

Draft LAFCO Resolution #3106

Attachment 6

PROPOSAL NO.: LAFCO 3156

HEARING DATE: SEPTEMBER 15, 2010

RESOLUTION NO. 3106

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3156 AND APPROVING THE DISSOLUTION OF COUNTY SERVICE AREA 17 AND THE DESIGNATION OF THE TOWN OF APPLE VALLEY AS THE SUCCESSOR AGENCY (STREETLIGHTS – EASTERN APPLE VALLEY). (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 dissolution 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. 3106

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 3156;

Condition No. 3. The effective date of this dissolution shall be the date of issuance of the Certificate of Completion;

Condition No. 4. The Town of Apple Valley shall be designated as the successor agency to all rights, responsibilities, properties, equipment, contracts, assets and liabilities, obligations and functions of County Service Area 17;

Condition No. 5. As a function of the dissolution of CSA 17, all streetlights currently the responsibility of CSA 17 shall be transferred to the Town of Apple Valley as the successor agency. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights; LAFCO staff shall verify the data, and the Town of Apple Valley shall sign the authorization form requesting Southern California Edison to transfer the streetlights to the Town of Apple Valley accounts upon successful completion of LAFCO 3156.

Condition No. 6. Pursuant to the provisions of Government Code Section 568886(r), as a function of the dissolution of CSA 17, the contractual agreement between the Town of Apple Valley, successor agency, and the County of San Bernardino, governing body of CSA 17, provided as Exhibit B to this Resolution, shall be implemented regarding streetlighting activities within the unincorporated sphere of influence of the Town of Apple Valley.

Condition No. 7. As a condition of the dissolution of CSA 17 the County of San Bernardino, as the governing body of CSA 17, will conduct a financial compliance audit for CSA 17 for the period ended June 30, 2010 funded through CSA 17 resources;

Condition No. 8. Within sixty (60) days of the effective date of the dissolution, the County shall transfer 80% of all current cash balances for CSA 17 to the Town of Apple Valley. The retained 20%, or balance thereof, will be transferred no later than June 30, 2011. The 20% retention of cash balance shall be used to pay for any liabilities or obligations (including, but not limited to audit exceptions) which arose prior to the dissolution of CSA 17. Any expenditures from the cash balance between the effective date of dissolution and June 30, 2011 will be accounted for and itemized by the County of San Bernardino for the Town of Apple Valley.

Condition No. 9. All property tax revenue attributable to CSA 17 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 to be dissolved, shall accrue and be transferred to the Town of Apple Valley as the successor agency.

Condition No. 10. In future fiscal years, the ratio of property tax revenue attributable to the

RESOLUTION NO. 3106

Town of Apple Valley shall be adjusted within the corporate boundaries so that the amount distributed to the Town will include the amount that would have been distributed to County Service Area 17 which was generated outside the Town's boundaries.

Condition No. 11. The appropriation limit currently assigned to CSA 17 through action of its governing body shall be added to that of the Town of Apple Valley as the successor agency.

Condition No. 12. All previously authorized charges, fees, assessments, and/or taxes of County Service Area 17 shall be continued and assumed by the Town of Apple Valley, as the successor agency, in the same manner as provided in the original authorization pursuant to the provisions of Government Code Section 56886(t).

Condition No. 13. Pursuant to the provisions of Government Code Section 56885.5(a)(4), the County Board of Supervisors, as the governing body for CSA 17 is prohibited from taking the following actions unless an emergency situation exists as defined in Section 54956.5:

1. Approve any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency;
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. 14. 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. 15. 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. 16. The County of San Bernardino, applicant, 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. FINDINGS. The following findings are noted in conformance with Commission policy and State law:

1. The dissolution area is legally inhabited, containing 962 registered voters as determined by the County Registrar of Voters Office as of May 28, 2010.

RESOLUTION NO. 3106

2. The County Assessor has determined that the total value of land and improvements within the dissolution area is \$95,428,827 within four separate areas. The values for the individual areas are outlined as follows:

Area 1 -- \$27,627,145 (land - \$ 7,766,471; improvements - \$19,860,674)

Area 2 -- \$13,664,371 (land - \$ 5,791,022; improvements - \$ 7,873,349)

Area 3 -- \$ 6,739,095 (land - \$ 1,482,571; improvements - \$ 5,256,524)

Area 4 -- \$47,398,216 (land - \$14,313,021; improvements - \$33,085,195)

3. The proposal is consistent with the zero sphere of influence determination made by the Commission in September 2008. The area is within the sphere of influence assigned the Town of Apple Valley, the designated successor agency to CSA 17.
4. Notice of Commission review of this proposal has been advertised in *The Daily Press*, newspaper of general circulation within the dissolution area, 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.
5. In compliance with Commission policy and Government Code Section 56157, the notice of this hearing has been provided by publication of a 1/8th page legal ad in *The Daily Press*, a newspaper of general circulation in lieu of individual notice. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determination. To date no opposition to this proposal has been received.
6. This proposal does not conflict with the County of San Bernardino General Plan or the Town of Apple Valley General Plan for its sphere of influence area.
7. 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.
8. The area within County Service Area 17 is also served by the following local agencies: County of San Bernardino, Apple Valley Fire Protection District, Apple Valley Foothill County Water District, Mariana Ranchos County Water District, Thunderbird County Water District, Mojave Water Agency, Mojave Desert Resource Conservation District, County Service Area 60 (Apple Valley Airport), and County Service Area 70 (multi-function, county-wide)

The only agencies directly affected by this proposal are the Town of Apple Valley, County of San Bernardino and County Service Area 17. None of the other agencies will be affected since they are regional in nature.

RESOLUTION NO. 3106

9. The County of San Bernardino, in consultation with the Town of Apple Valley, has submitted a plan for services addressing the potential for providing streetlighting services through Town rather than through a Board-governed County Service Area. This document, including the out-of-agency service contract between the County of San Bernardino and the Town of Apple Valley, has been provided to the Commission for its review and it indicates that the range and level of such services can be maintained through dissolution by the Town of Apple Valley outside its boundaries. 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 and its supporting out-of-agency service agreement conform to those adopted standards and it indicates that the range and level of services can be maintained following dissolution.
10. The area in question can benefit, and has benefited, from the provision of streetlighting services and will continue to do so following transfer of responsibility to the Town of Apple Valley as outlined in the Plan for Services and the contract between the County of San Bernardino and the Town of Apple Valley. The contract specifies that the Town of Apple Valley shall continue the streetlighting services currently provided within the boundaries of CSA 17 at existing or higher levels and requires the provision of streetlighting services to the entirety of the Town of Apple Valley unincorporated sphere thus providing for a single agency for service.
11. This proposal and its anticipated effects conform to adopted Commission policies and directives of state law that promote the simplification of the government.
12. Pursuant to the provision of Government Code Section 56668(o), the dissolution of the district to provide for the provision of streetlighting services through the Town of Apple Valley will not result in the unfair treatment of any person, based upon race, culture or income.
13. The County Board of Supervisors has successfully concluded the property tax negotiations required by Section 99 of the Revenue and Taxation Code.
14. The map of the proposed dissolution is not required to meet state standards.

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.

