

SONOMA LOCAL AGENCY FORMATION COMMISSION

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Staff Report

Meeting Date: December 4, 2024

Agenda No. Item 4.1

Agenda Item Title: File No. 2024-11 Sonoma Mountain Community Service District Formation Proposal

Environmental Determination: Pending action by Commission

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Analysis

Overview

Four residents of the Sonoma Valley have submitted a proposal to LAFCO seeking formation of the “Sonoma Mountain Community Services District.” The applicants have filed a Plan for Service (Attachment 1), a preliminary map of the proposed district territory, petitions in support of the proposal, a completed application, and a deposit against actual incurred expenses by LAFCO.

The proposed district is intended to primarily act as a “development authority” for the Sonoma Developmental Center site, which is located to the north of the Springs and largely surrounded by the unincorporated village of Glen Ellen. The applicants cite the Presidio Trust, which is a non-governmental body that manages the Presidio in San Francisco on behalf of the federal government, as a model for their proposal.

In 2019, the State adopted special legislation to outline the goals for the future use of the Sonoma Developmental Center property. (Gov’t Code section 14670.10.5.) The property is comprised of approximately 180 acres of developed campus and around 765 acres of agricultural, recreational, and ecologically valuable natural areas. The Legislature’s stated intent was to preserve the land outside the core campus as public parkland and open space to the greatest extent feasible and to facilitate disposition of the core campus for development that prioritized the provision of affordable housing. The legislation authorized the Director of the State’s Department of General Services (DGS) to enter into an agreement with the County of Sonoma for planning services to aid in the disposition of the property.

The special legislation does not apply to transfers of the property to a state agency. In 2023 and 2024, transfers of jurisdictions were finalized for the open space, including the transfer of approximately 650 acres to California State Parks and approximately 52 acres at the southeastern corner of the property on Highway 12 to CalFire for a proposed Sonoma Lake Napa Unit Headquarters.

In 2022, DGS issued a request for proposal for the purchase and redevelopment of the SDC property and selected Grupe Company and Rogal & Partners. Subsequently, Eldridge Renewal, LLC submitted an application to Sonoma County proposing a mixed-use development for the core campus including residential uses, commercial uses, and a boutique hotel. The application was recently found incomplete and is still pending.

Notwithstanding these circumstances, the proponents for formation of the district believe that they can secure development rights for the site if the State revisits its selection process, whereby the new district could propose to take on the redevelopment project.

The proponents have selected a set of powers from those enumerated in the Community Service District Principal Act that they envision providing upon formation. They are also seeking approval for a set of so-called “provisional” services that the district would provide in the future. (The Cortese-Know-Hertzberg Act only recognizes authorized and latent powers; latent powers can be authorized based on a subsequent proposal to LAFCO, which would include a Plan for Service.)

Staff is seeking Commission review and consideration of the proposal, but is making a strong recommendation for denial based on the lack of a viable financial plan for the district, the fact that the Principal Act for Community Service Districts does not include property development as a power except in support of district functions, and the speculative nature of the view that a district would be able to secure rights to the SDC site. Additionally, the Plan for Service is lacking in specifics regarding what services will be provided and how they will be funded, and in many cases, services can be or are already being provided by existing agencies and non-governmental organizations.

Community Services District Principal Act – Powers: Ability to Develop Property

The Principal Act for Community Service Districts does recognize the right for districts to purchase and improve property, but in staff’s interpretation this right extends only to the development of property in furthering the provision of services that the district is authorized to provide.

For example, a community service district that is authorized to provide parks and recreation services can purchase land and develop it as a park, but it is not eligible to acquire and develop properties that don’t support its explicit mission.

Fundamentally, the proponents’ desire to direct the development of the Sonoma Developmental Center site for commercial and residential development is outside the authority of community services districts under the Principal Act.

In sum, the State of California has already adopted specific legislation with respect to the site, and the proposal is hostile to this statutory process. While the proponents of formation of a district are hopeful that the State would provide the proposed community service district with a role, this is, at best, extremely speculative and unvetted.

Evaluation of Initial and “Provisional” Powers and Other Issues

Staff has prepared an evaluation of each of the proposed initial and “provisional” powers that the applicants are proposing for the new district, in two ways:

- Do the services proposed by the applicants described in the Plan for Service document fall within the purview of the powers described in the Principal Act for community service districts – in other words, are the proposed services authorized under the act?
- Are the proposed services being provided by an existing district, or can they be?

