

**Draft LAFCO Resolution #3107**

**Attachment 7**

PROPOSAL NO.: LAFCO 3161

HEARING DATE: SEPTEMBER 15, 2010

**RESOLUTION NO. 3107**

**A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3161 AND APPROVING THE ESTABLISHMENT OF THE BARSTOW FIRE PROTECTION DISTRICT AS A SUBSIDIARY DISTRICT OF THE CITY OF BARSTOW. (The area encompasses the entirety of the District boundaries).**

**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 establishment of subsidiary district 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; 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

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

RESOLUTION NO. 3107

**DETERMINATIONS:**

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

**CONDITIONS:**

**Condition No. 1.** The boundaries of this change of organization are approved as set forth in Exhibit "A" attached.

**Condition No. 2.** The following distinctive short-form designation shall be used through this proceeding: LAFCO 3161.

**Condition No. 3.** The effective date of this action shall be the date of issuance of the Certificate of Completion.

**Condition No. 4.** Upon the effective date of the establishment of the Barstow Fire Protection District as a subsidiary District of the City of Barstow all full-time safety employees of the District shall be retained with the same rights, seniority, benefits and salaries as they now receive through the end of Fiscal Year 2010-11 or upon completion of lawful contract negotiations between the District and its employee groups. All non-safety employees shall become employees of the City with all rights, seniority and benefits as they now receive through the end of the Fiscal Year or negotiated contract provisions.

**Condition No. 5.** Upon the effective date of the establishment of the District as a Subsidiary District of the City of Barstow, the Barstow Fire Protection District shall continue to function under and carry out all authorized duties and responsibilities assigned to a fire protection district as outlined in the Fire Protection District Law of 1987 (Bergeson Fire District Law), Health and Safety Code Sections 13800 et seq. and other applicable laws.

**Condition No. 6.** The Barstow Fire Protection District, through the operation of the City of Barstow City Council as the ex-officio Board of Directors, shall maintain continuity of service across the District's jurisdiction regardless of whether the territory served is a part of the City of Barstow.

**Condition No. 7.** All property tax revenue attributable to Barstow Fire Protection District prior to calculations required by Section 98.6 of the Revenue and Taxation Code, including delinquent taxes and any and all other collections or assets of the District, shall continue to accrue and be transferred to the Barstow Fire Protection District unimpeded by the approval and completion of LAFCO 3161.

**Condition No. 8.** All previously authorized charges, fees, assessments, and/or taxes of the Barstow Fire Protection District shall continue in the same manner as provided in the original authorization pursuant to the provisions of Government Code Section 56886(t).

**Condition No. 9.** Upon approval by the Local Agency Formation Commission, pursuant to the provisions of Government Code Section 56885.5(a)(4), the Board of Directors of the Barstow Fire Protection District, as the governing body of the District, is prohibited from taking the following actions unless an emergency situation exists as defined in Section 54956.5:

## RESOLUTION NO. 3107

1. Approve any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency. Exceptions to this prohibition include planned and budgeted merit and range increases for the District, as identified in the adopted budget.
2. Appropriating, encumbering, expending, or otherwise obligating, any revenue of the agencies beyond that provided in the current budget at the time the dissolution is approved by the Commission.

The Commission identifies that the budget to be utilized in this condition shall be the adopted budget for Fiscal Year 2010-11.

**Condition No. 10.** Upon completion of the reconsideration period specified by Government Code Section 56895(b), the Executive Officer shall complete the protest proceedings pursuant to Government Code Section 56854, without an election, unless at least 25% of the registered voters or 25% of the landowners within the District submit written protest to this proposal at the protest hearing.

**Condition No. 11.** The City of Barstow and the Barstow Fire Protection District, applicants, 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.

