

**Draft Resolution No. 2942
for LAFCO 3050**

Attachment 9

PROPOSAL NO.: LAFCO 3050

HEARING DATE: NOVEMBER 18, 2009

RESOLUTION NO. 2942

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3050 AND APPROVING THE REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 360 AND DETACHMENT FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICTS ITS VALLEY SERVICE ZONE AND COUNTY SERVICE ARE 70 (ARROWHEAD SPRINGS SPECIFIC PLAN AREA). The reorganization area consists of two separate areas totaling approximately 1,590+/- acres located in the City of San Bernardino's northern sphere of influence. Area 1 encompasses approximately 1,298+/- acres generally located north of the City of San Bernardino boundaries, east of State Route 18. The reorganization area includes the historic Arrowhead Springs Hotel and its surrounding area. Area 2 encompasses approximately 292+/- acres generally located east and west of State Route 18 in the Old Waterman Canyon area.

On motion of Commissioner _____, duly seconded by Commissioner _____, and carried, the Local Agency Formation Commission adopts the following resolution:

WHEREAS, an application for the proposed reorganization in the County of San Bernardino was filed with the Executive Officer of this Local Agency Formation Commission (hereinafter referred to as "the Commission") in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.), and the Executive Officer has examined the application and executed her certificate in accordance with law, determining and certifying that the filings are sufficient; and,

WHEREAS, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by the Commission on this matter; and,

WHEREAS, the Executive Officer has reviewed available information and prepared a report including her recommendations thereon, the filings and report and related information having been presented to and considered by this Commission; and,

WHEREAS, the public hearing by this Commission was held upon the date and at the time and place specified in the notice of public hearing and in an order or orders continuing the hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written protests;

RESOLUTION NO. 2942

the Commission considered all plans and proposed changes of organization, objections and evidence which were made, presented, or filed; it received evidence as to whether the territory is inhabited or uninhabited, improved or unimproved; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the application, in evidence presented at the hearing;

WHEREAS, the Commission determined to modify this proposal to:

1. Include the detachment of the San Bernardino County Fire Protection District, its Valley Service Zone and County Service Area 70, as a function of the reorganization; and,
2. To expand the territory to include an additional 1.78 acres within Assessor Parcel Numbers 0270-111-01 and 0170-011-01 and 16.3 acres of State Route 18 right-of-way within Sections 3 and 10, T1N, R4W.

NOW, THEREFORE, BE IT RESOLVED, that the Commission does hereby determine, find, resolve, and order as follows:

DETERMINATIONS:

SECTION 1. The proposal is approved subject to the terms and conditions hereinafter specified:

CONDITIONS:

Condition No. 1. The boundaries are approved as set forth in Exhibits "A" and "A-1" attached.

Condition No. 2. The following distinctive short-form designation shall be used throughout this proceeding: LAFCO 3050.

Condition No. 3. All previously authorized charges, fees, assessments, and/or taxes currently in effect by the City of San Bernardino (annexing agency) shall be assumed by the annexing territory in the same manner as provided in the original authorization pursuant to Government Code Section 56886(t).

Condition No. 4. The City of San Bernardino shall indemnify, defend, and hold harmless the Commission from any legal expense, legal action, or judgment arising out of the Commission's approval of this proposal, including any reimbursement of legal fees and costs incurred by the Commission.

Condition No. 5. Prior to issuance of the Certificate of Completion for LAFCO 3050, the City of San Bernardino shall submit to LAFCO an out-of-agency service contract with the County of San Bernardino specifying the terms regarding maintenance of the 900 linear feet of Waterman Canyon Road right-of-way within Section 2, T1N, R4W stranded outside City boundaries in County jurisdiction pursuant to Government Code Section 56133. The City of San Bernardino shall provide written consent to this condition within five (5) working days of the approval of this resolution.

Condition No. 6. Pursuant to Government Code Section 56886.1, public utilities, as defined in Section 216 of the Public Utilities Code, have ninety (90) days following the recording of the

RESOLUTION NO. 2942

Certificate of Completion to make the necessary changes to impacted utility customer accounts.

