

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

CONSIDERATION OF (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3067A; AND (2) LAFCO 3067A – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 (ISLAND 1) AND DETACHMENTS FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE AND ITS SERVICE ZONE PM-2 (PARAMEDICS), COUNTY SERVICE AREA 70, AND COUNTY SERVICE AREA SL-1 (CONTINUED FROM SEPTEMBER 16, 2009)

LAFCO conducts a public hearing to consider 3067A – Reorganization to include City of San Bernardino Annexation No. 361 (Island 1) and Detachments from the San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2 (Paramedics), County Service Area 70, and County Service Area SL-1. Notice of the hearing was advertised as required by law through publication of a 1/8 page ad in the Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice. Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein.

Ms. McDonald reviews on the overhead the map for LAFCO 3067A – Area 1.

She says that Area 1 is generally located north of Marshal Boulevard, east of Sterling Avenue, south of a combination of Foothill and Piedmont Drives and parcel lines on the west abutting the San Manuel Casino parcel. The island as modified by the Commission comprises 135+/- acres, it is 80% surrounded by existing city boundaries, so it is substantially surrounded and complies with the Commission's policy declaration defining substantially surrounded. The study area is substantially developed; there are public improvements and physical improvements in the area; it does not contain any prime agricultural land as defined by LAFCO statutes. She states that the area will benefit from the annexation and has benefited from services provided by the City through contract with the San Bernardino County Fire Protection District. The City conducted an outreach program for the residents in this area prior to submission of the application as directed by the Mayor's office, LAFCO staff has sent individual notice to each landowner and registered voter in the area and in the surrounding area, and the area is not included within an established County Redevelopment Area.

She states that the area meets the criteria for an island annexation and it is LAFCO staff's analysis that the Commission is required to approve LAFCO 3067A and waive the protest proceedings, as required by Government Code Section 56375.3. The Land Uses for the area are listed in the City's General Plan as Residential Suburban, which allows 4.5 dwelling units per acre or 7,200 square foot minimum lot size and Public Facility for the flood control channel.

Ms. McDonald states that the environmental review has been conducted by the Commission's Environmental Consultant, Tom Dodson and Associates. She states that Mr. Dodson has indicated that the island annexation is statutorily exempt from the California Environmental Quality Act (CEQA) as the Commission has no discretion in its review of this proposal and must approve the project.

Ms. McDonald states that LAFCO staff has included the findings as part of the staff report, as required by Government Code Section 56668, which indicates that the proposal will resolve jurisdictional confusion for the delivery of governmental service to these developed areas.

She states that LAFCO staff's recommendation for Area 1 is for the Commission to adopt the Statutory Exemption; modify LAFCO 3067A as presented to the Commission to include the detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1; approve the proposal with the following conditions – (a) that the City of San Bernardino's 7.75% Utility Users Tax on properties will not be extended to the annexation area, (b) all street lights currently the responsibility of the County Service Area SL-1 will be transferred to the City of San Bernardino upon successful completion of the annexation, (c) that the standard terms and

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

conditions of approval that include the "hold harmless" clause; that the Commission waive all protest proceedings, as required by Government Code Section 56375.3; and that the Commission adopt LAFCO Resolution No. 3071 setting forth the Commission's findings and determinations concerning this proposal.

Chairman Nuaimi opens the Public Hearing.

Bob Curlin states that he is opposed to the annexation. He states that the outreach mentioned by LAFCO staff was minimal. He says that many residents have commercial vehicles or recreational vehicles in front or on their property, not in the streets but not behind a covering as required by the City of San Bernardino. He is concerned that he will be fined for the parking his recreational vehicle. He states that it is a burden on the landowners to change from a 5 digit address to a 4 digit address, as it affects credit reporting and will also require the notification of address change to all bill collectors. He also questions whether the contribution from the San Manuel Indians will continue to be received by the Fire and Police Departments. He states that it is his opinion that the City of San Bernardino has a bad reputation and does not want to be a part of the City, as he is very happy with San Bernardino County and does not wish to change.

David Drake states that he is opposed to the annexation. He states that he does not want to change to a San Bernardino address. He is concerned with what the ramifications of having a recreational vehicle parked on his property are with regards to code enforcement and is satisfied with the fact that the utility tax will not be extended to those in the annexation area and is not pleased that his vote was taken from him. He does not want a 4 digit address; he feels that it would be a burden to change his address and is displeased to learn that he will not be able to use Jack's for his disposal service. He asks if a member of staff can clarify what the City's policy will be concerning parking commercial vehicles in front of ones house.