**SECTION 2.** The following determinations are made pursuant to the requirements of Government Code Section 57105 and Commission policies:

1. The San Bernardino County Geographic Information Management System (GIMS) of the Information Services Department determines that the boundary of the Barstow Fire Protection District consists of 29,188.27 acres. The boundary of the City of Barstow within the District consists of 22,237.77 acres. The Commission determines that 76.18% of the District boundaries are contained within the City of Barstow thus fulfilling the criteria contained within Government Code Section 57105(b)(1).
2. The San Bernardino County Registrar of Voters determines that as of September 1, 2010, the boundaries of the Barstow Fire Protection District contained 11,069 registered voters. Of those 8,072 are within the boundaries of the City of Barstow. The Commission determines that 70% of the District's voters are within the City of Barstow thus fulfilling the criteria contained within Government Code Section 57105(b)(2).
3. Upon the effective date of LAFCO 3161, the City Council of the City of Barstow shall become the ex-officio Board of Directors of the Barstow Fire Protection District.
4. The Commission determines that the establishment of the Barstow Fire Protection District as a subsidiary district of the City of Barstow does not affect the safety employees of the District, the separate budget for the district, or other matters pertinent to the daily operations of the District.

**SECTION 3. FINDINGS.** The following findings are noted in conformance with Commission policy and State law:

1. The County Assessor has determined that the total assessed value of land and improvements within the proposal is as follows:

RESOLUTION NO. 3107

Barstow Fire Protection District -- \$1,469,083,263  
(\$457,027,102 – land; \$1,012,057,161 Improvements)  
City of Barstow -- \$1,158,939,980  
(\$376,767,126 – land; \$782,172,854 – Improvements)

2. The area is within the sphere of influence assigned the Community of Barstow which includes the City of Barstow and Barstow Fire Protection District with coterminous spheres.
3. Notice of the Commission's review of this proposal has been advertised in *The Desert Dispatch*, newspaper of general circulation within the dissolution area through publication of an 1/8<sup>th</sup> page legal ad, as required by law. As required by state law, individual notice has been provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notification.
4. In compliance with Commission policy and Government Code Section 56157, the notice of this hearing has been provided by publication of an 1/8<sup>th</sup> page legal ad in *The Desert Dispatch*, a newspaper of general circulation in lieu of individual notice. To date, no opposition to this proposal has been received.
5. This proposal does not have an effect on or conflict with the General Plan of either the County of San Bernardino or the City of Barstow.
6. The Local Agency Formation Commission has determined that this proposal is statutorily exempt from environmental review. This recommendation is based on the finding that the Commission's approval of the dissolution would not result in an alteration of the physical environment and would not change the area in which the service is provided; therefore, the proposal is exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15061 (b) (3). The Commission directs its Executive Officer to file a Notice Exemption within five (5) working days with the San Bernardino County Clerk of the Board of Supervisors.
7. The area within the Barstow Fire Protection District is also served by the following local agencies: County of San Bernardino, City of Barstow, Odessa Water District, Barstow Cemetery District, Barstow Heights Community Services District, Mojave Water Agency, Mojave Desert Resource Conservation District, County Service Area SL-1, County Service Area 40 (TV Translator), County Service Area 70 (multi-function, county-wide) and its Zones S-7, (sewer Lenwood), and R-42 (roads). The only agencies directly affected by this proposal are the City of Barstow and the Barstow Fire Protection District.
8. The City of Barstow and Barstow Fire Protection District have submitted a joint plan for services addressing the establishment of the district as a subsidiary district. This document has been provided to the Commission for its review and it indicates that the range and level of services will be maintained following the change in governing body proposed by LAFCO 3161. 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 the adopted standards and it

**RESOLUTION NO. 3107**

indicates that the range and level of services will be maintained following the change and that no alteration in the jurisdictional territory of the district will occur.

- 9. The area in question can benefit following the change in governance for the District through economies of scale as outlined in the Plan for Services.
- 10. This proposal and its anticipated effects conform to adopted Commission policies and directives of state law that promote the simplification of government.
- 11. Pursuant to the provision of Government Code Section 56668(o), the establishment of the Barstow Fire Protection District as a subsidiary district of the City of Barstow will not result in the unfair treatment of any person, based upon race, culture or income.

**SECTION 4.** 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 5.** 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 6.** 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 7.** 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 8.** 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.

**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:**

\*\*\*\*\*