An evaluation of whether the proposed district can sustainably provide the proposed services – financially, administratively, and viably, is described in a subsequent “overarching” evaluation. Additionally, staff has reviewed a series of procedural issues that cannot be resolved based on the applicants’ proposal.

Initial Powers

Proponents have requested the following powers listed in the Principal Act for Community Services Districts, calling them “baseline” categories:

- Recreation and parks
- Community Recreation Programs
- Transportation
- Community Facilities
- Habitat mitigation and environmental protection
- Broadband (communications)

Proponents indicate in the Plan for Service document that recreation and parks activities will include historic preservation of buildings, properties and spaces within the proposed district territory, and that the district will work with the Glen Ellen Historical Society to preserve and protect these community assets.

Applicants have identified Transportation as an initial power of the district, but other than pointing to a model in Brazil, offer no specific plans for funding and operating any transportation infrastructure or services.

The proponents envision the district serving as “a motivator and, where appropriate, an active participant” in community-led efforts to secure meeting, event, and childcare facilities under the Community Facilities power. There is no specificity to this plan other than potentially seeking grant funding “as the opportunity arises.”

For Habitat Mitigation and Environmental Protection, proponents envision the district providing “leadership, continuity, understanding, and institutional support” needed to protect the Sonoma Valley Wildlife Corridor, but offers little specificity regarding what activities will take place. Proponents offer that the district will collaborate with a wide spectrum of non-governmental organizations, will map the migration patterns on Sonoma Mountain, and will hold conferences.

For Broadband (Communications), the proponents cite poor availability of service in some locations but does not propose how the proposed district would address these circumstances.

Initial Powers – Conflicts with other Agencies

The Plan for Service document filed by the applicants acknowledge a host of public and non-governmental agencies that already provide suggested services or that are capable of doing so. Staff notes that there are other existing local agencies (e.g. the County and the Sonoma Resource Conservation District) that can be added to the list.

Staff acknowledges that several of the agencies and all of the non-governmental agencies are beyond the purview of LAFCO, but nevertheless concludes that the mission of encouraging the effective and efficient provision of local government services remains paramount.

For example, Sonoma County Transit (a division of Sonoma Public Infrastructure, formerly the County's Department of Transportation and Public Works), already exists. It does not make sense to form a new independent special district that proposes to provide transit service and to potentially compete for grant funding with the existing agency.

The other services proposed all have similar duplicativeness. LAFCO has an official policy of avoiding the duplication of authority where possible.

“Provisional” Powers

The proponents are seeking what they term “provisional powers” that the district would exercise if the Sonoma Developmental Center rights were granted by the State to the agency. These are:

- Water
- Fire protection
- Street lighting and landscaping
- Roads, sidewalks and rights of way
- Power generation
- Cemeteries

LAFCO does not recognize so-called “provisional” powers. Any powers that are not granted to a district upon formation become “latent powers”. The district can seek authorization for the exercise of latent powers by applying to LAFCO. That application must include a plan for service document that meets the requirements of the Cortese-Knox-Hertzberg Act, including an analysis of how powers will be exercised and financed.

It is unclear what the disposition of the existing street lighting, landscaping, roads, sidewalks, rights of way and the cemetery infrastructure will be on the SDC property, though it could be assumed that the company awarded the development rights to the campus is responsible for these assets.

The Plan for Service does not describe what services would be provided using these “provisional” powers nor explain how provision of any of these services will be financed

– the state has been spending hundreds of thousands of dollars per year since 2018 managing the vacated campus.

Water and Fire Protection are requested in the event that the Sonoma Valley Fire District and Valley of the Moon Water District do not agree to provide services at the site.

The entirety of the site is within the Sonoma Valley Fire District territory and receives services from the District. The Valley of the Moon Water District has the SDC campus in its sphere of influence and has indicated an intention to annex the properties in the near term. Maps of both Districts are included as Attachments 3 and 4.

The Plan for Service suggests that “creation of a micro-grid” at SDC as the basis for seeking the Power Generation authority. The Plan is silent on what will be created and how it might be financed.

“Provisional” Powers – Conflict with other Agencies

For Fire Protection, the SDC site has long been under the jurisdiction of existing fire protection agencies; first, under the Glenn Ellen Fire Protection District, and subsequent to a reorganization, now under the Sonoma Valley Fire District. SDC did operate a fire brigade when it was in operation, but always with the local agencies providing primary services. (Sonoma Valley Fire has a contract with the State to provide weekend staffing coverage on the site through 2025.)

The formation proponents note that coordination efforts to consolidate local fire prevention strategies in the area are lacking; the Sonoma Valley Fire District notes that it is coordinating Fire Safe Councils throughout the Valley and actively working on fire prevention efforts.

