

# **EXECUTIVE OFFICER'S REPORT**

## **To The**

### **Local Agency Formation Commission**

#### **TO:**

Commissioner **DAVID WEST**

Commissioner **JASON JACKSON**

Commissioner **MARIA NAVA-FROELICH**  
(Chair)

[Public] Commissioner **MICHAEL KELLEY** [Supervisor]

[City] Commissioner **RAY CASTILLO** (Vice Chair) [Supervisor]

[City]

Alternate Commissioner **LUIS PLANCARTE** [Supervisor]

Alternate Commissioner **JAMES PREDMORE** [City]

Alternate Commissioner **RALPH MENVIELLE** [Public]

#### **REPORT DATE:**

**March 1, 2018**

#### **FROM:**

Jurg Heuberger, AICP, CEP, Executive Officer

#### **PROJECT:**

**Heber Public Utility District (HPUD 1-17)**  
**Service Area Plan (SAP) / Municipal Service Review (MSR)**

#### **HEARING DATE:**

March 22, 2018

**TIME:** 08:30am

#### **AGENDA ITEM NO:**

9

#### **HEARING LOCATION:** El Centro City Council Chambers, 1275 Main Street, El Centro, CA

#### **RECOMMENDATION(S) BY THE EXECUTIVE OFFICER**

(In Summary & Order)

- OPTION #1:** Approve the proposed Service Area Plan/MSR update as presented by the Executive Officer.
- OPTION #2:** Approve the proposed Service Area Plan/MSR update as requested with modifications, following the hearing by the Commission.
- OPTION #3:** Continue the hearing for not to exceed 70 days.
- OPTION #4:** Deny the Service Area Plan update, and provide direction to the District for corrections.

# Project Data:

## DATA & FACTS:

Project ID	HPUD 1-17	
Project Name:	<b>Service Area Plan Update (SAP)/MSR</b>	
Applicant/Proponent:	Heber Public Utility District	
Application Type:	Petition	
Application Filed:	December 27, 2017	<b>EXHIBIT "A"</b>
Certificate of Filing:	N/A	
Area/Size:	<b>+/- acres</b>	
Location/Legal:	<b>Sphere of Influence Map</b>	<b>EXHIBIT "B"</b>
Population:	<b>Service population is approximately 1,707</b>	
Proposed Project:	<b>Service Area Plan (SAP) / Municipal Services Review (MSR) Update.</b>	
MSR/SAP:	<b>The most recent version of the MSR/SAP is 2012.</b>	

## TAX AGREEMENT:

Board of Supervisors Action:	N/A
City Resolution:	N/A
Tax Split:	N/A

## CEQA:

Lead Agency:	<b>LAFCO</b>
Documentation:	<b>Exempt</b>

# ANALYSIS

## I: Legal Requirements (Historical information):

Cortese-Knox-Hertzberg Reorganization Act of 2000 (CKH), also referred to as Government Code 56000 et Seq., provides the legal basis for the requirement of the Sphere of Influence and the Service Area Plan being considered within the scope of this hearing.

G.C. § 56425 (a) states in part; *"In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency with the county and enact policies designed to promote the logical and orderly development of areas within the sphere."*

G.C. § 56425 (b - i) provide the frame work within which the Commission may approve the sphere of influence and the process that needs to be followed.

G.C. § 56425 (e) states in part; *"In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determination with respect to each of the following:*

- (1) The present and planned land uses in the area.*
- (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.*

G.C. § 56425 (f) is a critical new section that changed the parameters of the prior review insofar that this section now requires that; *" Upon determination of a sphere of influence, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years".*

There appears to be a misconception that the agencies will have to prepare a full new plan every five years, however the intent here is to "review" the prior plan and to amend it if necessary. If there have been significant changes, or if there has been explosive growth, then certainly the amendment will be much more comprehensive.