Christopher Fleming states that he is concerned with changing from a county resident to a city resident. He asks to review on the over head a map of Area 1 and asks why the entire area is not included in the annexation. He would like to have the City take the annexation determinations to the residents so that they can vote on whether they want to be part of the City. He states that he would like to know why certain areas were not included in this annexation and asks that a member of LAFCO staff or City staff address this question. He also states that he has not been satisfied with the service provided by the City Fire Department.

David Mellor states that he is opposed to the address change; he also states that he has not been satisfied with the service provided by the City Fire Department and that the County has always provided good care to the residents in his area. He states that he is opposed to becoming part of the City.

Chairman Nuaimi closes the public hearing on 3067A and asks for comments from the Commission.

Chairman Nuaimi asks staff for clarification of who provides fire service for Area 1, to which Ms. McDonald states that the City of San Bernardino provides fire service in this area due to the fact that the San Bernardino County Fire Protection District does not have a facility in that area. The contract with the City has been in place for a number of years. She says under mutual aid agreements, which includes the San Manuel Fire Department, the closest responder responds to these areas through a contract that has been in place since 2006. She says that County Fire is available if the Commission should have any questions specific to service delivery.

Ms. McDonald states that in response to the question of why the annexation areas were taken in sections, island annexations have an acreage limitation and so these annexations were designed to meet those criteria. Chairman Nuaimi states that the Commission expanded the island area west of the flood control area when the proposal first came before the Commission; the City of San Bernardino took the area up to the flood control property and the Commission determined that there was a natural boundary to the west and expanded it accordingly.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Ms. McDonald states that with regard to the commercial vehicle parking, the City of San Bernardino is available to answer to that question. Chairman Nuaimi asks for staff from the City of San Bernardino to address questions that have been brought before the Commission and asks for LAFCO staff to show the vicinity map of all the islands on the overhead. Chairman Nuaimi addresses the comment made that the Commission should refrain from approving piecemeal annexations and he points out that the existing layout of land is a result of piecemeal annexations and that historically if Cities only annex those who are willing to be annexed, the City ends up with small, disparate islands that are not easily or readily served by County services. This is why the state legislature passed the law to allow for this island annexation provision.

Valarie Ross, City of San Bernardino, Development Services, states that the City currently allows recreational vehicle and/or commercial parking behind the front plane of the house as long as there is a fence in front of it. It is not permitted in the drive way and it is only permitted on the street for 48 hours for loading or unloading purposes.

Chairman Nuaimi asks how it will effect the statement that if it is legal in the County it is legal in the City grandfather provision. Ms. McDonald states that the City would have to answer that question and that it is currently a legal county use. She asks Ms. Ross from the City of San Bernardino if the residents will have a transitional period of time that would allow them the time to come to code compliance. Ms. Ross states that she will confer with the City's legal counsel for the answer to Ms. McDonald's question.

Chairman Nuaimi asks if the code enforcement process is proactive or if it is reactive to a complaint.

Ms. Ross states that typically code enforcement is addressing a neighbor complaint, so it is reactive.

Ms. McDonald asks Ms. Ross if the citizens are accustomed to recreational and commercial vehicles parked in the driveways or out in front of the home, unless the city receives complaints regarding the parking of the vehicles in the driveway, code enforcement will not be sent out to assess these residents.

Commissioner Williams asks if parking the recreational and commercial vehicles on private property is legal in the County, to which Ms. McDonald responds that there is no one from the County present to address the question, but LAFCO staff will research the question and inform the Commission of the answer and informs the Commission that parking of vehicles is not a land use issue, but rather a code enforcement issue.

Chairman Nuaimi comments that in cases where County areas become part of the City through annexation, like the recent Fontana Islands, many time County code enforcement issues such as the parking of commercial vehicles, are also forwarded to the City, which took about three years to get closure to some of the issues. Ms. McDonald states that there are currently existing County code enforcement issues in all six of the island on file with the County and adds that the staff report outlines that LAFCO staff will be meeting with City staff to provide for a smooth transition for code enforcement as well as development activity such as building and safety.

Commissioner Cox asks for the map of the next segment of islands to be shown on the overhead display. Commissioner Cox asks when the other areas noted on the overhead map will be annexed into the City of San Bernardino, to which Ms. McDonald responds that those areas will be the topic of future discussions with the City. Commissioner Cox states that those unincorporated areas are a continued concern for the seamless provision of service and she expects that those will come before the Commission in a timely manner.