There is extensive, though largely inoperable and non-functioning water infrastructure on the SDC site, including two surface reservoirs, two primary springs, a half-dozen or more inoperable wells, a treatment plan, rights to divert water from Sonoma Creek, and a distribution system. The State has withheld water rights from the chosen developer; disposition of the infrastructure has not been determined.

The Valley of the Moon Water District has conducted a water supply assessment for the property based on the specific plan developed by the County, with a conclusion that the District can serve municipal water needs on the site, but that ownership of the water rights would be desired.

A recently adopted Municipal Service Review and Sphere of Influence Study for the Valley of the Moon Water District concluded that the District has sufficient water supply capacity to serve existing and new customers, including the redevelopment of the SDC site at intensities envisioned by the Specific Plan. The SDC site was added to the District’s Sphere of Influence in 2017 after a prior study was performed.

Staff notes therefore that the Commission has signaled that the Valley of the Moon Water District will be the eventual provider of water services to the SDC campus site.

Financial Plan – Lack of Revenue

Despite consistent staff advice to the applicants that a viable formation proposal would need to identify a source of “base” revenue to support the operation of a district, the proposal does not identify any source of reliable revenue.

A district has the opportunity to secure revenue in the following ways:

- Securing an allocation or portion of property tax revenue. For a district formation in unincorporated territory, as proposed, the allocation can come from the State, from the County, or from another existing district willing to cede property tax revenue. For this proposal, districts that receive some property tax revenue include the Sonoma Valley Unified School District, the Valley of the Moon Water District, the Sonoma Valley Fire District, and the Sonoma Valley Health Care District. The applicants have not sought, nor been granted, any property tax allocation transfer from any of these agencies.
- The district can operate on a “fee for service” model, collecting revenue for services delivered. (This model is typically used for provision of municipal water and sanitation service.) The proponents have not suggested this mechanism as a revenue source, except in the form of collecting fees for granting development project rights on the SDC campus. Given that the proposed district does not have development rights for the SDC property, these revenues can be categorized as speculative at best.
- The proponents of the formation of the district can propose that a special tax measure be placed before the voters within the proposed territory to support operations. (Typically, these measures seek a parcel tax on property.) In a district formation proceeding, a tax measure would be placed before the voters at the same time as a measure seeking approval for formation. The applicants have declined to propose a special tax measure upon formation.

The proponents of the formation of the district indicate that district operations would be financed through donations, grants, volunteered services, and other unspecified sources.

Staff has consistently advised the applicants, through their representative, that a district must have an identified consistent source of revenue to fund basic operations, including:

- Staffing costs, with properly allocated benefits. (The proposal does not include a staffing plan.)
- Election costs, to cover elections of directors both on a regular calendar basis and in the event of resignations.

- Administrative costs, covering activities such as preparing meeting documents, reporting to the State and other agencies, maintenance of records and an internet presence, office space and information technology services, and communication and utility services, etc.
- Professional services costs, including legal representation and consultant services.
- Apportionment fees to LAFCO.
- Other costs.

These costs can be appropriately estimated and enumerated in a financial plan, ideally showing financial viability over a five-year period. (Some costs, e.g. to conduct board elections, are not incurred every year.) The proponents have not presented a financial plan.

Sole reliance on securing government grants and donations from outside sources (which call into question the independence of governance) are in staff's view predictors of failure for a nascent district.

The Cortese-Knox-Hertzberg Act directs LAFCO to consider the financial viability of a formation proposal in the following manner:

Government Code 61014

- (b) *Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a district unless the commission determines that the proposed district will have sufficient revenues to carry out its purposes.*
- (c) *Notwithstanding subdivision (b), a local agency formation commission may approve a proposal that includes the formation of a district where the commission has determined that the proposed district will not have sufficient revenue provided that the commission conditions its approval on the concurrent approval of special taxes or benefit assessments that will generate those sufficient revenues. In approving the proposal, the commission shall provide that, if the voters or property owners do not approve the special taxes or benefit assessments, the proposed district shall not be formed.*

Given that the proponents are not seeking a source of revenue that would meet the requirements of section 61014(c), and given that the proposal identifies only very speculative revenue sources, staff concludes that there is no evidence to support approval of the proposal. Further, contributions from individuals and other non-governmental entities, represent a possible conflict of interest regarding governance of the proposed district.

Environmental Review

CEQA does not apply to disapprovals. (CEQA Guidelines, section 15270.)

