY FORMATION COMMISSION**

**TO:** Local Agency Formation Commission  
**FROM:** Stephen Lucas, Executive Officer  
**SUBJECT:** **Agenda Item 5.4 - Update of Sewer Service Extensions in the City of Chico.**  
**DATE:** April 22, 2014 for the meeting of May 1, 2014

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Background

**November 7, 2013:** The Commission initially received a staff report concerning the City of Chico connecting 62 unincorporated parcels to its sewer system without LAFCo authorization and took no formal action but provided the following direction to the Executive Officer:

1. Agreed to the City's request to delay any decision for 2 weeks to allow the City the time to offer a viable solution;
2. Continued the item to the Commission's December 5, 2013, meeting for consideration of any City of Chico proposed solutions (*none submitted*);
3. At a minimum, the City is to make application for extension of services for the 62 unauthorized sewer connections at the established fee of \$600 per parcel (total of \$37,200);
4. The City is to make application or otherwise commit to annex 26 of the 62 unauthorized sewer connections that are contiguous to City boundaries at full cost recovery fee rate;
5. It is preferred that the City achieve the annexation of the 26 parcels by annexing the entire island(s) as the most efficient manner to annex these parcels; and
6. The \$17,606 reimbursement costs are open to further negotiation depending on the City's actions.

**December 5, 2013:** The Commission directed the Executive Officer to prepare a letter to the City outlining the Commission's concerns and providing direction as to the preferred solutions.

**December 19, 2013:** The letter was delivered to the City on December 19, 2013. and the City Manager responded requesting additional time to consider the letter so as to allow the City Council the opportunity to agendize the item and provide direction.

**January 21, 2014:** The Chico City Council considered the issue and received a staff report from the City Manager that recommended the City Council consider executing a master annexation agreement or direct staff to consider some other undefined alternative proposal. The City Council directed the City Manager to approach LAFCo with alternative solutions and it was suggested to have a joint meeting with the Commission to directly address these issues.

**February 6, 2014:** The Commission received an update on the issue and directed Staff to work with the City staff to schedule a meeting between a subcommittee of Commissioners and City Council members to discuss the unauthorized sewer connections and possible solutions to resolve the matter.

**February 21, 2014:** A Commission subcommittee (Leverenz, Lando, Fichter) met with a City Council subcommittee (Gruendl, Sorenson, Goloff) to discuss the history of events. The City Subcommittee acknowledged that ultimately, unincorporated islands should be annexed and the City boundaries be made whole but maintained its reluctance to initiate island annexations in the near term (10 years) due to its poor fiscal condition, but did reiterate the concept of initiating annexations at such time 50% of parcels were connected to sewer services. There was also discussion concerning the City's possible willingness to reimburse LAFCO \$17,606 for the unauthorized sewer connection research time as a good faith measure while a larger annexation agreement could be negotiated.

**March 4, 2014:** City Council met to discuss options and provide direction to its staff. No report back from City staff and the March 5, 2014 subcommittee meeting was not scheduled.

**March 6th, 2014:** Commission discussed progress and directed staff to prepare a Draft Sewer Service and Annexation Agreement to present to the City Subcommittee so that the discussion would be focused on details. The proposed Agreement (1st Draft - 3/12/14) was prepared and provided to the City and included the following summary points:

1) The City would immediately initiate the island annexations of the Chapman, Mulberry, and Stewart Avenue islands with the effective dates delayed for three years in recognition of the City's fiscal constraints and the processing costs remitted in installments spread over a three year period in recognition of the City's fiscal constraints. This action would remediate all unauthorized sewer connections within these islands and grant pre-authorization of new sewer connections during the three year annexation deferral period.

2) The City would remediate the other non-compliant sewer connections by reimbursing LAFCO for investigative costs incurred (\$17,606), make application for all remaining unauthorized sewer connections and pay appropriate fees remitted in installments spread over a three year period in recognition of the City's fiscal constraints.

3) Consider new sewer service extensions outside of the Chapman/Mulberry/Stewart islands on an individual case by case basis as necessary and not require annexation of these areas until the majority of dwellings are connected to sewer services.

**March 14, 2014:** The City/LAFCo Subcommittee met to discuss the 1st Draft Proposed Sewer Service and Annexation Agreement. The City continued to be concerned by the timeline for annexation, insisting that three years was too quick. The LAFCO Subcommittee directed its staff to amend the Agreement with a five year annexation deferral along with other minor clarifications as to process. The amended Agreement (2nd Draft - 3/18/14) was provided to City staff for consideration by the City Subcommittee and full Council.

**March 25, 2014:** The City Council met to discuss the proposed amended 2nd Draft Agreement and provide direction to City staff.

**March 28, 2014:** The City/LAFCO Subcommittee to meet and discuss the outcome of the City Council's discussion and any counter proposals. The City requested amendments be considered, chiefly that the island annexation applications be submitted by 12/31/14; a cap on fees; annexation effective dates no sooner than 5 years; a single comprehensive non-compliant sewer application made within 90 days rather than 30 with fees based on time and materials only. In addition, Subcommittee agreed to eliminate the language related to the annexation of sewer extension areas outside of islands.

**April 3, 2014:** The Commission met to discuss the proposed revisions to 2nd Draft Agreement and directed staff to prepare 3rd Draft Agreement with revisions as suggested by the City with

the exception of requiring the island annexation applications by September 1 rather than December 31, 2014.

**April 10, 2014:** Staff prepared and delivered the 3rd Draft Agreement to the City on April 10, 2014 with the expectation that the City Council would consider the latest Agreement at its April 15, 2014 meeting. The City Council did not discuss at the April 15th meeting and City staff advised the Council will discuss at its May 6, 2014 meeting. The 3rd Draft Agreement made the following revisions:

1. Section 1.01 - Island applications made by Sept 1, 2014 rather than Dec 31, 2014.
2. Section 1.02(a) \$20k cap on fees per application with approved payment schedule as requested.
3. Section 1.03(a) - Removing any accelerated annexation of the islands based on a 50+1 approach and simply setting a 5 year timeline.
4. Section 2.01(a) Extend application timeline for non-compliant parcels from 30 days to 90 days as requested.
5. Section 2.02(b) Accept comprehensive application for non-compliant parcels with actual billing and \$10k cap rather than \$600/parcel amount as requested.
6. Section 4.01 Remove plan for annexations in all other areas and replace with a case-by-case approach with periodic review.

**May 1, 2014:** Commission received an update on progress to date and next steps.

Summary Observations:

Three years have passed since the Commission first presented the City with a Draft Master Sewer Service and Annexation Agreement in 2011 that was intended to expedite unincorporated sewer connections in support of the nitrate remediation effort and establish a certain annexation plan in conformance with local LAFCO policies and state law. The City did not accept the proposed Agreement as it was not willing to commit to a certain annexation plan. During this same three year period the City allowed numerous unauthorized sewer connections to occur.

Four months have passed since the City was advised of the need to remediate the 62 unauthorized sewer connections. During this time, the Commission has made numerous attempts to resolve the issue in a reasonable, amicable and comprehensive fashion. Taking into consideration the City's repeated concerns over its ability to annex these areas and/or pay fees associated with correcting its violations of the law, the Commission and its Subcommittee have presented a very reasonable and effective 3rd Draft Agreement to resolve the issue.

**ACTION REQUESTED:** Receive update and provide direction to staff.