Condition No. 7. The date of issuance of the Certificate of Completion shall be the effective date of this reorganization.

SECTION 2. FINDINGS. The following findings are noted in conformance with Commission policy:

1. The Registrar of Voters Office has certified that the study area is legally uninhabited as of April 4, 2006 and October 13, 2009.
2. The study area is within the sphere of influence, as amended by LAFCO 3053, assigned to the City of San Bernardino.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements for the area as modified is \$3,648,455 (\$1,151,258 land; \$2,497,197 improvements) as of April 2006.
4. Legal advertisement of the Commission's original and current considerations has been provided through publication in *The Sun*, a newspaper of general circulation within the study area. Individual notice has been provided to affected and interested agencies, County departments, and those individual and agencies having requested such notification.
5. LAFCO staff has provided individual notices to landowners (totaling 9 notices) within the reorganization area and to landowners and registered voters surrounding the study area (totaling 330 notices) in accordance with State law and adopted Commission policies. To date, no expression of concern or opposition has been received.
6. The City of San Bernardino has processed land use approval for the area through adoption of the Arrowhead Springs Specific Plan and its General Plan Update which has pre-zoned the territory. The range of land use is outlined in the Arrowhead Specific Plan. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following reorganization unless specific actions are taken by the City Council at a public hearing.
7. The City of San Bernardino, as a function of its review for the General Plan Update, including pre-zoning its sphere of influence, and Arrowhead Springs Specific Plan (SCH No. 200411132), prepared an environmental impact report and Mitigation Monitoring Program which indicates that approval of the project will have an unavoidable significant adverse impact on the environment. In addition, the Commission's Environmental Consultant prepared an Addendum to the City's environmental documents assessment that addresses the addition of 1.78 acres contained within APNs 0270-0211-01 and 0270-011-01 which are included in the City's pre-zoning and 16.3 acres within Sections 3 and 10, T1N, R4W included within the State Route 18 right-of-way to provide for the environmental assessment of the entire reorganization area and to substantiate that the additional acreage will not cause physical changes in the environment beyond that identified in the City's adopted Final EIR.

The Commission certifies that it has reviewed and considered the Addendum and the City's Final EIR and the environmental effects as outlined in the FEIR prior to reaching a decision on the project and finds the information substantiating the Addendum and the FEIR are adequate for its use in making a decision as a CEQA lead agency. The Commission finds

RESOLUTION NO. 2942

that it does not intend to adopt alternatives or mitigation measures for this project as all changes, alterations and mitigation measures are within the responsibility and jurisdiction of the City and/or other agencies and not the Commission; and finds that it is the responsibility of the City to oversee and implement these measures. The Commission directs its Clerk to file a Notice of Determination within five (5) working days with the San Bernardino County Clerk of the Board of Supervisors.

8. The City of San Bernardino has submitted a plan for the provision of services as required by Government Code Section 56653, which indicates that the City can, at a minimum, maintain the existing level of service delivery and can improve the level and range of selected services currently available in the area. Upon reorganization, the City of San Bernardino will extend its services as required by the progression of development. The Fiscal Impact Analysis portion of the original Plan for Service provides a general outline of the anticipated revenues/costs for the reorganization area and Specific Plan as a whole. The Plan indicates that revenues are anticipated to be sufficient to provide the level of services identified through the City and other agencies. Through the identified financing mechanisms, the Plan shows that the level of service will be adequate for the development anticipated and that the revenues anticipated are sufficient to provide for the infrastructure and ongoing maintenance and operation of these services. The financial information presented within the City's Plan for Service indicates that the extension of services can be maintained and operated within the existing revenue resources available through the transfer of property taxes and fees for service.