Appropriations Limit

Upon the formation of a district, LAFCO has the duty to assign an initial appropriations limit, indicating the “cap” or “ceiling” of tax revenues that the district may collect. Given that the proponents aren’t seeking tax revenue, LAFCO cannot assign anything other than a zero value for tax collection.

Further Actions by Commission

If in some manner the commission wished to approve formation of this district, with some set of powers selected from the principal act for community service districts, staff would need additional direction from the Commission.

Subsequently, an election would be called where registered voters within the proposed district territory would be asked whether they support the formation.

Usually, a companion measure would be placed on the ballot seeking approval of special taxes to support the district. Additionally, an election to determine the initial slate of district directors would be held. (The proponents have not indicated whether a slate of directors would be named or whether an election would be preferable.)

If the proposal is wholly disapproved, no further action will be taken on the proposal. Government Code section 56884 provides that “[n]o similar proposal involving the same or substantially the same territory shall be initiated for one year after the date of adoption of the resolution terminating proceedings,” but that the Commission may waive this requirement if it is in the public interest.

Requirement for Fees from Applicants

The applicants provided a \$5000 deposit to cover actual expenses incurred by LAFCO for processing the proposal. Costs will include staff time, legal counsel fees, costs for preparing and publishing notices of hearing(s), and for election costs if the proposal is approved by the Commission. Staff has determined that costs have now slightly exceeded the deposit, and will seek additional funds from the applicants based on future steps.

Potential Conflict with Expansion by City of Sonoma and Overlapping Districts

The proponents of the formation of the district state that the proposed boundaries of the district have been drawn so as not to overlap a future annexation of territory in the Springs to the City of Sonoma. No such plan exists currently, nor is proposed in the foreseeable future, and therefore this statement has no relevance.

Proponents additionally claim that where territory overlaps with other existing districts, it “will be made clear that the district will not have authority for, nor does it intend to provide, competing services in those areas.” However, as the analysis provided previously shows, the proposed district will inherently have duplications with existing agencies. LAFCO’s mission of ensuring the effective and efficient delivery of local government services has led to an adopted Commission policy of discouraging these overlaps.

While the Plan for Service notes the district is not intended to engage in services that “contravene the authority of any other existing agency,” it is appropriate to follow Commission policy of discouraging unnecessary overlapping jurisdictions.

“Pilot” Program for Housing Development

The Plan for Service has two citations regarding the development of housing: one states that the district will not “directly” engage in housing development; the other states that the district hopes to operate a pilot program to sponsor housing at SDC; but that the program is not part of the application to LAFCO.

The applicants are proposing a program that is not within the listed powers of a community services district.

Recommendation

Staff believes that the proposal to form a community services district to manage the redevelopment of the Sonoma Developmental Site and to offer an array of other services features major flaws that lead to a conclusion that the proposal should be denied and proceedings terminated.

The most significant flaw is the lack of any dedicated revenue to support the operations of the district. Proponents have not sought a property tax share from the County of Sonoma and are not proposing any special taxes (i.e. parcel taxes). Without any dedicated revenue, the district could not hope to hire staff, secure facilities, seek legal and other professional services, conduct district elections, or to conduct the business of a community service district.

Next, the primary purported role of the district is to direct the redevelopment of the SDC site. There are two flaws with this mission: the proponents show no clear path to securing development rights to the site from the State, which has already awarded these rights to another entity; and the proposal appears to be untethered to the Principal Act.

The proponents are seeking authorization to provide two subsets of services enumerated in the Principal Act for community service districts: a set that would be provided upon formation, and a second set that may be provided in the future if the rights to SDC are secured. The Plan for Service submitted by the applicants does not provide any basis for

concluding that funding is present, and no specificity regarding the services themselves. Additionally, the Commission cannot authorize services on a “provisional” basis – any unauthorized services become “latent powers”. If the district were approved, it could seek subsequent authorization to exercise latent powers through Commission action.

For many of the proposed powers of the district, there are existing agencies and non-governmental organizations that are providing or are capable of providing services. The Commission has a policy of discouraging duplicative agencies with overlapping authorities.

There are also other issues with the current proposal. For example, an initial appropriations limit cannot be set for a district that seeks no revenue.

Staff recommends that the Commission adopt the proposed resolution (Attachment 5) and deny the proposal. Should the Commission see a path forward for the applicants, a direction to staff regarding how to support that process would be welcomed.

Attachments

1. Plan for Service
2. Government Code Section 61100 (Authorized Services of a Community Services District)
3. Draft Resolution