Ms. Ross states that the City makes a distinction between recreational vehicles and commercial vehicles. Through the City's development code a recreational vehicle is considered as a non-conforming use that

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

goes with the property and would be grandfathered and allowed to continue if it has been established with the County. The City's municipal code addresses the issue of commercial vehicle parking and the commercial vehicle parking would not be permitted in residential areas. Commissioner Williams asks if there is a distinction of size for commercial vehicles since a commercial vehicle can be a pick-up truck that is required for a personal business. Ms. Ross states that there is a size distinction and she will provide the size limitations for the Commission.

Chairman Nuaimi clarifies that if it is a legal non-conforming use today, it would be grandfathered into the City. Once the annexation is final, any new vehicles would have to conform to the City development and municipal codes. The same applies to properties that currently house horses. Those properties will be grandfathered into the city and the land use will continue, however, once the property no longer houses horses, the grandfather provision is null after 6 months. If a property is a horse property, but there are no horses on the property at the time of annexation, there is no grandfathering; the property must conform to the City statutes.

Ms. McDonald states that so long as it is a continuous use of the property there is no change, but if it is stopped for a period of time, then the grandfathering is lost.

Chairman Nuaimi states that the issue and impact of the address change needs to be resolved and asks what the time frame is for the residents and the City.

Ms. McDonald states that the City will be mailing out notices to the residents being annexed. She says that she would like to clarify that if a mailing address is currently Highland, California as some residents in the north eastern portion have, that will not change; the United States Post Office decides whose post office and what postal name is used for an address. The only change will be the numbering system, and the City will notify all those affected of the new sequence. She says that the City is planning on an implementation period of one year for the transition.

Chairman Nuaimi states that the 5 digit goes to 4 digits but the zip code does not change. The zip code defines the city per the US Postal Service, so if a resident is Highland now, they will continue to be Highland but will be able to vote in the City of San Bernardino. Commissioner Mitzelfelt asked if the City or the Postal Service would be willing to make the change in the City name. Ms. McDonald states that the northern end of San Bernardino, east ward to highway 30 have had a Highland mailing address for more than 40 years. Unless the City was to seek to change that specifically, which they have never done, it would remain Highland, per the United States Postal Service.

Commissioner Curatalo states that as a fireman he can appreciate the logic in having matching sequential street addresses for providing expedited emergency services. He asks if the City of San Bernardino will be providing any assistance to the residents during the transition period.

Les Fogassy, Development Services, City of San Bernardino, states that the address change process will take about a year to complete, and states for the record that, not just the five digit addresses will change, the four digit addresses will also change if they are not in sequential order and do not align to the City's grid, they will also change. The City will work with the post office and the post office will cross reference both addresses for about a year. The City will be sending template letters to the landowners that they can use to notify their creditors of the City's change in address. The City will begin mailing out the notifications to the landowners about a month after the effective date of the annexation which will have both the old address and the new address. Ms. McDonald clarifies that all the landowners and residents will receive a master letter that they can provide to their creditors noticing them of the change of address.

Chairman Nuaimi states that the question of the contribution from the San Manuel Indians to the fire and police departments in the area remains and asks Ms. McDonald for clarification. Ms. McDonald states that the San Manuel Indians contribute to the City of San Bernardino, the County Sheriff, and the City of

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Highland. The San Manuel Indians help support the safety activities throughout that region and she has not received any information that the annexation will change those contributions nor will it effect the mutual aid agreement the San Manuel Fire Department has with County and the City.

Chairman Nuaimi asks if the contribution was part of the revenue considered in the Plan for Service for the annexation. Ms. McDonald states that contributions are not considered revenue since they are at the good will of the provider and are not considered such during LAFCO staff's review of proposals.

Valarie Ross states that they City's Municipal Code in section 10.16.120 does not allow parking of commercial vehicles of 10,000 lbs. gross vehicle weight rating in residential areas. She says that Title 19 of the Municipal Code, which is the City's Development Code, in Section 19.62 addresses non-conforming using and non-conforming structures. Both the Municipal Code and Development Code can be viewed on line through the City's Web Page and copies are also available at the City Clerk and Development Services offices.

Chairman Nuaimi states that with regards to the Community Outreach, the landowners and the registered voters have received two letters from LAFCO staff and the Outreach was conducted by the City in 2006 when it was originally started. Ms. McDonald states that in 2006 when the application was first circulated the City did provide extensive newspaper coverage. LAFCO staff has a standard distribution of information listing that has received all the information regarding the annexation. She says that LAFCO staff has also twice provided individual notice to all landowners and registered voters and also has made all the notice information available on the LAFCO Website.

Chairman Nuaimi reviews on the overhead the recommendations provided by LAFCO staff.

Commissioner Cox moves approval of the item, second by Commissioner Williams. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Cox, Curatalo, Nuaimi, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane, McCallon (Commissioner Williams voting in his stead).