The City of San Bernardino Municipal Water Department, Campus Crusade for Christ, Inc. and Arrowhead Springs Corporation in August 2009 entered into an Agreement in Principle regarding the future delivery of domestic, irrigation and recycled water and wastewater service. The City of San Bernardino Municipal Water Department has provided updated sections for the Plan for Service related to water and sewer service amplifying the Agreement in Principle. The City of San Bernardino has indicated that the service delivery documents and fiscal impact analysis for the delivery of those services will be refined during future considerations as specific tract developments are processed through the City. These Plans for Service have been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The Commission finds that these Plans conform to those adopted standards and requirements.

9. The areas in question are presently served by the following public agencies: County of San Bernardino, Inland Empire Resource Conservation District, San Bernardino Valley Municipal Water District (all of Area 1 and a portion of Area 2), Crestline-Lake Arrowhead Water Agency (a portion of Area 2), San Bernardino County Fire Protection District and its Valley Service Zone (formerly known as County Service Area 70 and County Service Area 38 respectively), and County Service Area 70 (County-wide multi-function agency)

The San Bernardino County Fire Protection District, its Valley Service Zone, and CSA 70 will be detached through successful completion of this reorganization. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

10. The reorganization proposal complies with Commission policies and directives and State law that indicate the preference for areas proposed for urban intensity development to be included within a multi-function agency for the provision of those services in the most efficient and effective service delivery system.

RESOLUTION NO. 2942

11. All notices required by State law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, opposition to this annexation has been received and considered by the Commission in making its determination.
12. The reorganization area can benefit from the availability and extension of municipal-level services from the City of San Bernardino, as evidenced by the original and updated Plan for Services.
13. This proposal complies with Commission policies that indicate the preference for areas proposed for future development at an urban-level land use to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.
14. This proposal will assist the City's ability to achieve its fair share of the regional housing needs as it proposes the addition of 1,350 residential units.
15. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City while, at the same time, will not result in unfair treatment of any person based upon race, culture or income
16. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this reorganization. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
17. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

SECTION 3. Approval by the Local Agency Formation Commission indicates that completion of this proposal would accomplish the proposed change of organization in a reasonable manner with a maximum chance of success and a minimum disruption of service to the functions of other local agencies in the area.

SECTION 4. The Executive Officer is hereby authorized and directed to mail certified copies of this resolution in the manner provided by Section 56882 of the Government Code.

SECTION 5. The Commission hereby directs that, following completion of the reconsideration period specified by Government Code Section 56895(b), the Executive Officer is hereby directed to initiate protest proceedings in compliance with this resolution and State law.

SECTION 6. Upon conclusion of the protest proceedings, the Executive Officer shall adopt a resolution setting forth her determination on the levels of protest filed and not withdrawn and setting forth the action on the proposal considered.

SECTION 7. Upon adoption of the final resolution by the Executive Officer, either a Certificate of Completion or a Certificate of Termination, as required by Government Code Sections 57176 through 57203, and a Statement of Boundary Change, as required by Government Code Section 57204, shall be prepared and filed for the proposal.

RESOLUTION NO. 2942

THIS ACTION APPROVED AND ADOPTED by the Local Agency Formation Commission of the County of San Bernardino by the following vote:

AYES: COMMISSIONERS:

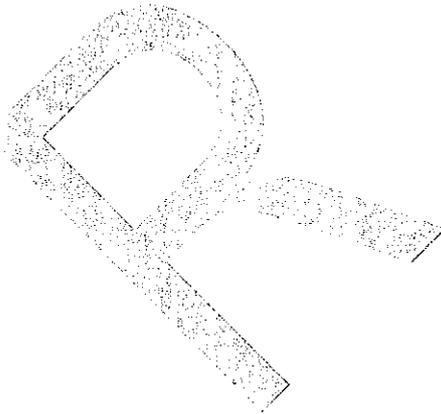
NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, KATHLEEN ROLLINGS-MCDONALD, Executive Officer of the Local Agency Formation Commission of the County of San Bernardino, California, do hereby certify this record to be a full, true, and correct copy of the action taken by said Commission by vote of the members present as the same appears in the Official Minutes of said Commission at its regular meeting of November 18, 2009.

DATED:



KATHLEEN ROLLINGS-MCDONALD
Executive Officer