G.C. § 56428 (a) provides the mechanism for anyone to file a request with the executive officer for an amendment to the sphere of influence. It states in part; *"Any person or local agency may file a written request with the Executive Officer requesting amendments to a sphere of influence or urban service area adopted by the commission..."*

Again there may be some confusion in this area as there have been numerous questions about the "limitations" of the sphere and the process to amend.

It appears clear that the mandate is to review the plan at least every five years but there is no apparent restriction on the number of times that it may be amended nor is there a restriction on who can request such an amendment, there is only a process that needs to be followed. It goes without saying however that for an amendment to work it needs the consensus of the City/District, the County and the Commission.

Just as there are provisions for the addition of areas to a sphere of influence there are provisions for a process to remove an area from an approved sphere boundary. This is found in G.C. 56429.

In addition to the SOI process G.C. § 56430 (a - d) now addresses the requirement for the review of municipal services which in our case has been referred to for nearly a decade as the Service Area Plan (SAP).

G.C. § 56430 (a) states; *"In order to prepare and to update spheres of influence in accordance with Section 56425, the Commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the sub region, or any other geographic area as its appropriate for an analysis of the service or service to be reviewed and shall 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) *Governmental structure options, including advantages and disadvantages of consolidation or reorganization of service providers.*
- 8) *Evaluation of management efficiencies*
- 9) *Local accountability and governance."*

G.C. § 56430 (d) also required that the Office of Planning and Research of the State, in consultation with the commissions, and the California Association of LAFCO's and other governmental agencies, SHALL prepare a comprehensive set of guidelines for service reviews by July 1, 2001. Unfortunately there has not been a final set of guidelines adopted by the state at this time, although a very complete and "almost" final version has been distributed by the State. Since these guidelines are voluminous a full text copy is not attached to the report however there is a PDF copy on the CD rom that has been provided to each commissioner and every interested party. Furthermore, the Executive Officer has urged the various entities to utilize the "draft final" version as a guide to preparing the SOI and SAP.

## **II: The PLAN as submitted:**

The Holt Group on behalf and under direction by the District, has prepared and has presented to the Commission a comprehensive Service Area Plan (SAP)/Municipal Service Review(MSR). The full plan (hard copy) is not attached to all recipients of this report, only to the Commissioners; however, a copy of the full plan is available on the website. **EXHIBIT "C"**

## **III: District Approvals:**

Pending and to be required upon adoption by the LAFCO.

## **IV: CEQA:**

It is argued and it is the Executive Officers opinion that the Service Area Plan fit within one or more "exemptions" under the provisions of CEQA, not the least of which is the possible determination that this process is "not a project".

**V: Analysis by the Executive Officer / Determinations by the COMMISSION:**

G.C. § 56425 (e) states in part; *"In determining the sphere of influence of each local agency, the Commission shall consider and prepare a written statement of its determination with respect to each of the following:*

- (1) The present and planned land uses in the area.*
- (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.*

**Proposed findings by the Commission:**

- 1) The present land use within the boundaries of the proposed SAP includes residential, medium density residential, high density residential, general commercial, government/special public and light industrial.**
- 2) The present services provided by the District are wastewater collection and treatment services, potable water treatment and distribution services, administrative services and parks and recreation services to residents within the District's service area.**
- 3) Currently some of the services/functions provided by the District are at capacity or near capacity.**

**a. Administrative Facilities**

- i. Capacity-** 1,300 square feet  
**Demand-** 0.71 staff per 1,000 people
- ii. Findings-** Administrative services are provided in part by the District and the County of Imperial. The administrative functions are outgrowing the current space. As the number of service connections continue to grow, records storage is becoming an issue. The District has active plans to relocate to a new administrative building or construct a new administrative facility. Funds have been set aside for FY 18/19.

**The Mitigation measures as listed below and on page 37 of the plan are recommended to be implemented by the District.**

**A-1** The HPUD shall prepare a facility plan that analyses the number of personnel required to service future population and the amount of space required for the number of employees. The facility plan shall include a cost-benefit analysis comparing options for continuing to lease, relocation, acquisition, or new construction of administrative building.

