

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO**

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PROPOSAL NO.: LAFCO 3067B

HEARING DATE: NOVEMBER 18, 2009

RESOLUTION NO. 3072

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3067B AND APPROVING THE REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 AND DETACHMENTS FROM 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 (ISLAND AREA #2). The reorganization area consists of 10 +/- acres generally located north of Lynwood Drive and west, south and east of parcels lines which comprise the existing City of San Bernardino boundaries. The area includes territory east and west of McKinley Avenue, Newcomb Street, and Hudson Avenue.

On motion of Commissioner Pearson, duly seconded by Commissioner Mitzelfelt, 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 order or orders continuing the hearing; and,

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

WHEREAS, the Commission determines to modify LAFCO 3067 to divide it for consideration into six separate proposals, to be known as LAFCO 3067A through 3067F and Area #2 is to be known as LAFCO 3067B; and

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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 3067B.

Condition No. 3. All previously authorized charges, fees and/or assessments 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's 7.75% Utility Users Tax will not be extended to the reorganization area.

Condition No. 5. 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. 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 Certificate of Completion to make the necessary changes to impacted utility customer accounts.

Condition No. 7. All streetlights currently the responsibility of County Service Area SL-1 within the annexation areas shall be transferred to the City of San Bernardino upon successful completion of the reorganization. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights; LAFCO staff shall verify the data; and the City of San Bernardino shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of San Bernardino accounts, prior to issuance of the Certificate of Completion.

Condition No. 8. The date of issuance of the Certificate of Completion shall be the effective date of this reorganization.

SECTION 2. Pursuant to Government Code Section 56375.3(a) and adopted Commission policies, the Commission makes the findings related to the proposed reorganization:

- the island area comprises a total of 10 +/- acres in size, which makes it less than the 150-acre threshold; and the area constitutes the entire island of unincorporated territory;
- the island area is substantially surrounded, being approximately 68% surrounded by existing City of San Bernardino boundaries which complies with the Commission policy declaration of substantially surrounded;
- the island area is substantially developed or developing, based upon the findings that public services are available in the area, there are public improvements in the area, and there are physical improvements on many, if not most, of the properties;
- the island area does not contain prime agricultural land as such is defined by LAFCO statutes;

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- the island area will benefit from the annexation and has benefited from services provided by the City of San Bernardino through contract with the San Bernardino County Fire Protection District (formerly known as County Service Area 38);
- the City of San Bernardino has conducted an outreach program prior to submission of the reorganization application; and,
- the area is not included within an established County Redevelopment area.

Therefore, having made said determinations, the Commission determines to waive the protest proceedings. This proposal is subject to the provisions of Government Code Section 56375(a) (3) which mandates Commission approval of the proposal if it complies with the provisions of Government Code Section 56375.3.

SECTION 3. FINDINGS. The following findings are noted in conformance with Commission policy:

1. The Registrar of Voters Office has determined that Area #2 is legally inhabited, containing 60 registered voters as of October 13, 2009.
2. The study area is within the sphere of influence assigned the City of San Bernardino.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements for Area #21 is \$4,837,644 (\$1,225,673 land; \$3,611,971 improvements).
4. In compliance with the requirements of Government Code Section 56157 and Commission policy, LAFCO staff has provided individual notices to landowners (totaling 35 notices) and registered voters (totaling 60 notices) within the reorganization area. Notice was provided to surrounding landowners (1,409) and registered voters (2,035) for the three northern islands on October 27, 2009. The total number of notices provided, in accordance with State law and adopted Commission policies, is 3,539. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determination. Protest to this reorganization, and its island provisions, has been received and considered by the Commission in making its determinations.
5. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, newspaper of general circulation within the study area. Individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
6. The City of San Bernardino pre-zoned its sphere of influence through adoption of its General Plan Update in October 2006. The land use designations to be applied within the reorganization area upon annexation are RS (Residential Suburban) – 4.5 dwelling units per acre/7,200 square foot lots. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council at a public hearing.
7. The Local Agency Formation Commission has determined that this proposal is statutorily exempt from environmental review. The basis for this determination is that this island area reorganization can be implemented without causing any identifiable physical changes to the environment or any adverse environmental impacts. Approval of this proposal is mandated by Government Code Section 56375, since the Commission has made those findings contained in Government Code Section 56375.3 related to annexation of these islands. Since the Commission has no discretion in this matter, approval of this proposal is a ministerial action that is exempt from environmental review under the provisions of the California Environmental Quality Act (CEQA), Section 21080(b), the State CEQA Guidelines, Section 15268, and the Commission's adopted CEQA Guidelines. The Commission adopted the Statutory Exemption and directed its Executive Officer to file a Notice of Exemption within five (5) days with the San Bernardino County Clerk of the Board of Supervisors.

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8. Upon annexation, the City of San Bernardino will extend its services as required by the existing and anticipated land uses. The City has submitted a plan for the provision of services, as mandated by Government Code Section 56653, which indicates that revenues are less than the costs for providing the service; however, the revenues anticipated from the annexation of LAFCO 3050 are anticipated to exceed the cost of service covering this shortfall. Water and sewer service to the island area is currently provided by the East Valley Water District, fire protection/paramedic services are currently provided by the City of San Bernardino Fire Department through contract with the San Bernardino County Fire Protection District and ambulance service is provided by American Medical Response. The City of San Bernardino has indicated in its application and Plan for Service that its 7.75% Utility Users Tax on properties will not be extended to this area upon annexation. In addition, LAFCO staff has included a condition in its recommendation for approval that indicates that the utility tax will not be applied to the island annexation area until such time as the registered voters have an opportunity to vote on the matter. The Plan for Service has been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The Commission finds that such Plan conforms to those adopted standards and requirements.
9. The local agencies currently serving the area are: County of San Bernardino, Inland Empire Resource Conservation District, San Bernardino Valley Municipal Water District, San Bernardino Valley Water Conservation District, San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2, East Valley Water District, County Service Area SL-1, and County Service Area 70.

San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, CSA SL-1 and CSA 70 will be detached upon 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 annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them to provide for a more efficient and effective service delivery system.
11. The study area can benefit from the availability of municipal-level services from the City of San Bernardino and have benefited from City level fire protection services through contract with the County.
12. This proposal will have minimal effect on the City of San Bernardino's ability to achieve its fair share of the regional housing needs as it is primarily built-out residential uses.
13. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City and, at the same time, will not result in unfair treatment of any person based upon race, culture or income.
14. 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 annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
15. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

SECTION 4. The affected territory will not be taxed for existing bonded indebtedness and/or contractual obligations of the City of San Bernardino. The regular County assessment roll will be utilized by the City of San Bernardino.

SECTION 5. The reasons for this reorganization, as provided by the City, are: (1) in response to Senate Bill 1266 (the "island" annexation bill) and the annexation policy adopted by the Local Agency Formation Commission, the City of San Bernardino initiated the annexation of the unincorporated island area; and (2) the annexation of the island area will assist in reducing jurisdictional confusion between the City's limits and the County's unincorporated area and will aid in the delivery of public services in an efficient manner.

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SECTION 6. 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 7. The Commission hereby orders the territory described in Exhibits A and A-1 reorganized to include annexation to the City of San Bernardino. The Commission hereby directs that, following completion of the reconsideration period specified by Government Code Section 56895(b), the Executive Officer shall prepare and file a Certificate of Completion, as required by Government Code Sections 57176 through 57203, and a Statement of Boundary Change, as required by Government Code Section 57204.

SECTION 8. 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.

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

AYES: COMMISSIONERS: Cox, Curatalo, Mitzelfelt, Nuaimi, Pearson, Williams

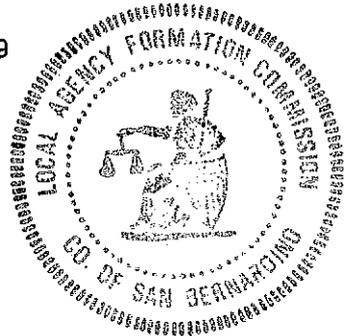
NOES: COMMISSIONERS: None

ABSENT: COMMISSIONERS: Biane, McCallon (Williams voting in his stead)

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: November 19, 2009



Kathleen Rollings-McDonald

KATHLEEN ROLLINGS-McDONALD
Executive Officer

LAFCO 3067 B

Reorganization to Include City of San Bernardino Annexation No. 361 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 (Area 2)

All those portions of unincorporated territory located in Section 30, Township 1 North, Range 3 West, San Bernardino Meridian, in the County of San Bernardino, State of California, described as follows:

BEGINNING at the intersection of the southerly prolongation of the east line of Tract No. 7408, according to Map thereof, recorded in Book 99 of Maps, pages 9 thru 10, records of said County, and the centerline of Lynwood Drive, 82.50 feet wide, said point being an angle point on the existing Corporate City Limit Line of the City of San Bernardino as established by "Annexation No. 212" (LAFCO 637);

- 1) Thence westerly, leaving said "Annexation No. 212" and said existing Corporate City Limit Line, along said centerline of Lynwood Drive to an angle point on said existing Corporate City Limit as established by said "Annexation No. 212" (LAFCO 637);
- 2) Thence, following said existing Corporate City Limit Line through its various courses in a generally northerly, easterly, and southerly direction to the **POINT OF BEGINNING**.

Area 2 contains 10.09 acres (0.0158 square miles), more or less.