**A-2** The HPUD shall continue to ensure that its current impact fees consider the capital costs of any new administrative facilities.

**b. Parks and Recreation Facilities**

- i. Capacity** – 21.53 acres of parkland  
**Performance Standard-** 5 acres per 1,000 population  
**Demand-** 34.89 acres based on a population of 6,979  
**Deficiency-** 13.36 acres

- ii. **Findings** – The District has service agreements with the County of Imperial for the operation and maintenance of certain park facilities. The District owns all four parks in the community of Heber.

**The Mitigation measures as listed below and on pages 42-43 of the plan are recommended to be implemented by the District.**

**P-1** As new development is proposed, the District shall coordinate with the County to ensure that projects are required to incorporate park space per the performance standard of 5 acres per 1,000 in population.

**P-2** The District shall seek grant opportunities to improve the existing park space with lighting and necessary amenities.

**P-3** The District shall pursue grant resources to develop land currently owned by the District for recreational use as long as there are identified resources for the continued operation and maintenance of any new facilities.

**P-4** The District shall determine whether to dedicate the 19 acres of land they own off of Rockwood for a regional park and how the operation and maintenance costs with Imperial County would be acceptable.

**c. Wastewater Treatment and Sewer Facilities**

- i. **Capacity** – Treatment capacity 1.2 MGD.  
**Demand**- Existing annual demand up to 0.6 MGD (2006) & 0.5 MGD (2017)  
**Adequacy**- At less than 50% of capacity
- ii. **Findings**- The District owns, operates and maintains a Wastewater Treatment System which provides services to the Heber community and areas immediately outside of the District boundary. The existing wastewater plant is currently located on a 6.7-acre site. The District acquired 8.55 acres of property east of and adjacent to the existing 6.7-acre site for future expansion. The Wastewater Treatment Plant underwent a major rehabilitation and expansion in 2013. The Regional Water Quality Control Board generally requires agencies to begin engineering design at 80% capacity and begin construction at 90% capacity.

**The Mitigation measures as listed below and on pages 58-59 of the plan are recommended to be implemented by the District.**

**S-1** The District should continue to pursue various means by which to obtain funding and provide for adequate wastewater collection/conveyance facilities for the existing and future residents of the District.

**S-2** New development shall continue to be responsible for constructing adequate wastewater collection system facilities and fair share costs for wastewater treatment facilities.

**S-3** The District shall ensure that a service agreement be in place, prior to the annexation of new development and that any "Will-Serve" letters have a sunset or expiration clause if construction is delayed.

**S-4** The District shall develop a master plan for the continued improvements of its Wastewater Treatment and Collection facilities.

**d. Water Treatment and Distribution Facilities**

- i. **Capacity** – Treatment capacity 4.0 MGD, Storage capacity 7.3 MGD  
**Demand**- 2017 average daily flow 1.12 MG, 2017 maximum demand 1.75MG.  
**Adequacy**- At less than 50% of capacity
- ii. **Findings**- The District owns, operates and maintains a system for the treatment, distribution and storage of potable water. The water treatment plant underwent a recent expansion that was completed in 2017. Based on the projected population growth, a second expansion would be necessary by 2035. The Regional Water Quality Control Board generally requires agencies to begin engineering design at 80% capacity and begin construction at 90% capacity.

**The Mitigation measures as listed below and on page 68 of the plan are recommended to be implemented by the District.**

**W-1** The community of Heber should continue to pursue various means by which to obtain funding or access resources for the capital improvement needs of the Water Treatment Facilities and Distribution System to accommodate both the existing and future residents of the District.

**W-2** The District should develop a Master Plan to adequately program capital improvement needs in its aging distribution system. Close attention should be placed on adequacy of fire flow pressures throughout the District.

**W-3** The District shall further ensure that a Service Agreement be in place, prior to the annexation of new development and that any "Will-Serve" letters have a sunset or expiration clause is construction is delayed.

**d. Solid Waste Services and Facilities**

The District outsources solid waste services to CR&R Incorporated for the collection, transportation, recycling and disposal of solid waste at the Imperial Allied Waste Landfill. The current agreement expires in 2024.

- 4) There are no known social or economic communities of interest in the area.**

**VI: Public Notice:**

Public notice for the proposed project hearing before the Imperial County Local Agency Formation Commission has been given, according to Section § 56427. Notice was issued in the form of a publication in the Imperial Valley Press at least twenty-one (21) days prior to said hearing, and posted on our webpage.

**VII: Report:**

In accordance with Section § 56665, the Executive Officer has prepared a report, and presented said report to your Commission and to any public member requesting such report. In addition, a copy of said report has been issued to the District and any party requesting a copy.

**VIII: Conflict of Interest Statement:**

To date (at the writing of this report, March 1, 2018) no Commissioner has indicated that there is any conflict of interest with regard to this project, nor has any Commissioner reported any communications with the Applicant, Proponent or Opponent. The Commissioners will be asked to declare that during and prior to the public hearing.

The Executive Officer does not have any type of known conflict of interest or financial gain as a result of this project and owns no property in the vicinity.

## EXECUTIVE OFFICERS RECOMMENDATION

### RECOMMENDATION:

It is the recommendation of the Executive Officer that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, assuming no significant public input warrants to the contrary, that LAFCO take the following action;

- I: Certify that the Service Area Plan is exempt from CEQA.
- II: Make the finding that this Service Area Plan is in substantial compliance with the provisions of the Cortese-Knox-Hertzberg Reorganization Act of 2000 and the Imperial LAFCO Policy and Procedures.
- III: Make the findings pursuant to Government Code Section § 56425 that:
  - a. The Service Area Plan has been reviewed by the Executive Officer and the Commission and the District has the capacity and ability to provide services within the area.
  - b. The Service Area Plan will provide for logical and orderly development for the District.
  - c. The Sphere of Influence currently adopted remains adequate for any projected growth of the District, and remains the same.
- IV: The Commission finds that, the present land uses within the boundaries of the Service Area Plan are residential, medium density residential, high density residential, general commercial, government/special public, and light industrial. The land uses intended for these areas were planned by the District.

The Commission finds that, the present services available to the areas within the proposed boundaries are limited to those identified in the attached. Any expansion of services by the District other than those listed herein would require LAFCO approval.

The Commission finds that the Service Area Plan as provided by the District has the ability to provide services within its current and proposed boundary limits and the document provided indicates that the District has a plan whereby it can provide these services. The District must however make every effort to implement the recommended actions and any other actions to continue viability.

The Commission finds that, there are no known social or economic communities of interest in the areas.
- V: Since there have been no protests received, the Commission adopts and approves the revised Service Area Plan (SAP/MSR) as attached, and re-adopt the current Sphere of Influence.

### **LAFCO Policy:**

The proposed Sphere of Influence and Service Area Plan appears to be consistent with the Cortese-Knox-Hertzberg Reorganization Act of 2000, the Imperial LAFCO Policies and Procedures and the County of Imperial General Plan (Chapter IV. B. of LAFCO's Policies, Standards and Procedures). Furthermore, the District has (according to the Service Area Plan) the ability to supply the necessary public service, and has assured LAFCO that it has the capacity to service the areas.

***NOTE: All "cc" submittals are the Executive Officer's Report only. Attachments are generally too voluminous and are only supplied on CD. Information about the project may also be found on the LAFCO web page at [www.iclafco.com](http://www.iclafco.com).***

CC: Heber Public Utility District  
The Holt Group, Justina Arce

### **ATTACHMENTS:**

EXHIBIT A: Sphere of Influence Map  
EXHIBIT B: Service Area Plan